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The ILO @ 100

International Development Policy

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Christophe Gironde
Gilles Carbonnier

VOLUME 11

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The ILO @ 100

Addressing the Past and Future of Work and Social Protection

Edited by

Christophe Gironde
Gilles Carbonnier



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Foreword

On the occasion of the centenary of the International Labour Organization (ILO), we are pleased to introduce this 11th special issue of *International Development Policy*, which explores the Organization's capacity for action, its effectiveness and its ability to adapt and innovate.

The moral idea, 'If you desire peace, cultivate justice', which lay at the heart of the ILO's foundation one hundred years ago, remains just as relevant today, in a world undergoing profound economic and technological transformation and increasing global inequality. How has the ILO adapted to change over time? What steps has the Organization taken to protect the most vulnerable? How well is it prepared and positioned to confront the new challenges of digitisation, automation and the 'uberisation' of work?

This collection of thirteen articles, written by twenty-one authors from around the world, attempts to address these questions in three parts. Part 1 looks at the ILO's historic context, its functioning and decision-making process and the contemporary challenges it faces; Part 2 explores approaches and results in relation to labour and social protection; and Part 3 considers the changes shaping the future of work. The articles highlight the progress and gaps to date, as well as the constraints and circumstances that confront the ILO in its efforts to respond to the new dilemmas and challenges of the fourth industrial revolution, with regard to labour and social protection.

Articles in this issue were the subject of lively exchanges during and after an author's workshop held in Geneva in September 2017 and we are grateful for the substantive comments of the anonymous reviewer and others who commented on earlier drafts. We also thank the Swiss Agency for Development and Cooperation (SDC) and the État de Genève for their financial support.

We hope this collection will make a positive contribution to the reflections and debates around the hundredth anniversary of the ILO and will resonate among our readership of scholars and practitioners, thanks to its timely and relevant focus on issues affecting all of us in our working lives and beyond.

The Editors

Geneva, January 2019

Preface

International Development Policy is a critical source of analysis of development policy and international cooperation trends and is aimed at scholars, policy makers and development professionals. It offers a diverse range of academic views from both industrialised countries and emerging economies.

International Development Policy is edited by the Graduate Institute of International and Development Studies, an institution of research and higher education dedicated to advancing world affairs. Located in Geneva, at the heart of an international centre of multilateral governance, the Graduate Institute benefits from a rich legacy linked to the founding of the international system and the League of Nations in the 1920s, and the emergence of the developing world in the 1960s.

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Acronyms and Abbreviations

| | |
|---------|--|
| ACOPAM | Appui Coopératif au Programme Alimentaire Mondial (Cooperative and Organizational Support to Grassroots Initiatives) |
| ACTEMP | Bureau for Employers' Activities |
| ACTRAV | Bureau for Workers' Activities |
| AFL | American Federation of Labor |
| AFRALTI | African Advanced Level Telecommunications Institute |
| AI | Artificial Intelligence |
| AMCU | Association of Mine Workers and Construction Union (South Africa) |
| ANMC | National Alliance of Christian Mutuals (Belgium) |
| APTT | Anti-Piracy Training for Trainers |
| BPO | Business process outsourcing |
| CBAS | Collective bargaining agreements |
| CCTV | Closed-circuit television |
| CEDEFOP | European Centre for the Development of Vocational Training |
| CHOGM | Commonwealth Heads of Government Meeting |
| CHPS | Community-Based Health Planning and Services (Ghana) |
| COMSA | South African Chamber of Mines |
| COSATU | Congress of South African Trade Unions |
| CRC | Convention on the Rights of the Child |
| CSR | Corporate social responsibility |
| CSW | Commission on the Status of Women |
| DANIDA | Danish International Development Agency |
| DMCA | Digital Millennium Copyright Act |
| DMHI | District Mutual Health Insurance (Ghana) |
| DMR | Department of Mineral Resources (South Africa) |
| ECOSOC | United Nations Economic and Social Council |
| EES | European Employment Strategy |
| EMP/RU | Rural Employment Policies Research Branch |
| EPA | European Productivity Agency |
| EU | European Union |
| EU-OSHA | European Agency for Safety and Health at Work |
| EWCS | European Working Conditions Survey |
| FAO | Food and Agriculture Organization |
| GGGI | Global Green Growth Institute |
| GGS | Green goods and services |
| GIZ | Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (German development agency) |

| | |
|---------|--|
| GNP | Gross National Product |
| ICFTU | International Federation of Free Trade Unions |
| ICTS | Information and communication technologies |
| IDDRI | Institute for Sustainable Development and International Relations |
| IFAD | International Fund for Agricultural Development |
| IFC | International Finance Corporation |
| ILC | International Labour Conference |
| ILO | International Labour Organization |
| IMEC | Industrialised Market Economy Countries |
| IMF | International Monetary Fund |
| IO | International organisation |
| IOE | International Organisation of Employers |
| IPCC | Intergovernmental Panel on Climate Change |
| IPEC | International Programme on the Elimination of Child Labour |
| IRENA | International Renewable Energy Agency |
| ISCO | International Standard Classification of Occupations |
| IT | Information technology |
| ITUC | International Trade Union Confederation |
| IYC | International Year of the Child |
| JQI | Job Quality Index |
| KILM | Key Indicators of the Labour Market |
| LMCS | Low- and middle-income countries |
| MDGs | Millennium Development Goals |
| MHOS | Mutual health organisations |
| MHSA | Mine Health and Safety Act (South Africa) |
| MHSC | Mine Health and Safety Council (South Africa) |
| MHSI | Mine Health and Safety Inspectorate (South Africa) |
| MIGDETT | Mining Industry Growth, Development and Employment Task Team (South Africa) |
| MOSH | Mine Occupational Safety and Health (South Africa) |
| MOU | Memorandum of Understanding |
| MQA | Mining Qualification Authority (South Africa) |
| NACTU | National Council of Trade Unions (South Africa) |
| NDCS | Nationally determined commitments |
| NEDLAC | National Economic and Labour Council (South Africa) |
| NEPAD | New Partnership for Africa's Development |
| NFWO | New forms of work organisation |
| NGOS | Non-governmental organisations |
| NHIS | National Health Insurance Scheme (Ghana) |
| NIWL | National Institute for Working Life |

| | |
|--------|---|
| NRNA | Non-resident Nepali Association |
| NSE | Non-standard employment |
| NUM | National Union of Mineworkers (South Africa) |
| OECD | Organisation for Economic Co-operation and Development |
| PPPS | Public–private partnerships |
| RBSA | Regular Budget Supplementary Account |
| ROI | Return on investment |
| SAMDA | South African Mining Development Association |
| SAPS | Structural adjustment programmes |
| SBTC | Skill-biased technological change |
| SDGS | Sustainable Development Goals |
| SEWA | Self-Employed Women's Association |
| SMES | Small and medium-sized enterprises |
| SPF | Social Protection Floor |
| SSE | Social and Solidarity Economy |
| STEP | Strategies and Tools against Social Exclusion and Poverty (ILO programme) |
| TFSSE | UN Inter-Agency Task Force on Social and Solidarity Economy |
| TVET | Technical and Vocational Education and Training |
| UASA | United Association South Africa |
| UHC | Universal Health Coverage |
| UN | United Nations |
| UNCED | United Nations Conference on Environment and Development |
| UNDP | United Nations Development Programme |
| UNEP | United Nations Environment Programme |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| UNFCCC | United Nations Framework Convention on Climate Change |
| UNIDO | United Nations Industrial Development Organization |
| UNRISD | United Nations Research Institute for Social Development |
| USAID | United States Agency for International Development |
| USSR | Union of Soviet Socialist Republics |
| VOD | Video-on-demand |
| WEC | World Employment Conference |
| WEP | World Employment Programme |
| WHO | World Health Organization |
| WNLA | The Witwatersrand Native Labour Association (South Africa) |
| WTO | World Trade Organization |
| XBTC | Total Extra-budgetary Development Cooperation |

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Introduction



The ILO @ 100: In Search of Renewed Relevance

Gilles Carbonnier and Christophe Gironde

Abstract

As the International Labour Organization (ILO) celebrates its centenary, its founding precept remains as relevant as ever: the main breeding grounds for threats to peace are the injustices and unequal opportunities that result from ongoing economic transformation. The moral idea that forged the ILO still lies at the heart of the international efforts for peace and development driving the Agenda for Humanity, the Agenda for Sustainable Development and the consensus on the need for inclusive growth that will 'leave no one behind'.

This introductory chapter explains the rationale behind the 11th special issue of *International Development Policy*, which addresses questions around the ILO's capacity for action and its effectiveness, the relevance of its programmes and ability to adapt to a world of work undergoing profound change. The volume of thirteen chapters highlights the tensions that constitute the ILO and its action, the changing and different environments in which the Organization operates, and the initiatives taken by the ILO to respond to these challenges. The need for adaptation is especially pronounced today in view of the acceleration of technological developments and radical changes in the organisation of employment and work, and the consequent impact on social protection systems.

We shall endeavour to spread the bread thin on the butter to make what work there is still to be done to be as widely shared as possible. Three-hour shifts or a fifteen-hour week may put off the problem for a great while. For three hours a day is quite enough to satisfy the old Adam in most of us!

JOHN MAYNARD KEYNES, 1963 [1931]



1 The Context of the Centenary

When it turned fifty, the International Labour Organization (ILO) was awarded the Nobel Peace Prize. At the award ceremony on 10 December 1969, the chair of the Nobel Committee justified the decision in these words: 'There are few organizations that have succeeded to the extent that the ILO has, in translating into action the fundamental moral idea on which it is based' (Lionaes, 1969). This fundamental moral idea can be found in a document that lies beneath the foundation stone of the ILO building in Geneva: 'If you desire peace, cultivate justice'.

As the Organization celebrates its centenary, this precept remains as relevant as ever: the main breeding grounds for threats to peace are the injustices and unequal opportunities that result from ongoing economic transformation. The moral idea that forged the ILO still lies at the heart of the international efforts for peace and development driving the Agenda for Humanity, the Agenda for Sustainable Development and the consensus on the need for inclusive growth that will 'leave no one behind'.

However, the ILO faces severe criticism, first and foremost over whether it actually does have the capacity for action that was lauded half a century ago by the Nobel Committee. What are the powers of the ILO, which—unlike the World Trade Organization—has neither the mechanisms to impose sanctions, nor the financial leverage of organisations such as the World Bank, but operates through persuasion? With a biennial budget of less than USD 800 million, the ILO has limited resources to address even the broad structural issues that stop states fulfilling commitments under the ILO Core Conventions let alone ensure decent employment conditions in new sectors, equal pay for men and women and fight against forced and child labour, etc. Do the lack of sanctions and financial resources mean that it is powerless or paralysed? To what extent can the ILO expect to regulate and significantly affect working conditions and social protection at the global level if it lacks strong enforcement mechanisms? (see Maupin, 2012).¹ The question of the ILO's capacity for action is indeed inseparable from that of the capacity and will of states to implement the ILO's instruments, as illustrated by the 1998 Declaration on Fundamental Principles and Rights at Work (La Hovary, 2009), which aimed to encourage ratifications with a follow-up mechanism, a strategy that actually worked when considering the number of ratifications (La Hovary, 2009).

The power of the ILO is also being challenged on the ideological front by organisations such as the OECD, which contributed to a paradigm shift in social protection in the 1970s and 1980s (Leimgruber, 2013). For some analysts, the

¹ This study published by the ILO, is subtitled 'Is it possible to regulate without enforcing?'.

ILO also faces challenges from neo-liberal reforms and the growing influence of multinational companies in the UN system, for example with the Global Compact launched in 1999. If such initiatives reduce the regulatory capacity of states, this would undermine one of the ILO's key tools—the ILO Standards (Ahojja-Patel, 2005). From this perspective, the ILO has not been able to avoid the increasing commodification of labour, which has become an adjustment variable in financial and economic cycles and entails high levels of insecure working conditions and low levels of pay for the most vulnerable people.

Has the ILO perhaps lost the battle that aimed to bring Karl Polanyi's 'Great Transformation' to an end? A century after its creation, the ILO operates in a context where labour laws struggle to keep pace with the increasing complexity of labour markets (Trebilcock, 2004). The need for the ILO to adapt to different historical, geographical and institutional settings is not new (Rodgers et al., 2009). Yet, the acceleration of technological change and the integration of markets is dramatically reshaping the relationship between labour and capital and reinforcing tensions between social justice and worker productivity. The automation and 'uberisation' of work are profoundly affecting labour relations and the social protection systems that are bound to employment. The ILO is well aware that it will need to promote innovative policies (ILO, 2018a), many of which are at the experimental stage, to avoid decoupling social protection and employment. Otherwise, there is the risk that the implementation of contributory social protection models, together with more flexibility in labour markets and overall reduction of regulations protecting workers (ILO, 2018a), would further increase social inequalities and economic insecurity (Alvaredo et al., 2018; ILO, 2018b).

Another criticism of the ILO centres on tripartism. Structurally, tripartism has been the subject of tensions between the Organization and member states which aim to restrict the freedoms of worker and employer organisations (Rodgers et al., 2009), and because of substantive disagreement between employer and worker groups, for instance on the right to strike (La Hovary, 2015). The narrowing representativeness of the ILO constituents due to the changes in the world of work and labour markets is another major issue regarding this unique feature of the Organization (La Hovary, 2015).

As Guy Standing argues (2008, 355), is the ILO now simply fighting to preserve its relevance? The Organization and the Secretary General himself are sparing no effort to disseminate the results of studies and programmes and launch slogans and new initiatives. This is certainly a reflection of the present-day imperative to constantly communicate in order to be significant; it also illustrates the battle for ideas and the competition among international organisations, who are all striving to make themselves heard and remain relevant.

2 The ILO in a Rapidly Changing World of Work

Put together for the centenary of the ILO, this special issue of *International Development Policy* addresses questions around the Organization's capacity for action and its effectiveness, the relevance of its programmes and ability to adapt. The volume adopts a diachronic approach, providing a retrospective review of the ILO's contributions, highlighting the progress and shortcomings to date, and looking forward at the context and constraints under which the ILO and its stakeholders would have to evolve and innovate to meet the new challenges of the fourth industrial revolution.

The editors invited authors to address the following questions:

- How and to what extent has the ILO adapted to the changing global economic and political context? What were the tensions and balances between its mission of social justice and protection, and the growing imperative of productivity tied to economic globalisation? What tensions were at play between agents of change and supporters of the status quo? How have tripartite decision-making mechanisms worked, both at Geneva headquarters and in the field? How are global governance and the balance of power between the ILO and other actors changing, and what initiatives were aimed at reforming and maintaining the Organization's influence?
- How has the ILO evolved in its vision, position and action to protect the most vulnerable, in the context of fiscal austerity and a reduction in protection systems and public expenditures in many countries? What steps has the ILO taken to address the needs of the 150 million children under the age of 15 who are working; on women in the agricultural sector; on migrant workers; and to strengthen social protection in developing countries?
- How can the ILO confront the challenges of digitisation, automation and the 'uberisation' of work that, coupled with artificial intelligence, may lead to a reduction in the number of jobs? How can the organisation put into practice its stated ambition to 'take hold of the fourth industrial revolution' (*Le Temps*, 2016)? And what measures should accompany ecological transition and the emergence of the green economy that, according to the ILO (ILO, 2018c), could generate 24 million jobs worldwide by 2030 provided that good policies are put in place? And what lessons can be drawn from the changes happening to working conditions in Europe?

We inevitably had to make certain choices about what to include in the volume leading to some gaps in terms of themes and geographic coverage. For instance, there is no chapter dedicated specifically to the role of worker and employer organisations, to gender relations and inequalities between men and women, nor the informal sector. These topics are nonetheless addressed

in several chapters in this volume, including tripartite relations with regard to trade unions (Chapter 4) and women farmers (Chapter 8). In addition, the second part of the volume deals extensively with working conditions and initiatives and measures implemented on behalf of categories of workers that have long remained outside the scope of the ILO.

3 What Lessons Can We Draw from the Past?

The first part of this volume draws heavily on history to analyse the contemporary challenges facing the ILO in fulfilling its mandate and function. These challenges initially arise internally, which has been the case ever since the creation of the ILO, as Sandrine Kott reminds us (Chapter 2). On the one hand, there have been changes in the respective influence of the three streams of inspiration of the Organization (social democratic, social Christian and reformist-liberal) and the movements and organisations that have embodied them and supported the work of the ILO.² On the other hand, the normative approach has been questioned by the developmentalist approach of economists who came to prominence in the 1930s and made productivity a priority from the 1950s onwards. From a socio-historical perspective, Marieke Louis (Chapter 3) highlights the importance of the ‘long term representation’ of elected members of the Governing Body on the dynamics of influence within the Organization. May Hermanus, Sizwe Phakathi, Nancy Coulson and Paul Stewart (Chapter 4) also draw on history in the South African context, recalling the role played by the ILO in providing financial and technical assistance at the end of the apartheid regime, which the Organization had strongly opposed. Velibor Jakovleski, Scott Jerbi and Thomas Biersteker (Chapter 5) also take a historical approach in their account of the ILO’s attempts over the last 20 years to reform and maintain its influence, notably by promoting non-binding standards and relying on a range of incentives to encourage states to adopt these standards.

Tripartism holds a prominent place in critical reflection on the functioning and activity of the ILO, and consequently on the future of the Organization and of international labour law (La Hovary, 2015). The case of the mining sector in post-apartheid South Africa illustrates the challenges of statutory tripartism (Chapter 4, this volume). In the context of the withdrawal of economic sanctions and the internationalisation of mining companies, the effort

2 The International Confederation of Free Trade Unions (ICFTU), for example, in the development of the new Convention on the Worst Forms of Child Labour (Convention 182, 1999), see Chapter 7, this volume.

to institutionalise tripartism has struggled with the strategies of the mining companies, which increasingly turned to opportunities abroad. The erosion of the capacity of trade unions to represent their workers, due to the promotion of union leaders to supervisory and managerial positions, presents another challenge. And the multiplicity of unions, reflecting a strong stratification and division among mining workers, is a further complicating issue.

An examination of tripartism, however, is not sufficient to understand ‘what the ILO does or cannot do’, says Marieke Louis (Chapter 3, this volume). Her analysis not only raises the question of the representativeness of the International Labour Conference, and the Governing Body in particular, it also highlights the presence of actors and powers without ‘constitutional or regulatory existence’, best illustrated by the group of Industrialized Market Economy Countries (IMEC).

The analysis of change within the ILO can be linked to changes in international politics and economic development, showing how the Organization has been able to play on the balance of power, as it did with the ‘communist threat’ during the Cold War. It also shows how the Organization was subjected to competition from other international organisations, such as the health section of the League of Nations in the interwar period, and the OECD since the 1970s. The intrusive representation of non-governmental organisations as well as private companies also sheds light on the way the ILO operates. With the development of fora and mechanisms of governance outside ILO structures, the Organization has had to engage in multi-stakeholder platforms with other international organisations as well as in public–private partnerships. This is often perceived as a constraint or compromise, sometimes even compromising the basic principles of the Organization. But it can also present an opportunity for more effective action, as in the case of occupational health in the mining sector in South Africa, or a way forward, as Sandrine Kott argues, for activists involved in the protection of domestic workers.

4 Protecting People

To date, four billion people, 55 per cent of the world’s population, have no social protection system, and a further 1.2 billion people are only partially and inadequately protected, as the ILO states in its *World Social Protection Report 2017–19* (ILO, 2017). This lack of protection, says the Organization, is particularly pronounced for children (1.3 billion of them have no social security) and pregnant women. Moreover, only a small percentage of workers have unemployment, accident or sickness protection, while those in the informal sector do not benefit from any formal protection system. However, notable progress

has been made in some countries in the provision of benefits for children and the implementation of universal coverage for health and retirement, but the levels of benefit are often insufficient to lift the beneficiaries out of poverty.

The commitment of national governments and international organisations to making progress on social protection is one of the notable changes present in the Sustainable Development Goals (SDGs) compared to the earlier Millennium Development Goals (MDGs). What actually can be expected from this commitment? It can be interpreted optimistically as going beyond the poverty-reduction programmes, which proved to have no significant effect on the most vulnerable people. The SDGs could thus be seen as a return of 'social development', as promoted in the late 1960s (UN, 1969). Nowadays, the minimal level of social protection, for which the ILO advocated as early as 2004 (ILO, 2004), is back on the agenda, under a new name: 'Social protection floors'. Including not only a minimum level of income, but also goods and services guaranteeing access to essential healthcare, food and education, and basic income security for workers and the elderly, social protection floors reflect the idea that social development serves economic development. How does this work out in practice? The chapters on the ILO's mandate to 'protect people' reveal different changes in approaches and positions, and uneven results.

Juliette Alenda-Demoutiez, Abena Asomaning Antwi, Elvire Mendo and Zrampieu Sarah Ba (Chapter 6) show that by providing support for community-based mutual health organisations in West Africa, the ILO is reinventing itself. The Organization is becoming more pragmatic, renouncing the initial vision of a protection system managed by state institutions, and relying less on the ratification of conventions than on the adoption of ad hoc modalities of support for health stakeholders. This evolution in the field of health contrasts with the change of approach to child labour examined by Edward van Daalen and Karl Hanson (Chapter 7). In the early 1990s, the Organization abandoned the progressive and pragmatic approach, which had combined the long-term goal of abolishing child labour with the transitional goal of protecting and regulating such labour, and returned to a position where it seeks solely to eradicate all forms of child labour.

The attention paid to rural women presents another type of evolution, in this case an innovative and progressive vision without further action. Christine Verschuur (Chapter 8) explains that the ILO, through its Rural Women programme, carried out innovative research to promote the visibility of not only the paid work but also the unpaid work of women in agriculture. However, the progress promised by the recognition of women's contribution to both food production and social reproduction did not materialise: research and knowledge were not integrated into the different departments of the

Organization and the Rural Women programme remained isolated and poorly funded, and eventually disappeared.

Finally, analysis by Antonio Donini (Chapter 9) of the migration, recruitment, and working and living conditions of Nepalese migrant workers in Qatar highlights the ILO's lack of resources to put its protection mandate into practice, even if it were to involve nothing more than legal instruments regulating the organisation of migration, or tools for monitoring and warning about working conditions. After the Governing Body of the ILO decided in 2017 to drop its complaint about non-compliance with the Forced Labour Convention and the Labour Inspection Convention, it seems the Organization can do no more than rely on the Qatari Government's declarations of intent to cooperate. On September 4th 2018, the Qatari Government adopted new legislation that removes the permit system for migrant workers to leave the country and change employer; it is certainly a positive sign, on paper, but it would be naive to consider it right now as a significant step towards decent working and living conditions for migrant workers.

Between pragmatism and dogmatism, openness and withdrawal, how do these developments in the ILO's policies and practices actually work out when it comes to protecting the people most in need? In the field of health in West Africa, the ILO is broadening the scope of its work beyond the contractual forms of wage labour, to workers in the informal economy and casual work. In so doing, the Organization may be more in tune with the informal sector where interpersonal and kinship social relationships and protection are embedded in norms and practices of solidarity and responsibility. With regard to child labour, van Daalen and Hanson question the relevance of abandoning the progressive approach, which after all was validated by numerous actions and 'creative projects' and which remains relevant, according to the authors, given the fact that some 150 million children under the age of 15 are still engaged in exploitative or harmful labour today. Regarding the work of women in rural areas, Verschuur notes that the ILO has opted for programmes that focus mainly on female wage earners, a vision that falls short of the increasing burden of women's unpaid 'reproductive' work that, paradoxically, the Organization had highlighted previously. As for the Nepalese working in Qatar, Donini insists on the enormous gap between what can be reasonably expected in terms of ILO action and the (in)human condition of these workers. The author notes that in addition to the exploitation of the Nepalese emigrant physical labour force, 'under-regulation' and the absence of any social protection have also exposed these workers to mental suffering because of living conditions that undermine their freedom of movement as well as their sexuality and marriageability.

5 The Future of Labour and the ILO: Gazing into the Crystal Ball

The divinatory arts are experiencing an extraordinary upsurge in the social sciences and among decision makers who are trying to predict the future of work against a backdrop of digital transformation, advances in artificial intelligence and labour automation. A simple Internet search on the future of work yields more than 3 billion hits in 0.54 seconds...

The 'techno-optimists' do not see why history, which has often proved the correctness of Schumpeter's theory of destructive creation, might not repeat itself, with a proliferation of new jobs from the knowledge economy or from the green economy. 'Techno-pessimists', on the other hand, argue that the extent and speed of the destruction of jobs made obsolete by new technologies and emerging modes of production will lead to unprecedented mass unemployment that will hit regions of the world where the population is growing fast particularly hard (Africa, the Indian subcontinent). In its *World Development Report 2019*, the World Bank confirms that labour-intensive industries, such as textiles and clothing, which currently employ large swathes of the labour force of industrialising countries, will not be able to fulfil this function in the future (World Bank, 2018). Other sectors, such as tourism, information technology and health could take over this role but the World Bank notes that there is a wide range of estimates for jobs at risk from automation and the impact of technology is far from predictable.

Beyond accounting for job losses and job creation, new technologies and new ways of organising labour raise crucial questions, including the type of professional skills required, the need for accompanying policies, the (de-)regulation of labour and the protection of workers in new ecosystems, such as labour platforms which are poorly regulated. These issues are addressed in the third part of this volume, which examines the ILO's stated ambition to adapt to the forces transforming the world of work (Bughin et al., 2018).

The impact of on-going digitisation in the entertainment, security and library services sectors on employment in Africa, analysed by Stefano Bellucci and Eric Otenyo (Chapter 10), supplies techno-optimists with some preliminary arguments. In the cases portrayed, the beginning of the process of digitisation has not been accompanied by massive job losses and even seems to be creating new jobs in these sectors. The authors suggest a series of interventions that the ILO could undertake to support the efforts of African states to foster job creation, including support to training institutions that are 'ill-equipped' with regards to digitisation in the workplace, and a reorganisation of informal sectors to enable them to capture global market opportunities.

Conversely, the combined effect of automated production and digitally-mediated labour has led to dwindling job opportunities in the manufacturing sector and an increase in temporary and disposable freelance work in India's technological sector. Filipe Calvão and Kaveri Thara (Chapter 11) demonstrate that, even in the information technology industry, the impact of the on-going digital revolution is affecting many jobs in both the formal and informal sectors. As workers in the global South are ever more likely to be affected by the automation of labour, the authors ask how the ILO can valorise digital work and avoid a situation where 'humans are seemingly left with being the creative complement to AI' (artificial intelligence).

In the context of automation, digitisation, and the development of artificial intelligence, new jobs are requiring not only technological skills, but also social and emotional skills, the ability to work in multidisciplinary and flexible teams, creativity and 'entrepreneurship' (Bughin et al., 2018). There is a broad consensus that states' policies (World Bank, 2018), including support to education and life-long learning programmes (Bughin et al., 2018) will be needed to enable the development of such skills. It is also the case with the ecological transition, explains Kees van der Ree (Chapter 12) on the potential of the green economy to create a significant number of jobs. Focusing more specifically on the interactions between climate change and employment, the author notes that although the ILO has gradually adopted and integrated the concept of green jobs into its work programmes, states and social partners are reluctant to include the transition to low-carbon economies in the ILO's work programme and to provide the Organization with a significant ad hoc budget.

It is also acknowledged that the state is called upon to play a central role in supporting job—and labour-related transitions by strengthening the social protection system. Calvão and Thara address this issue and suggest the ILO develops innovative approaches to ensure adequate protection of the digital workforce. At the point where wages have lost their prominence in defining conventional working relations, the authors argue for the need to take into account working conditions in the digital ecosystem and promote new forms of regulation for digitally mediated work. Such regulation could be inspired by principles and practices that characterise platform cooperativism or the social and solidarity economy, while also addressing the problem of technological transfers to developing economies. Kees van der Ree also raises the issue of distribution and social inclusion with regards to the increasing effects of climate change on migration flows both nationally and internationally, with major challenges in terms of social inclusion at national, regional and global levels.

In this respect, many experts agree that the relationship between employers and employees that developed during the twentieth century in the West—with stable full-time jobs held by unionised employees expected to become the norm—has largely had its day. Moreover, full-time contracts of indefinite duration exist at best for only a quarter of the global workforce and have not become standard in a majority of developing countries, where informal, insecure and part-time work is usual. This raises the question of the future role of trade unions and, more fundamentally, of the power relations between stakeholders within the ILO tripartite model and beyond. To better understand the impact of the on-going transformations, it is interesting to look at the evolution of working conditions in Europe for relevant lessons for the future of labour relations more generally and for the future of the ILO itself. Some trends raise serious concerns for the availability and security of employment and income levels, given the flexibilisation of the labour market and ageing populations. While working conditions in Europe have sometimes served as a model for the aspirations of developing countries, the European Commission is facing significant challenges in terms of generating sustainable jobs and deteriorating working conditions that seem prejudicial both for employees and for communities as a whole.

Patricia Vendramin and Agnès Parent-Thirion (Chapter 13) note that the issue of quality of work is making a comeback in debates in Europe, notably with the notion of sustainable work, as well as in the European Pillar of Social Rights (European Commission, no date), implemented by the European Commission. Based on surveys of working conditions in Europe conducted by the European Foundation for the Improvement of Living and Working Conditions (Eurofound), the authors draw up an inventory of working conditions and suggest that the ILO adopt a forward-looking approach based on the notion of sustainable work. Taking an historical and comparative perspective of the meaning of work, the authors identify three kinds of expectations in our relationship with work: it should provide income and security, create social bonds, and give people the means to develop and flourish through professional activity. They note that social recognition, the meaning that work gives to life, and the feeling of 'being useful' are major and meaningful expectations in an ever better-educated population that has benefited from the social security policies set up in the twentieth century. The 20 principles of the European Pillar of Social Rights emphasise high-quality employment that involves not only social dialogue with worker participation, and the promotion of a supportive work environment, but also increased attention to the balance between professional and private life as well as gender relations in the context of the widespread participation of women in the labour market.

6 Adapting and Opening Up

This volume highlights the tensions that constitute the ILO and its action, the changing and different environments in which the Organization operates, and the initiatives taken by the ILO to respond to these challenges. The need for adaptation nowadays appears particularly pronounced in view of the acceleration of technological developments and radical changes in the organisation of employment and work, and the consequent impact on social protection systems.

The need for the ILO to adapt also stems from the increased power of new actors in the global governance system and the changing balance of power underpinned by interest groups, ideological currents and an institutional framework that are all less favourable to the ILO today than they were at the time of its creation, a century ago. This raises the question of whether the Organization is providing adequate responses that can rise to the challenge of current upheaval. The contributions in this volume outline various ways of questioning these adaptations and providing some answers.

The ILO cannot be satisfied with the promulgation of international standards accompanied by monitoring and enforcement mechanisms at the national level (Jakovleski et al., this volume). The case of the informal economy provides a good illustration of the criticism the Organization has received in this regard, in this case the 'belief that international labour standards do not address people in the informal sector, whereas in fact many provisions do', as shown by A. Trebilcock (2004, 587). Yet the author acknowledges that '*de facto* or *de jure*, too many people remain without legal protection and recourse to right' (Trebilcock, 2004, 586). That said, progress has been made, for example thanks to Convention 189 on Domestic Workers, adopted in 2011, which represents an opening towards the particularly vulnerable category of migrant women (Kott, this volume). The process that led to the Convention and the way in which groups of activists took up the subject and then ratified the Convention in various countries could be a source of inspiration, and could open up ways to improve the systems of protection for other particularly vulnerable categories of people (Boris and Fish, 2014; quoted in Chapter 2, this volume). These experiences could inspire the Organization with regard to child labour and women working in rural areas. The ILO will also have to innovate in emerging economies, where the growing number of workers in so-called 'special' economic zones might well remain deprived of any social protection in practice, even if, in law, the ILO Conventions include them. Such zones, characterised by no rights for workers and the repression or lack of trade union

organisations, may expand and become the norm. Finally, in developed countries, the question arises as to how the ILO will be able to respond to new types of 'deformalised' labour, provided as a franchise and sold on platforms.

In addition to the question of the types of jobs covered or not covered by the ILO and the national organisations of workers and employers, and their representativeness, a question that arises for the ILO is the stance of the unions with which it operates. In countries like China and Vietnam, these unions were not formed at the initiative of workers but were established, and are controlled, by the party-state, which relies on them to guarantee investors a docile labour force (Chang, 2002). There is also the question of what workers expect of unions, as evidenced by the rise in China of labour movements not supervised by unions. What actions and room for manoeuvre can the ILO have in such contexts? And in other contexts, what balance of power is expressed by partnerships such as Better Work in Bangladesh, which proclaims: 'workers are seizing on democracy in factories'? (BetterWork, 2016). Have these partnerships become a means of, or a condition for, the ILO to remain operational? Does the emergence of civil society organisations in the field of work create a system of 'quadripartism' or 'tripartism +' (Chapters 3 and 4)? Is this a strategy that will allow the Organization to 'promote fair globalization for the workers' or should we rather interpret it as a step backward and see the ILO as an organisation whose role is largely supporting globalisation (Chapter 5)?

Amid the myriad publications produced by international organisations, the studies by the ILO have often stood out: denouncing working conditions and low wages, calling into question economic policies leading to less equitable income distribution, and highlighting the social consequences and risks to security and peace. The authors who have contributed to this volume call on the ILO to draw inspiration not only from the academic community, but also from the knowledge produced by the Organization itself, and to take advantage of its rich past to adapt in a robust and flexible way to the challenges of a world of work undergoing profound change. We hope that this volume will make a positive contribution to the reflections and debates accompanying the occasion of the hundredth anniversary of the ILO.

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PART 1

The ILO at Work



ILO: Social Justice in a Global World? A History in Tension

Sandrine Kott

Abstract

This contribution analyses, from a historical perspective, the ways in which the International Labour Organization has been able to affirm and fulfil the mission entrusted to it in 1919: to represent the worlds of labour and promote social justice in a universal way. It shows that, from its inception, the Organization has been locked in a fundamental contradiction between the promise of social justice and the decommodification of labour that this promise expresses, on the one hand, and the Organization's role as a social agent of economic globalisation, on the other. This tension increased after the Second World War, in the context of the Cold War and decolonisation.

1 Introduction

The International Labour Organization (ILO) was founded in 1919, as a corollary of the peace treaties that marked the end of the First World War. Its Constitution forms Part XIII of the Treaty of Versailles. Until 1940, it functioned as a sort of technical agency for the League of Nations (Tortora, 1980). But unlike the League, it survived World War II, moving to Montreal in 1941. It was reborn in 1944, when the principles presiding over its foundation were reaffirmed in the text of the Declaration of Philadelphia in the Appendix to its Constitution. In 1946, it officially became a specialised agency of the United Nations (Alcock, 1971; Ghebali, 1989).

The ILO celebrates its centenary in 2019, which it decided to dedicate to the 'future of labour' (ILO, 2018a). This decision calls for some remarks. While prophesying the 'end of labour', the Organization has chosen to reaffirm the importance of labour for the world's future but it has apparently given up thinking about its own future. It seems reluctant to re-examine its past and to use history as a tool for thinking about that future, although its history is rich in lessons.

A great deal of historical work has been done on the ILO (Van Daele, 2008) and, in the last ten years, this corpus has grown, and opened up new avenues for reflection. With the global turn taken by the social sciences, the Organization has become a popular field for such expanding areas of study as the history of human rights, economic development, networks, and social reform; this research testifies to the centrality of the Organization and labour-related issues when it comes to thinking about the world (Van Daele et al., 2010; Lespinet-Moret and Vincent, 2011; Aglan et al., 2011; Kott and Droux, 2013). In addition, the history of labour, neglected since the 1980s, has recently seen a renewed surge of interest. In the 1960s and 1970s, this field of study was mainly focused on the history of workers and the affirmation of workers' culture, giving rise to studies of the practices and forms of collective expression, carried out using a 'bottom-up' approach and paying close attention to particular territories. As evidenced by debates on the issue of free or coerced labour and informality (Brass and Van der Linden, 1997), current research is taking labour out of the industrial workshop and looking more clearly at the diversity of its forms. Last but not least, historians have opened up their geographic space of investigation: labour is now grasped in its global and transnational dimension, and the proponents of this approach are showing an increasing interest in connections between workers and their circulation. Labour historians use the archives and documents produced by the ILO, but they also share the current concerns of the Organization when it reaffirms the importance of labour and workers in our global economy (Louis, 2011). This perspective lies behind the actual creation of the Organization, and behind the measures implemented to accomplish its mission and the tensions and limits on its actions (International Labour Office, 1931, 15–16).

This contribution therefore analyses, from a historical perspective, the ways in which the International Labour Organization has been able to affirm and fulfil the mission entrusted to it in 1919: to represent the worlds of labour and to promote social justice in a universal way. To this end, I will first explore the genesis and founding texts of the Organization to understand how it conceived and organised its mission of social justice (Gerry et al., 2009). Then, starting from the formula with which the Declaration of Philadelphia begins—'labour is not a commodity'—I will examine the tensions created within the Organization by the contradiction between the social objectives that it is supposed to promote and the conditions for their realisation in an open capitalist economy. Finally, I will explore the solutions implemented by the ILO during its first fifty years of existence to work towards a fair globalisation for workers.

2 Social Justice at the Heart of the ILO's Mission

The founding principles of the ILO were formulated in 1919 and have remained the same. The Constitution of the Organization has barely changed and begins with this premise: 'Universal and lasting peace can be established only if it is based upon social justice', which gives the ILO essentially three filiations. The promise of social justice was first and foremost a response to the demands of the reformist workers' movement that came together in the *union sacrée* during the First World War. At the international trade union conference in Leeds, Great Britain, in 1916, trade union representatives of the nations that were allied against Germany called for the creation of an international labour organisation, a kind of world parliament in which the social demands of the labour movement would be discussed and examined (ILC, 1916; Riegelman, 1934; Tosstorff, 2005). Social Christianity was another inspiration as well as a cornerstone for the foundation of the ILO. Since the publication of the encyclical *Rerum novarum* in 1891, the social doctrine of the Catholic Church had clearly been based on a demand for justice, taken up and amplified by the Catholic and Christian workers' movement (Pasture and Govaert, 1999). But the ILO was also the direct heir to liberal social reform, some of whose movements had already organised themselves within various international associations. The ILO inherited the library, staff and part of the social programme of the most highly organised of these bodies, the International Association for Labour Legislation, based in Basel since 1901 (Kott, 2014; Van Daele, 2005). These networks played a vital role in the birth of the International Labour Office (the Secretariat of the Organization) and in its survival during the first twenty years of its existence. Its first director, French socialist Albert Thomas, was also keen to ensure their cooperation by developing and organising their support to the Organization (International Labour Office, 1931, 424–468). The proponents of the different movements agreed on two points: capitalist industrialisation had generated mass poverty that might lead to political and social unrest; and this social question could and should be tackled by social reforms within the existing political and economic order. In 1919, this reform activity developed along three main lines: protection, redistribution and collective bargaining. Nevertheless, areas of contention still existed within the movement, especially concerning the role that should be attributed to the different stakeholders. Socialists emphasised the regulatory role of the state; the Christian movement, joined by the cooperative tradition, was more favourable to the development of free associations based on the self-help mode; and employers insisted on the importance of free enterprises that could generate economic growth to finance social spending.

The idea of social justice itself has never been the subject of theoretical debate within the ILO. However, the preamble and general principles of the 1919 Constitution, and then in the Declaration of Philadelphia that replaced it in 1944, defined a number of objectives that constitute the foundations of the Organization:

Regulation of the hours of work including the establishment of a maximum working day and week; Regulation of labour supply, prevention of unemployment and provision of an adequate living wage; Protection of the worker against sickness, disease and injury arising out of his employment; Protection of children, young persons and women; Provision for old age and injury, protection of the interests of workers when employed in countries other than their own; Recognition of the principle of equal remuneration for work of equal value; Recognition of the principle of freedom of association; Organization of vocational and technical education and other measures.¹

The ILO's normative activities thus originally aimed to achieve these different objectives (Bonvin, 1998) in the form of a sort of international labour code, inspired by the legislation implemented in the most socially advanced nations. The main task of the Committee on International Labour Legislation, meeting in Paris between January and April 1919, was to define the modalities for the creation of such a code. The Italian and French representatives proposed that the International Labour Conference—the parliament of the future Organization—be able to adopt conventions that would be automatically binding on the member states; the British, for their part, favoured an almost automatic ratification system. However, under pressure from US negotiators, the power of the Organization was reduced to such an extent that it became almost entirely dependent on national stakeholders (Shotwell, 1934). Until today, the ILO's recommendations are only indicative and the conventions must be ratified by the national parliaments of the member states. In general, however, states have no interest in ratifying a convention: not only does ratification involve bringing the country's legislation into line with ILO rules, it also constitutes a heavy commitment subordinated to an annual supervisory system, constraints that states have been trying to escape (Maupain, 2010). This tension, already present at the time of the adoption of the very first ILO convention—the convention on the eight-hour day—partly explains why the

¹ See the website <http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm> (accessed on 17 July 2018).

ILO's normative system has always been developed under strained conditions. This first convention was symbolic, since the eight-hour day lay at the heart of the demands of the worldwide workers' movement but it was not ratified by any of the major industrial countries despite the efforts of Albert Thomas. In reality, the activities of the ILO and the adoption of its conventions have always been very dependent on the commitment of governments and the various national participants.

Despite these obstacles, the ILO carried out a considerable amount of normative work during the period between the First and Second World Wars. In all, 67 of the 189 conventions in force to date were adopted between 1919 and 1939, which means that more than a third of the conventions of this century-old Organization were adopted during its first twenty years of existence (ILO, 2018b). This normative work, based on a skilful exchange of ideas between ILO officials and those of national administrations, enabled the establishment of a recognised social expertise and know-how disseminated by ILO officials, of whom there were no more than 400 in 1931 (Kott, 2008).

In 1919, the three main social reformist schools of thought agreed on various social goals in the specific context of the end of the war but their union was also aimed at countering the Bolshevik Revolution and the upsurge of European revolutionary movements (Phelan, 1949). The ILO, clearly founded as an 'alternative to violent revolution' (Shotwell, 1933, 18–25), was in return denounced by the communists, who accused it of betraying the fundamental interests of the working class under the guise of reforming capitalism. Until 1934, the Soviet Union refused to join the Organization.

Nevertheless, the Union of Soviet Socialist Republics (USSR) and the revolution were 'useful enemies' that the reformers could use to advance their social agenda. On his travels, Albert Thomas tirelessly stressed the importance of fighting against poverty in order to prevent revolution. This same argument—or belief—was used to prompt (or encourage) the funding of the major post-Second World War development programmes whose instigators, often former New Deal officials, joined the UN system through the United Nations Relief and Rehabilitation Administration (Ekbladh, 2010).

In 1919, the ILO embarked on a mission to convince the workers' movement that reformism was the solution that would ensure the well-being of all. To this end, it worked to disseminate information on the reality of the working-class situation in the USSR. From the beginning of 1920, at their second meeting, the members of the ILO's Governing Body raised the possibility of conducting an inquiry into the situation in Soviet Russia (ILO, 1920), for the stated purpose of disarming the upsurge of revolution by putting an end to the 'illusions' of the workers (ABIT, 1921). A Russian section was formed and, during the interwar

period, the ILO became a kind of intelligence agency with regard to communism in the USSR. These thoroughly anti-communist activities were reactivated at the beginning of the Cold War. In the absence of the USSR, the leading American union, the American Federation of Labour, used the ILO to campaign against forced labour in the USSR and the countries that would form the Eastern Bloc (Kott, 2012). After the USSR re-joined the Organization in 1954,² the ILO became a platform for the two blocs to collaborate on the basis of a strong common belief in the need for more economic growth and increased productivity; this lasted until the crisis of 1977 and subsequent withdrawal of the United States from the ILO until 1980.

In addition to the direct struggle against the communist model, the ILO relied, from its inception, on its tripartite structure and the principles of collective negotiation meant to implement the reformist solutions that the Organization advocated. Tripartism is a cornerstone of the Organization and its representatives (governments, workers and employers) meet at the Annual Labour Conference and, four times a year, under the framework of the Administrative Council—or executive body—of the Organization. In the 1990s, tripartism even entered the International Labour Office with the creation of offices of the Bureau for Workers' Activities (ACTRAV) and the Bureau for Employers' Activities (ACTEMP). Tripartism is consistent with a liberal reformist vision that seeks to correct the asymmetric power relations between workers and employers intrinsic to the employment contract through the organisation of collective bargaining. Tripartism stands in contradiction with the logic of state socialism, which does not distinguish between state and economic stakeholders. On the other side, the tripartite structure and the collective bargaining promoted by the ILO relied on the existence of organised social partners, and thus on freedom of association. This freedom of association, stated in the preamble to the 1919 Constitution, is therefore essential to the very functioning of the ILO. The 1948 Convention on Freedom of Association and Protection of the Right to Organise is a foundational Fundamental Convention of the ILO and, since 1951, its enforcement has been under a specific supervisory committee—the Committee on Freedom of Association. In the liberal social logic of the ILO, the presence of a representative union within companies is a guarantee of justice. It helps to tilt the balance of power in favour of the workers and ensure that their social situation is not systematically indexed to the economic results achieved by the company. With this in mind, the ILO could say that 'labour is not a commodity'.

2 The USSR initially joined the ILO in 1934 and left in 1940.

3 'Labour is not a commodity'

US trade unionists were behind the first reference to the decommodification of labour as enshrined in the general principles of the ILO Constitution, adopted in 1919:

But, holding as they do that labour should not be regarded merely as an article of commerce, they think that there are methods and principles for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit.³

The encyclical *Rerum Novarum* already contained an explicit condemnation of labour as a commodity, but the wording chosen by the ILO was inspired by the Clayton Antitrust Act of 1914—'That the labor of a human being is not a commodity or article of commerce'—which guaranteed, on this basis, the right to coalition and strike. Samuel Gompers, President of the American Federation of Labor (AFL), regarded this article as the Magna Carta of the workers and regretted that the term 'merely' had been added in the ILO text. It was again under the influence of the United States that the Declaration of Philadelphia, added as an annex to the ILO Constitution after the Second World War, confirmed and hardened this condemnation of labour as a commodity, stating that 'labour is not a commodity'.

The ILO tackled the issue of labour as a commodity as early as 1920, in the context of its normative work on fixing a minimum wage—one of the general principles expressed in its Constitution. The government delegate from Paraguay stated in 1920:

the delegation from Paraguay intends that incorporation of the American principle that human labour shall not be considered as merchandise shall include the principle, not only of limiting the working day, but also of the minimum wage in the various industries (LN, 1920, 130).

In 1944, the government delegate from Colombia went further by saying: 'Work should not be a commodity. There should be guaranteed living wages' (ILC, 1944, 101). This question of the minimum wage defined as a condition and an instrument of the decommodification of labour runs through the history of the Organization. The first Minimum Wage Fixing Convention was adopted

3 See Treaty of Versailles of 28 June 1919, Part XIII, Annex, Section II, Article 427 on the website <http://avalon.law.yale.edu/imt/partxiii.asp> (accessed on 17 July 2018).

in 1928 after extensive research by the International Labour Office and was supplemented in 1970 by another convention that encouraged states to establish a minimum wage system (Reynaud, 2017). In general, the normative activity of the ILO has always been built on the idea that the conventional system, by placing workers under the protection of a political authority, constitutes a powerful tool for the decommodification of labour.

In practice, however, the Organization was soon faced with the limitations of its call for the the decommodification of labour as referred to in 1944 by the Indian workers' delegate:

The proclamation of this preamble of our Constitution and of Article 41 that workers are not a commodity is a paper declaration. Workers are a commodity in my country. I am afraid they are a commodity in many other countries (ILC, 1944, 81).

From the outset, the communists voiced a more fundamental criticism of the ILO, stating that it contributed to the perpetuation and even the propagation of labour as a commodity by agreeing to improve the capitalist rules of the game. This criticism was recently taken up by Guy Standing—an official in the ILO from 1975 to 2006—but from another point of view:

Depicted as reducing the commodity character of labour, the conventions actually helped to legitimise and spread 'fictitious decommodification': they made the activity of labour less like a commodity but fostered national systems in which workers' entitlements were increasingly dependent on the performance of labour and being in stable wage labour. If decommodification is about making people less dependent on the labour market, then making them more dependent on being in wage labour for their 'social rights' is a strange way of going about it (Standing, 2008, 355–384).

Guy Standing's statement must be understood in the light of his commitment to universal basic income, which is supposed to guarantee the subsistence of individuals regardless of their activity, or even the wages earned for their work. For its supporters, universal income is a modern and radical way of moving towards the decommodification of work.

However, from 1919 onward, the ILO has taken the opposite path, since its target group is composed of industrial wage earners—that is to say, workers employed in the 'labour market'. Although the self-employed have been formally covered by the Declaration of Philadelphia since 1944, workers holding a

so-called 'standard' job—that is to say, wage-earners with an employment contract and protected by social legislation—still remain the main target group of ILO norms.

Many workers are thus excluded from the scope of the Organization; this is particularly the case for informal workers who, in India, make up almost 93 per cent of the labour force. Reproductive work, generally undertaken by women, should be added to informal labour. To overcome this difficulty, the ILO has largely promoted the development of wage labour and the generalisation of 'standard employment' conditions (meaning under contract). The 1930 Abolition of Forced Labour Convention (C 29) is a perfect illustration of this orientation; it aimed to transform forced labour into contractual wage work framed by the two 1939 agreements on employment contracts and penal sanctions, respectively (C 64 and 65) (Maul, 2012; Rodríguez-Piñero, 2005; Zimmermann, 2010; Daughton, 2013). While the ILO has promoted measures to frame and regulate labour as a commodity, the very principles on which it is based condemn it to accept its existence.

Under the mandate of David Morse, Director General from 1948 to 1970, the terms of the relationship were even reversed in favour of an economist's vision of labour as Morse, who previously worked in the New Deal administration, made increased productivity a central goal of organisational policy (Maul, 2010).

The ILO took an interest in the question of the scientific organisation of labour and elaborated a 'productivity policy' (Maier, 1977; Maier, 2010) as early as in the 1920s. This orientation led, for example, to the creation in Geneva in 1927 of the International Management Institute, headed by the Briton Lyndall Urwick. The Fordist model of welfare capitalism was the main inspiration behind all these productivist measures: by creating wealth, the increase in productivity was supposed to increase the purchasing power of the workers. This policy, which made social progress dependent on the results of the capitalist economy, soon met resistance from some employers, who refused to increase wages, as well as from unions, which feared a rise in unemployment (Cayet, 2010).

Nevertheless, from 1950, productivity became a priority of the Organization. In his 1950 report, David Morse asserted that 'From the world point of view the real need in almost every sector is for increased production' (ILC, 1950, 3). According to him, workers relied excessively on redistributive measures to increase their standard of living, whereas they needed to become responsible for their well-being by increasing their productivity at work.

Within the ILO, this ideological shift mainly expressed itself in two ways: the nature of the conventions evolved and the Organization redoubled its efforts

to provide technical assistance. The conventions of the Cold War years were primarily intended to protect 'human rights' and to ensure fairness (including through the Convention on Discrimination) rather than to create the conditions necessary for greater equality. They aimed to 'empower' rather than protect workers (as in the conventions on freedom of association and collective bargaining of 1948). Furthermore, the ILO continued to carry out important normative work, but activities to encourage economic development took precedence over other areas as shown by the rising number of economists among the staff and the recruitment of many development economists as external experts.

As part of this policy in favour of economic development, the ILO set up and implemented productivity missions, the first of which was sent to Israel in 1952, one year before the activities of the European Productivity Agency (EPA) began—an agency placed under the authority of the European Organization for Economic Co-operation as part of the Marshall Plan. The EPA was created with the aim of increasing productivity in member countries and thus fighting poverty and preventing a revolution from breaking out (Boel, 2003). The ILO's productivity missions were the global component of the EPA's activities in Western Europe. After Israel, other missions were sent to India, Egypt, Pakistan, Yugoslavia, Brazil, Bolivia, Greece, Hong Kong and Ceylon (ABIT, 1952–56). At the request of many governments, the ILO set up productivity centres in which experts provided training (ILO, 1957a, 1957b). These productivity missions were systematically flanked by a management training programme for those in charge of labour organisation (ILO, 1965).

The productivist approach chosen by the ILO clearly established the primacy of the economic sphere over the social, but the Organization simultaneously reaffirmed its social goals within this economic framework. David Morse reminded the United Nations Economic and Social Council (ECOSOC) that productivity gains were intended to raise the standard of living of workers and to create jobs, that social benefits should flow from the economic results of employees, and that any measure to increase productivity should be negotiated between workers, trade unions and employers (ECOSOC, 1953; ILO, 1953). In 1950, in his speech to the International Labour Conference, he underlined the exemplary role played by the Czechoslovak trade unions which were able to negotiate the way increase of productivity should be organised with the directors of the state-owned enterprises, even though these trade unions fell under Convention 87 on freedom of association.

Thus the productivist turn of the 1950s stood in conflict with the values on which the Organization was based in two ways: it ran against the idea that the social sphere had to prevail over the economic, and it questioned the liberal

conception of trade unions on which it was grounded. This productivist turn admittedly marked an inflection, but it endorsed the ILO's lasting assumption that economic prosperity was the condition of universal social justice.

4 Fair Globalisation

The third clause in the preamble to the ILO Constitution⁴ justifies the existence of the Organization with an economic argument:

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries.

At the time of its creation, the Organization was well placed to fight for social justice, but in a context of free trade and global economic competition. The idea that employers, forced by stricter national laws to offer better social protection to their employees, would be disadvantaged on the world market is an old belief that is not necessarily based on reliable calculations (International Labour Office, 1931, 15). However, like the revolutionary threat, it encouraged reforming employers to promote international social protection. The ILO has always situated itself in the tradition of the great free-trade reformers of the first half of the nineteenth century, such as Robert Owen and Daniel Legrand (International Labour Office, 1931, 4–5) and has seen, in the set up of international social norms, the very condition of undistorted economic competition. In 1944, Karl Polanyi summed up this point of view in the following terms:

The League of Nations itself had been supplemented by the International Labour Office partly in order to equalize conditions of competition among the nations so that trade might be liberated without danger to standards of living (Polanyi, 1944, 27–28).

From its inception, the ILO emerged as a social regulator of economic globalisation (Feiertag, 2008) that was at that time limited to the capitalist countries of the North Atlantic. Like the League of Nations on which it depended, it was initially a European enterprise (Guérin, 1996). At the 1930 International

⁴ The ILO Constitution is available on the website http://www.ilo.ch/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO (accessed on 4 December 2018).

Labour Conference, half of the 51 countries gathered were not European; but European states, especially the victors of the First World War, dominated the ILO: all the section chiefs were then French or British. In addition, a number of US participants played a major role at the time of the creation of the Organization. This includes members of the social reformist movement embodied by the American Association for Labor Legislation (the US branch of the International Association for Labour Legislation)—of which President Woodrow Wilson was an active member—and Samuel Gompers, President of the American Federation of Labor, who chaired the International Labour Commission that met in Paris from January to April 1919 and played a significant part in the discussions surrounding the birth of the Organization (Moynihan, 1960). In addition, the United States joined the ILO in 1934 despite never having been a member of the League of Nations.

The norms developed during this period were heavily inspired by the legislation in place in the economically developed world at the time, while colonies were subjected to special exemptions. As a result, the European and Latin American peripheries felt marginalised and threatened to create a rival organisation more suited to their needs. Asian countries, for their part, stated that their level of development did not allow them to implement a policy designed for developed countries. As early as the 1930s, ILO officials became aware of the need to ‘help’ economically and socially less developed countries in order to establish social legislation compatible with ILO *norms* and to offer their technical assistance for this purpose, first in the Balkans and subsequently in Latin American countries (Stenger, 2016; Kott, 2010). This technical support allowed the Organization to disseminate its model of social insurance by ensuring that the legislation put in place in these countries was compatible with its conventions.

During David Morse’s term of office, the number of members of the Organization grew from 52 to 121 as a consequence of decolonisation (meanwhile the number of staff increased fivefold). The question of the universality of norms thus came to the fore, and the ILO had to face new difficulties, in particular during the debates on the Convention on Social Security from 1950 to 1952. Representatives of the less developed countries stated that, given the embryonic state of their legislation, it was impossible for them to adopt European norms. Convention 102 proposed an *à la carte* solution allowing the least developed countries to select the branches of social security they wished to include first in their systems. Employers from northern countries were very hostile to this solution, which in their view distorted economic competition (Guinand, 2003).

On the other hand, the ILO proceeded differently for the territories now described as 'non-metropolitan': in 1947, it adopted Conventions 83 to 86, which extended to the populations concerned the social rights in force in metropolitan areas. In 1950, a committee of experts on the social policies relating to the colonies (Committee of Experts on Social Policy in Non-Metropolitan Territories) was created to develop a funding strategy for these social policies (Cooper, 1996). At the same time, this question was discussed at the third Inter-African Labour Conference—set up by the colonial administrators—whose main conclusions were taken up in 1953 by the ILO Committee. Insofar as it seemed certain that metropolitan participants could not invest as much as was needed in the colonies, the ILO proposed extending the European model of productivity to non-metropolitan territories by bringing African workers into the labour market, but also by training managers and workers and by developing a management culture. Finally, to encourage workers to be more productive, the Committee recommended the introduction of piecework (ILO, 1953). The extension of social policies was therefore, in this case too, closely linked to the economic results of the territories.

Similar policies for the countries of the global South were elaborated in the field of technical assistance and development, two objectives that became central for the ILO from 1949 (Alcock, 1971, 209–251, 338–364) and were implemented under the UN's Comprehensive Technical Assistance Programme—launched by Truman (Point IV initiative)—in 1949, and later in the United Nations Development Programme from 1965 onwards. Within this UN development framework the ILO was primarily responsible for human resources, such as management training programmes aimed at increasing labour productivity. More than 2,000 experts, mostly economists, were recruited from outside the Organization and were sent to different countries between 1950 and 1959. The Organization also implemented a fellowship programme and then a programme of courses for supervisory staff from developing countries in the Turin International Training Centre, established in 1965. The common goal of the Organization and local political elites was to foster economic development to enable the various countries involved in these programmes to find their place in global economic competition. Once again, social progress was seen as the desirable outcome of increased economic performance, not as a prerequisite.

The ILO was certainly not responsible for this focus on economic development as a condition for human development; this approach espoused the logic that was then predominant, including in developing countries themselves. Similarly, in 1969, the Organization borrowed from India the 'basic needs' approach, which underpinned the World Employment Programme, set up in

1969, and was then criticised for its excessive focus on production and consumption at the expense of the human factor. This contradiction between the social objectives of the ILO, and in particular its emphasis on decommodification of labour and its actions on the ground, had considerable consequences and undoubtedly accounted for much of the lack of interest accorded to it by developing countries at different times in its history. Thus, in 1995, when the ILO wished to negotiate the introduction of a social clause in the founding treaty of the World Trade Organization, the representatives of Indian trade unions opposed it on the pretext that removing a comparative advantage from their country with regard to international competition would throw millions of Indian workers out of work (Hensman, 2011).

5 Conclusion

From its inception, the ILO has been gripped by a fundamental tension, on the one hand between the promise of social justice and the decommodification of labour that this promise embodies, and its role as a social agent of economic globalisation on the other. This tension intensified in the years after the Second World War, in the context of the Cold War and decolonisation during which time the number of member states increased significantly, while the problems and the solutions to be implemented became increasingly divergent.

But the tensions that have run through the Organization also reflected the diversity of its sources of inspiration. Different movements have coexisted within the ILO right from the start: a liberal reformist wing, a social democratic tendency and a Christian social component. In addition, since the 1930s, the dominant normative approach pursued by jurists was accompanied by a developmentalist vision defended by an increasing number of economists, with the latter eventually coming to rival the former.

Despite their ambiguity and difficulty, the norms remain nevertheless important reference points even when they are not ratified. For their part, development policies have always subordinated social progress to economic performance and emphasised the notions of growth, productivity and consumption—even those that have been supported by progressive schools of thought, such as the World Employment Programme.

Last but not least, the ILO has always worked within a constrained space: constrained by national governments, constrained by the diverging interests of workers and employers, and constrained by the international system itself, in which the place occupied by the Organization has always been contested. During the period between the two world wars, the ILO had great difficulty finding

its place in the economic negotiations, conducted under the auspices of the League of Nations, and to which ILO officials wished to add a social dimension. In addition, the Health Section of the League of Nations competed with certain sectors of the Organization's activities, relying on Rockefeller Foundation money, which was less accessible to the ILO. In the 1970s, the United Nations Industrial Development Organization (UNIDO) took over a large share of the ILO's development activities in industrialised countries, and the United Nations Educational, Scientific and Cultural Organization (UNESCO) took over a number of its training capacities.

Nevertheless, as long as communist regimes existed, the reformist stakeholders of the ILO mobilised and used the fear that these regimes aroused to advance their social agenda. Since the disappearance of this useful enemy, the ILO discourse of social regulation and normative practice has become more difficult to get across, especially in comparison with the Organisation for Economic Co-operation and Development (OECD) and the World Bank, both of which have advocated for liberal deregulation since the 1980's. Yet in a world where multinationals manage to free themselves from all national social legislation and where workers' mobility is increasing, the international norms proposed by the ILO should be on the agenda more than ever.

In this respect, the last Convention on Domestic Workers (C189, 2011) is both an opening and a model. It targets a group largely composed of women and migrants, a group doubly marginalised on the national level and much more dependent than others on international protection. The way in which groups of activists in different countries have seized on this subject, and on the rules laid down in the Convention, shows not just the symbolic but also the practical importance of such regulations and opens up new perspectives (Boris and Fish, 2014).

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Who Decides? Representation and Decision-making at the International Labour Organization

Marieke Louis

Abstract

The study of international organisations most often consists of an analysis of the implementation and effectiveness of their policies. This chapter takes a different approach, and discusses the processes that prevail within the International Labour Organization (ILO), upstream of the programmes it implements; it focuses on the participants who decide what the ILO does, what it cannot do and how its mandate is fulfilled. Building on the work of Robert Cox and Harold Jacobson (*The Anatomy of Influence: Decision Making in International Organizations*, 1973), the author will attempt to understand how this institution has developed its process of representation and decision-making since its creation. While the tripartite dynamics of the ILO and the unique role of the trade unions and employers active within it are often underlined, it will be seen that its decision-making process also responds to other logics underpinned by the political and economic balance of power (East/West, North/South, industrialised countries/developing countries), by organisational dynamics (the relative autonomy and expertise of its secretariat and director general) and by external pressures (non-governmental organisations). Based on an analysis of representation in the ILO, this chapter reveals the complexity of its decision-making process. It shows that this institution does not fundamentally upset the traditional balance of power between states, but that its influence also arises from certain structural arrangements and ways of making representation work.

1 Introduction

The International Labour Organization (ILO) is first and foremost known for the missions entrusted to it: the improvement of working conditions, the achievement of social justice and the creation of decent jobs. This mandate is set forth in the founding texts of the Organization: Part XIII of the 1919 Treaty

of Versailles which became the ILO Constitution,¹ the 1944 Declaration of Philadelphia,² the 1998 Declaration on Fundamental Principles and Rights at Work,³ the 2008 Declaration on Social Justice for a Fair Globalization⁴ and the 2009 Global Jobs Pact.⁵ Much academic work has studied the ILO by focusing on its mandate and the tools and resources it uses to implement it (Alcock, 1971; Bonvin, 1998; Cayet, 2010; Ghebali, 1989; Haas, 1964; Hughes and Haworth, 2011; Kott and Droux, 2013; Lespinet-Moret and Viet, 2011; Louis, 2011; Maupain, 2013; Van Daele et al., 2010). It has at its disposal normative instruments of a more or less binding nature: international labour conventions, recommendations, resolutions and declarations. It also deploys practical tools—often grouped under the category of ‘technical cooperation’—which consist in the provision of funds and the dispatch of ILO experts to the various member countries. Among these instruments, which aim to ensure the local application of international standards and the dissemination of good practices (Klein et al., 2015), the ILO attaches particular importance to the training of members of governments, trade unions and employers’ organisations on subjects within its competence; most of the time this training is provided by the Turin International Training Centre, established in 1964.

These studies tell us a great deal about what the Organization *does* and how it does it, but they do not necessarily answer another important question: ‘Who decides what the ILO does?’ To identify the participants in the decision-making process, it is necessary to position oneself upstream of the institution’s policymaking, whether this concerns standards, cooperation or, increasingly, development with a view to achieving the goal of social justice.⁶ It is also necessary to take another look at two fundamental aspects of the study of international organisations from a political science perspective, asking how representation, on the one hand, and decision-making, on the other, can help us better understand power relationships, which are often absent from official organisation charts. In political science, representation, decision-making and

1 See the Constitution on the website http://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO (accessed on 19 June 2018).

2 See the Declaration on the website http://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO (accessed on 19 June 2018).

3 See the Declaration on the website <http://www.ilo.org/declaration/lang--en/index.htm> (accessed on 19 June 2018).

4 See the Declaration on the website http://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/genericdocument/wcms_371208.pdf (accessed on 19 June 2018).

5 See the Pact on the website <http://www.ilo.org/jobspact/about/lang--en/index.htm> (accessed on 19 June 2018).

6 See also the chapters in this volume by Sandrine Kott (Chapter 2) and by Patricia Vendramin and Agnès Parent-Thirion (Chapter 13).

power are distinct but often interlinked concepts and processes. In its Weberian sense, power can be defined as the opportunity for a certain person to impose his or her will in a social relationship characterised in particular by coercion and domination. We will not tackle the question of power in its entirety here, but we will examine one aspect of it: the link between representation and decision-making, in the sense that the chances of a person imposing his or her will are greater if that person is in a position to make decisions. But the ability of a person to influence decisions does not necessarily determine his or her ability to enforce them in the field.

In this chapter, we will focus on the evolution of the representation of the tripartite members of the ILO (states, trade unions and employers' organisations), officials of the Organization, and also participants who are *a priori* more external to the ILO—that is to say, non-governmental organisations. We argue that being represented in the Organization is a necessary but not a sufficient condition to influence the decisions made and the policies implemented. Influential participants have a number of attributes, including financial and personal investment, longevity, and adherence to the Organization's tripartism and values. We will set out this argument in a first section devoted to the study of the representation of ILO members on the Governing Body—the ILO's restricted executive body, which meets three times a year in Geneva. The Governing Body is not the only place of power within the ILO since norms are adopted by the International Labour Conference (the annual general assembly of ILO members) and since some of its commissions—the Conference Committee on the Application of Standards for example—play a key role in normative policies. But it remains the space of representation that is most valued and most coveted by Organization members. In the second part, we will show that some participants (state and non-state) have had great difficulty in making their voices heard, but that they have succeeded, through contestation, in reforming the process of representation while remaining on the sidelines.

2 Who Decides in International Organisations?

2.1 *States are Central but Not Exclusive Participants in the Process*

The most intuitive answer to the question posed in this section is obviously the state; *states*—the creators of these organisations—therefore play a part in decisions that depend on their relative power, evaluated according to various criteria (military, economic, cultural, social, etc.). Within the ILO, at least two bodies must be distinguished: on the one hand, the International Labour Conference (ILC), which negotiates and adopts (through substantive work in

committees) international labour standards, and on the other hand, the Governing Body, the restricted executive body of the Organization. It had 24 members in 1919 and since 1995 it has had 122 members (56 full members and 66 deputy members). Among the members of the Governing Body, ten (initially eight) are not elected but represented *de jure* because of their industrial power (Louis, 2016a): Brazil, China, France, Germany, India, Italy, Japan, Russia, the United Kingdom and the United States. These states are not permanent members in the strict sense of the term, since the classification of states according to their industrial power may vary. Nevertheless, this list has only rarely changed in the history of the Organization: the last modification dates back to 1983. Although the majority of the members of the Governing Body are elected every three years by the ILC, this election is most often a mere formality. New entrants are co-opted upstream by the International Trade Union Confederation (ITUC) as regards workers, the International Organization of Employers (IOE) as regards employers, and finally by the regional groups as regards governments.

The role of the Governing Body has been considerably strengthened since 1919. Although the founding fathers of the ILO had initially assigned to it solely the task of drawing up the agenda and the direction of the ILO, its powers in fact went far beyond. Over time, the Governing Body has become one of the most important, if not the most important, bodies of the ILO. It elects and appoints its Director General without any formal need for the agreement of the ILC. It also has the power to create commissions of inquiry. In addition, whereas the adoption of the budget is, in principle, the responsibility of the ILO, the Governing Body prepares it on the basis of the proposals of the Director General. After the Second World War, the Governing Body was even given the ability to influence its own composition: it has since then had the task of determining, in the last resort, the classification of states according to their industrial power. In the members' eyes, the Governing Body is thus the place where 'everything is at stake'.

As mentioned earlier, the list of the most industrialised states occupying a *de facto* permanent seat has remained quite unchanged, despite significant developments in recent years with regard to the regular budget of the Organization, which is subject to a fixed scale, unlike the voluntary contributions of members (ILO, 2011, Table 5; ILO, 2017, 65–69). The United States remains the largest contributor, with 22 per cent of the regular budget; Japan represents only 9.684 per cent (compared with 16.631 per cent in 2010); Germany 6.392 per cent (compared with 8.581 per cent in 2010); the United Kingdom 4.465 per cent (compared with 6.645 per cent in 2010); and France 4.861 per cent (compared with 6.304 per cent). Italy's contribution has also fallen slightly

(from 5.081 per cent to 3.750 per cent). On the other hand, China has seen the amount of its contributions increase considerably, from 2.668 per cent in 2010 to 7.924 per cent in the last budget plan, as have Brazil (from 1.201 per cent in 2010 to 3.825 per cent) and Russia (from 1.201 per cent to 3.089 per cent). Only India remains below the 1 per cent threshold. Thus, the largest industrial powers are not necessarily the largest contributors, and vice versa; Canada, Mexico and Spain have long made higher contributions than Brazil, Russia or India (Louis, 2016b, 388). The so-called ordinary ILO budget is financed by the fixed contributions of the states (also known as mandatory or statutory contributions) according to a scale common to the agencies of the United Nations (UN) system. The amount of these contributions is therefore not specific to the ILO and does not necessarily reflect a particular commitment of members to the Organization—since it is largely proportional to their gross domestic product. But these amounts represent only a part of the ILO's total resources. To have a comprehensive view of each state's contribution and voluntary commitment, voluntary and extra-budgetary contributions as well as the Organization's Regular Budget Supplementary Account (RBSA) should be taken into account. For the 2018–19 period, these two budgets are estimated at USD 450 and USD 36.4 million, respectively, compared with USD 625.9 million⁷ for the regular budget (ILO, 2017). Under these two types of voluntary contributions, the United States, the European Union, Australia, Norway and the Netherlands top the list of the thirty largest contributors for the period 2012–15; Brazil and Russia rank respectively no higher than 17th and 23rd, while China and India are not even included in the rankings.⁸

These indicators make it possible to draw up an initial inventory of the material investment of states within the ILO, but they are insufficient to account for the capacity of the former to influence the decisions taken by the Organization as a whole.

Other participants influence the decisions taken, in general, by international organisations. In the case of the ILO, these participants are evident precisely because of the Organization's tripartite composition. This involves the representation of trade unions and employers' organisations (in particular

7 It should be noted that, since 1991, the Director General has also been authorised to receive, on behalf of the Organization, donations from public and private organisations (including workers' and employers' organisations).

8 Multi-bilateral Development Partner and EC Ranking Total Extra-budgetary Development Cooperation (XBTC) and RBSA Contributions (2012–15) can be viewed on the website http://www.ilo.org/wcmsp5/groups/public/---dgreports/---exrel/documents/genericdocument/wcms_206667.pdf (accessed on 12 February 2018).

those affiliated to the ITUC and the IOE), which are placed on an almost equal footing with states in all the bodies of the ILO, and in particular in the Governing Body. While tripartism is specific to the ILO in the world of international organisations, other institutions involve non-state participants in their decision-making—for example, the International Organization for Standardization (Louis and Ruwet, 2017), and at the national level, joint bodies such as economic and social councils.

Tripartite participants are recognised as constituent members of the ILO and the only ones officially empowered to make decisions. Only they have the right to vote, even though a large number of decisions are taken by consensus. But other participants can play, in a more informal way, a decisive and even decision-making role.

In observing the functioning of international organisations, it is easy to highlight the key role of the secretariat (officials and the like, directors general and secretaries general). During the interviews conducted as part of this research, delegates often referred to the ILO's more 'quadrupartite' than tripartite character, with the International Labour Office being designated as the fourth key player in the institution. The extensive theoretical literature on the 'principal-agent' relationship (Bauer, 2007; Reinalda and Verbeek, 1998) has highlighted the relative independence of the secretariat (the 'agent', or the one who executes an order) from the states (the 'principal', or the one who gives the order) in various organisations. The secretariat can influence the development and implementation of policies and guide negotiations in their preparatory phases. It is recognised by other organisations as the legitimate representative of the Organization and benefits from its permanent character (Barnett and Finnemore, 2004; Strange, 1998). The workings of the ILO confirm the conclusions of its work, since the leading role of the International Labour Office, headed by the Director General of the Organization, is well established. For example, between 1919 and 1932, Albert Thomas, then Director of the ILO, played a notorious role in empowering the Secretariat in relation to states, but also in relation to the League of Nations. More recently, other directors have distinguished themselves by their influence, including Juan Somavía and his iconic use of the 'creative leadership' highlighted by Ernst Haas (Haas, 1964; Louis, 2011). Juan Somavía, who was the first Director General from a southern country (Chile), led the International Labour Office from 1998 to 2012 and, in 1999, launched the Decent Work Agenda. This set of reforms was intended to mark the repositioning of the ILO on the international scene, to be the standard bearer of the strategy developed by the Organization to renew itself and gain recognition from the outside world after the end of the Cold War (Louis, 2011; Louis and Maertens, 2014).

2.2 *The Anatomy of Influence*

In 1973, Robert W. Cox and Harold K. Jacobson edited and published *The Anatomy of Influence: Decision Making in International Organizations*, a landmark in the analysis of decision-making in political science and, more specifically, in the study of international organisations. Robert W. Cox's chapter on the ILO bears an evocative title: 'A limited monarchy'. The author describes the Organization as a political system 'in which influence is structured around one central figure—the executive head—who though he plays a leading role, does so subject to very real constraints' (Cox, 1973, 102). He dwells at length on the transformations that the Organization has experienced since the 1960s and extends the analyses published by Harold Jacobson in the 1950s and 1960s on the place of the Union of Soviet Socialist Republics (USSR) within the ILO by studying in particular the under-representation of developing countries and the Soviet Union. Jacobson had already stated: 'In formal terms alone, membership does not always carry with it full representation in all organs. And political influence is rarely directly proportionate to numerical strength' (Jacobson, 1960, 406).

After decolonisation, the number of ILO member states increased considerably, without however leading to a substantial change in the composition of the Governing Body and, consequently, decision-making power in the ILO. Thus, when the USSR rejoined the ILO in 1954, every effort was made to ensure that no Soviet employers' or workers' representative was elected to the Governing Body and to limit the influence of communist countries in commissions. Surprising as it may seem to the unfamiliar observer of the ILO, the USSR—and Russia after the collapse of the Eastern Bloc—has never been able to exert an influence comparable to that of other permanent members of the ILO, including in non-governmental groups. A similar observation can be made with regard to China. While these two countries were permanently represented on the Governing Body as major industrial powers, it was not until the end of the 1990s that a Russian employers' representative (with the status of deputy member) was elected and not until the turn of the new millennium that China had a workers' representative and an employers' representative (again, these were deputy members sitting in the Governing Body). The last elections to the Governing Body—for the period 2017–20—confirmed how controlled this openness of non-governmental groups actually was: on the employers' side, the Chinese and Russian representatives remained deputy members; on the workers' side, the Chinese representative was given the status of titular member, but the Russian representative remained a deputy member. Unlike regular members (also called titular members), deputy members do not have the right to vote. While most decisions are taken by consensus, voting is still practised, especially

for important political decisions such as the election of the Director General. Although these two states are among the most powerful in the world and are permanent members of the Security Council of the United Nations, their representation on the ILO Governing Body remains carefully monitored so as to prevent the Organization from deviating from its original mandate. From a Coxian perspective, the ILO thus seems to function as a Western monarchy of industrialised countries (or more precisely as an oligarchy, insofar as decisions are taken by several participants).

Cox's perspective corroborates the above analyses by noting that the decisions taken in the ILO depend to a large extent on International Labour Office officials, whose recruitment is closely monitored by the states: '[...] the constituents keep a close eye upon the composition of the staff particularly at the upper levels' (1973, 108).

2.3 *The Long-term Nature of Individual Representation*

Why pay so much attention to the composition of the ILO Governing Body? States, like workers and employers, undeniably wish to be elected to it because of the importance of its prerogatives, but above all they want to anchor their representation in the long term, and thus be regularly re-elected. This permanence or quasi-permanence of representation constitutes the main guarantee of influence within the Organization. The Governing Body is in principle renewed every three years, but in fact the elected members retain their seats for at least two terms, or many more. States, like employers and workers, have every interest in ensuring their long-term representation—in the name of the principles of continuity and efficiency of action that justified the creation of seats reserved for the largest industrial powers. In addition to being able to participate in the decision-making process (not just voting, as discussed above), delegates are able to consolidate their influence by accumulating knowledge about the Organization and its history, procedures, routines, reports and expertise. Over time, they can build relationships with civil servants—who have truly permanent appointments—and thus gain better access to information and an opportunity to distinguish themselves from the more novice members in the negotiations of normative instruments within the ILC. At conferences, new delegates usually rely on more experienced members—that is to say, usually Governing Body members who spend several weeks a year in Geneva. As a result, some delegates have, as it were, become the 'living memory' of the institution; their experience is considered to be unique, if not irreplaceable, and this argues in favour of their retention or re-election in the case of non-permanent members. On this point, our study corroborates Robert Cox's analysis of the influence of individuals and personalities on the functioning of the institution.

As regards both large and small states, Cox evokes this organisational elite in these terms: 'a network of personalities who together play the roles of brokers and controllers. What is important is the continuity and confidence of their mutual relationships' (Cox, 1973, 127). In addition, it would be appropriate to include in this category the politicians and other persons who do not belong to the ILO but have a good relationship with its Director General—a practice that once again highlights the importance of the latter's role.

Under the rationale of continuity, the struggle for representation to be guaranteed is particularly intense within the group of workers and the group of employers. The members of these groups exercise their responsibilities for particularly long periods: the majority of delegates remain members of the Governing Body for two terms, but some retain their positions for ten, twenty or even thirty years—the record being held by the Mexican Sanchez Madariaga (1905–99) of the Mexican Confederation of Workers, who served from 1954 to 1999. Among the delegates, the most influential are the chairpersons and group secretaries, who have special links with the ITUC, the IOE, but also with the Bureau for Workers' Activities (ACTRAV) and the Bureau for Employers' Activities (ACTEMP), the two International Labour Office services in charge of relations with workers' and employers' organisations. In fact, some particularly loyal former delegates pursue their careers in one of these services as international civil servants.

Here again, tripartism can 'counter' the classic, realistic reading of power relations based on military or economic power. It can happen that nationals of middle powers, even of small states, exert a considerable influence within their group. For example, Roy Trotman from Barbados served as chair and spokesperson for the workers' group from 2002 to 2011; he was thus a regular member of the Governing Body during this period.

Workers' representatives often present Roy Trotman as a model of success, as a man who has established himself through his personal qualities, skills and charisma. He came from an insular microstate and did not represent any of the world's leading trade union organisations. He and his predecessor, M.T. Walcott, were the sole representatives from Barbados on the Governing Body since its accession in 1967. As chairman of the workers' group (2002–11) Roy Trotman thus escaped the basic trends that shape the nature of representation on the Governing Body, but only in part, because of his activities in the International Confederation of Free Trade Unions (ICFTU) (he was the first black president of the organisation), and later the ITUC, and to his being appointed by the latter.

On the government side, turnover is more substantial for states and individuals alike. Many delegates believe that this relative instability is one of the

reasons for the lesser influence of the government group in negotiations in addition to the regional fragmentation (Louis, 2016b).

3 Representation without Influence? The Margins of the ILO

3.1 *State Margins: Non-European Countries, Developing Countries and Southern Countries*

Since the creation of the ILO in 1919, a number of members have protested against what they consider to be a monopolisation of power by some states, particularly the victorious powers of the First World War (though from the outset, the ILO gave Germany a prominent place that it had never found in the League of Nations). These protests, notably from Brazil, Canada, India, and South Africa,⁹ focused on the composition of the Governing Body. Its limited character and the fact that no representative from a 'non-European' (or 'extra-European') state—according to the terminology of the time—was appointed were seen as evidence of an initial marginalisation of certain members of the Organization. As a consequence, the ILO amended its Constitution in 1922 so that a minimum number of seats would be granted to non-European countries.¹⁰

This brief historical review highlights an important element: ILO members view their representation as a prerequisite for their involvement in the decision-making process, and their demands in this area are *consubstantial* with the Organization. No one wants to be left out. Many members feel that the Governing Body is not representative of the ILC and that the system of reserved seats for the major industrial powers is both undemocratic and counterproductive—since the other members think that the norms adopted only take into account European issues.

These demands, first expressed by non-European countries, have continued throughout the twentieth century and up until today. However, they have not always been expressed by the same participants, nor in quite the same terms, although we can detect elements of regularity. During the interwar period, the protesters spoke of the marginalisation of non-European countries. During the Cold War, they spoke more about the recently decolonised countries and, above all, the Eastern Bloc countries, allies of the USSR. Western

9 We cite only the most recurrent protesters. Many countries have occasionally issued protests about their lower level of representation.

10 This provision, which came into force in 1934, was later considered obsolete and was suppressed in 1962.

members made concessions by agreeing to the enlargement of the Governing Body and the creation of new statutes (deputy members, substitute members and observers). But the various reform commissions that have been held since the 1960s have never endorsed the implementation of a proportional system of election of members of the Governing Body—a system that not only the Communists but other actors such as the Christian trade union workers' organisations, a minority in the global trade union movement, have also called for (Dupuy, 1987). Developing countries, for their part, felt marginalised twice over. Relatively absent from the ILO's decision-making bodies, they also had to accept the fact that the standards and programmes adopted by the ILO sometimes seemed to them unsuited to the problems they faced. As stressed by Cox: 'Government representatives from less developed countries often took the position that ILO standards were framed in the light of conditions in advanced countries and were inappropriate to their own' (1973, 112).

As for the 1922 amendment, some contestations did succeed. In the late 1970s, intense negotiations on the criteria for measuring industrial power finally led to Brazil's entry into the club of the 'permanent' states represented *de jure* on the Governing Body (Louis, 2016a). Since India and Brazil became part of the ILO's 'organisational elite' as major industrial powers, and especially since the reform of the Governing Body adopted in 1995 (see below) developing countries can no longer be considered excluded from the Governing Body. The marginalisation of African countries, however, is still an issue. The African group is indeed one of the only ones to demand, even today, a reform of the Governing Body: they favour the abolition of the seats reserved for the major industrial powers provided for by the 1986 Amendment or the integration of African states into this restrictive club. The abolition of the 'permanent' seats is indeed one of the few components of the 1986 Amendment that has not been taken over by the 1995 reform (see below, Table 3.1).

3.2 *A New 'Monarchy'? The Case of the Industrialized Market Economy Countries (IMEC)*

Despite these changes in the structure of the Organization and in particular in the formal composition of the Governing Body, it cannot be concluded that the decision-making process is being made more balanced or even more democratic. Indeed, while the Governing Body has expanded and been rebalanced on a regional basis (Africa, America, Asia and Europe), offering the different member states the opportunity to participate more in the decision-making process, it remains highly dependent on the material logics set out at the beginning of this chapter. In addition, the 'numerical' logic (number of seats, number of votes) comes up against the fact that, within the ILO as in most international

TABLE 3.1 Comparison of the 1986 and 1995 amendments

| 1986 Amendment (not in vigour) | 1995 Amendment |
|--|--|
| Enlargement 112 seats (112 voting members) – governments: 56 seats – workers: 28 seats – employers: 28 seats | Enlargement 122 seats (56 voting members) – governments: 56 seats (28 permanent members; 28 deputy members) – workers: 33 seats (14 permanent members; 19 deputy members) – employers: 33 seats (14 permanent members; 19 deputy members) |
| Regional distribution of seats Africa: 13 seats America: 12 seats Asia: 14 seats Europe: 15 seats 2 remaining so-called rotating seats: the first to be alternated between Africa and America, from one mandate to the next; the second to be alternated between Asia and Europe from one mandate to the next. | Regional distribution of seats Africa: 13 and a half seats ^a America: 12 and a half seats ^a Asia: 15 seats Europe: 15 seats |

a Because of a ‘rotating’ seat that alternates between Africa and America from one mandate to the next.
SOURCE: LOUIS (2016b).

organisations, decisions are more and more frequently taken by consensus and that the use of the vote is becoming increasingly rare—the election of the Director General is a notable exception in this regard.

Although it does not have a constitutional or regulatory existence (unlike the regional groups), the group of Industrialized Market Economy Countries (IMEC) exercises most of the decision-making power at state level in the ILO. This group of about thirty states¹¹ was established on the basis of economic

11 In 2011, the IMEC group consisted of Australia, Austria, Belgium, Canada, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Japan, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway,

rather than geographical criteria and includes the main contributors to the ILO budget. The IMEC grouping was created in 1978, during the Cold War, with the aim of strengthening the links between market-economy countries when the United States left the ILO. It is worth noting that this group, with particularly strong internal cohesion, is the only one to meet almost every day during the ILC, as has been the case since the 1980s. Many positions are taken in its name, through a rotating spokesperson who changes according to the year, the conference, and the topics on the agenda. As an example, we can mention its very regular and detailed interventions in the framework of the Committee on the Application of Standards, one of the key committees of the Conference (ILO, 2013, 11/40-11/46; ILO, 2014, 13 Part 1/56).

In addition, the IMEC's representatives interviewed for the present survey expressed a greater attachment to this informal group than to their regional group, at least when it comes to representing their interests within the ILO. For the UK government representative, the IMEC is a more important group than the Western European region or even the European Union, because of the diversity of both the topics covered and the participants it brings together ('the big players'): 'IMEC has got a much higher standing. IMEC is a bigger group, so we wouldn't generally do at all [the same] as Western Europe, it [the IMEC] has a much more important role because of its coverage, and all of the big players are in the IMEC'.¹² The Japanese representative also showed a greater sense of belonging to the IMEC, but for different reasons: 'Japan feels more associated with IMEC than with Asia Pacific, with the ASPAC countries; Asia is a very broad region and there are so many differences in terms of size of the countries, size of the economies, so it's not so easy for all Asian countries to agree on a simple statement on single issues'.¹³

Other delegates, such as those from Australia or New Zealand, have stressed the critical importance of the IMEC, which they describe as the place where, more than in regional meetings, key issues relating to the functioning of the ILO are discussed. 'IMEC is at the forefront of those. We see it as a very important, sort of intellectual way of generating and pushing ideas'.¹⁴ For Canadian government officials, the IMEC's dominating role in decision-making,

Poland, Portugal, the Republic of Korea, Romania, Slovakia, Slovenia, Sweden, Switzerland, Turkey, the UK and the US.

12 Interview with representative from the government of the UK, 4 June 2013, Geneva, International Labour Office.

13 Interview with representative from the government of Japan, 29 October 2012, Geneva, seat of the permanent mission of Japan.

14 Interview with representative from the government of New Zealand, 5 June 2013, Geneva, Palace of Nations.

particularly with respect to the International Labour Office, is indisputable: '[...] for Canada our priority has continued to be the IMEC group, because we'd chaired that, and it has given us quite a significant voice in the organisation [...]. I think when the IMEC has something to say, the Office pays attention. And I think the workers and the employers too. Generally speaking when the IMEC expresses its views, there is a certain amount of attention paid to that.'¹⁵

However, the IMEC remains an entity specific to the government group. In the workers' and employers' groups, respectively, there is a desire to ensure the representation of organisations from the most industrialised countries, but IMEC-type groupings have not been institutionalised, at least within the ILO.

3.3 *Non-governmental Organisations: Towards 'Tripartism +'?*

The ILO is a subject of study that makes it possible to re-examine the problem of the inclusion of non-state participants in the international scene. Its unique tripartite structure has given non-state participants the opportunity to benefit from a status almost identical to that of the state participants that are members of the Organization. But we may ask whether this new positioning has, in general, given non-governmental organisations greater influence within the ILO. The answer is no. In fact, the space of non-state representation was immediately monopolised by the major international trade union and employer confederations. As early as 1919, some organisations—such as the cooperatives—felt unjustly excluded from the tripartite system of representation and the decisions taken by the ILO on matters concerning them, and argued for the expansion of tripartism. In fact, the concept of 'tripartism +' (Fashoyin, 2005), formulated for the first time during the mandate of Juan Somavía, is only one expression of this desire to see representation extended to participants from 'civil society' (a rather vague term, to say the least) whose scope overlaps that of the ILO. Social partners (workers and employers) have generally come together to oppose this enlargement, arguing in particular that non-governmental organisations (NGOs) are not representative (Thomann, 2008; Louis, 2016b), and governments have remained divided on the subject, with some being very favourable and others completely opposed.

However, civil society organisations have never been purely and simply excluded from the ILO. From the inception of the Organization, alternatives to the status of delegate were envisaged, so as to allow for participants who did not necessarily fall into the three officially represented categories. For

15 Interview with representative from the government of Canada, 10 June 2013, Geneva, Palace of Nations.

example, the status of technical adviser allows states, as well as trade unions and employer organisations, to include a number of people with specific expertise in their delegations. In addition, like the United Nations, the ILO after the Second World War created an observer status reserved for international non-governmental organisations. This gives NGOs an observation and consultation role and facilitates their access to ILO documentation and negotiations. Observer members are themselves divided into three sub-statuses: general, regional and roster.

The influence of NGOs on decisions taken within the ILO must be analysed without generalisation. Interviewed NGO members agree that this influence varies greatly depending on the organisations themselves, but also on the topic on the agenda and the quality of the relationships they have with members, who may—or may not—pass their demands on. It seems, for example, that NGOs had a considerable influence on the Elimination of the Worst Forms of Child Labour Convention (Convention 182)¹⁶ and, more recently, on the Convention on Domestic Workers (Convention 189).¹⁷ In interviews, many tripartite delegates stressed the importance of NGO awareness-raising work on issues that did not necessarily fall within the priority scope of the activities of social partners (Louis, 2016b, 271–276). Moreover, in 2011—the year of the adoption of Convention 189 on domestic work—a dozen delegations (among them delegations from Belgium, Brazil and the United Kingdom) included representatives of associations (sometimes trade unions) specialising in domestic work issues. However, despite their relative goodwill towards NGOs, members occasionally called their representatives to order on issues of ‘behaviour’—especially when they were deemed too noisy, applauding or booing certain amendments—and strictly limited the time they could speak at the opening of the work of the Commission (Louis, 2016b, 299–300).

Since its creation, the Secretariat has endeavoured to establish links with non-governmental organisations in order to broaden the sphere of influence of the Organization. In fact, the ILO considers NGOs other than trade unions and employers’ bodies as potential allies, as it can benefit from their expertise, their fact-finding activities and their ability to mobilise opinion and raise awareness among the public. But since their formal prerogatives are very limited, the influence of NGOs may be considered rather insignificant (Salah-Bey,

16 See the Convention on the website http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 (accessed on 19 June 2018).

17 See the Convention on the website http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189 (accessed on 19 June 2018).

1963, 67). According to Georg Nolte and Sergey Lagodinsky (2004, 339), 'The ILO grants NGOs passive participation rights'. These authors may not take sufficient account of the diversity of NGOs present at the ILO, but it is true that these organisations are sometimes effective lobbyists and sometimes extras, or mere spectators of decisions taken by members. As a matter of fact, NGOs did not radically change the balance of power in the process of negotiating and adopting the Convention on Domestic Workers for instance.

The resilience of the tripartite norm in the field of effective decision-making is thus a given. To reflect the attitudes of both employer and worker members, Georg Nolte and Sergey Lagodinsky (2004, 325) speak of a 'struggle for positions' within the ILO. But this analysis is incomplete. These members, of course, occupy an important position within the ILO that they wish to preserve. But beyond that, they fear—as do governments, to some extent—that they might destabilise the collective bargaining structure as a whole. The relationship between tripartite constituents and NGOs is a recurrent issue, as evidenced by the 2002 resolution of the ILC on tripartism and social dialogue, which aims precisely at framing relations with civil society (Baccaro and Mele, 2012). Yet the debates on the role of NGOs also highlight a more fundamental issue: the redefinition of both the scope and the purpose of social dialogue today. Trade union and employer representatives fear, in particular, that greater integration of NGOs into the ILO structure may lead to the institutionalisation of forms of work deemed prejudicial to workers (hence the challenge both they and the ILO in general face: the formalisation of the informal). For its part, the workers' group (and, to a lesser extent, the employers' group) strives to ensure that its representativity is not called into question (Louis, 2016b, 194–201).

4 Conclusion

In this chapter, we have explored, from a socio-historical perspective, the links that unite representation and decision-making power within the ILO. Building on the work of Robert Cox, we have shown the sustainable nature of the concentration of decision-making power in certain forums—notably the Governing Body—and its monopolisation by certain state and non-state participants. But we have also highlighted the ability of the tripartite logic characteristic of the ILO to disrupt the traditional balance of power mechanism.

Representation is considered by both professionals and academics to be a necessary condition for participation in the decision-making process, but it is not sufficient in itself. In particular, it is not a tool for resisting certain forms of marginalisation—including the marginalisation of developing countries—in

spite of the significant rebalancing that has taken place since the 1980s and 1990s. Furthermore, we have identified, without exploring them though, other ways of exercising influence within the ILO, including expertise and, more generally, knowledge. Representation, then, is not the only determinant of decision-making power. To study it, it is essential to analyse the practices of representatives, practices that sometimes differ from the formal provisions of the official texts. Thus, we have shown that representation is, within an organisation, a process *in motion*; it evolves with the mobilisations of the participants, whether they express themselves in an openly critical or a more cooperative way, by material contributions or, as in the case of NGOs, by their capacity to demonstrate their added value during negotiations.

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The Achievements and Limitations of Statutory and Non-statutory Tripartism in South African Mining

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Abstract

Unresolved problems in South African mining, particularly on gold mines, are enmeshed within the system of production through mining methods and labour practices entrenched by apartheid. This system sets the parameters for, and hence limits and constrains, strategies designed to improve occupational health and safety. This chapter explores the achievements and limitations of statutory tripartism in mining as practiced under the Mine Health and Safety Act (MHSA), in the context of social dialogue in the National Economic and Labour Council (NEDLAC) and other statutory and non-statutory tripartite forums. The term statutory tripartism refers to the institutions and forums for social dialogue established in law. Non-statutory tripartism refers to ad hoc forums in which stakeholders deliberate on specific issues. Presented as a detailed case study in which issues are explored thematically, the chapter benefits from the experience of the lead authors in statutory mine health and safety structures. The authors reflect on the International Labour Organization's (ILO) role to date and its future role, at a time when prospects for a broad social compact remain out of reach. While key discussions often take place outside of formally established tripartite structures, the ILO's vision of authoritative social compacts and its institutional forms find expression in many settings. The ILO was important at critical junctures in the past and a continued role in championing social protection, inclusion and dialogue is foreseen. South Africans themselves must, however, find agreement on how best to address systemic issues. The practice of tripartism remains relevant to creating an inclusive and more equal society.

1 Introduction

South Africa was a founder member of the International Labour Organization (ILO). It was forced to withdraw from the Organization in 1964 having

fallen foul of the Discrimination Convention of 1958¹ and rules against forced labour, under apartheid. The ILO's criticism of apartheid is set out in the 1964 *Declaration on Action against Apartheid in South Africa*.² Throughout the 1970s and 1980s the ILO continued to oppose apartheid, maintaining contact with employers representing international companies and mobilising support for South African trade unions and liberation movements (Grawitzky, 2013, 5). During the transition period, early to mid-1990s, the ILO was central to securing resources and technical expertise for democratic trade unions and participants in tripartite forums charged with designing post-apartheid labour market policy and governance (Saul, 1993; Grawitzky, 2013). These deliberations were primarily overseen by the Department of Labour (DoL). South Africa re-joined the ILO on 26 May 1994.

The country's transition to democracy was in part due to powerful trade unions and organised business recognising their interdependence and the value of social dialogue (Webster and Sikwebu, 2010, 177). Major union federations, the Congress of South African Trade Unions (COSATU) and the National Council of Trade Unions (NACTU), who were militant opponents of apartheid and who represented black industrial workers, had by the 1980s established a track record for forcing the apartheid government to consult them before changing labour laws (Gostner and Joffe, 1998, 131).

Contradictions in the labour law architecture under apartheid began to show in the late 1960s because the economic implications of shortages of skilled labour had not been foreseen. Out of necessity, employers started training black workers, particularly Africans, for more skilled work. In time the apartheid government itself became concerned about giving 'all groups a stake in the system to ensure a common loyalty to the system and the country' (Kooy et al., 1979, 2). It appointed the Wiehahn Commission to look into the labour regime and labour legislation, and its recommendations were adopted in the period 1979–81. Thus, the previously racialised dual system of industrial relations characterised by relatively powerless company-level liaison committees that COSATU and the NACTU had actively opposed was abolished. Freedom of association was established and unions representing black workers then joined existing industrial councils (where the agreements struck between employers

1 See Convention no.111 – Concerning Discrimination in Respect of Employment and Occupation, 1958, http://www.ilo.org/wcmsp5/groups/public/@dgreports/@gender/documents/genericdocument/wcms_114189.pdf (accessed on 5 June 2018).

2 Following a decision in 1963 by the ILO's Governing Body to exclude South Africa from various trade committees, the ILO Conference of June 1994 adopted the Declaration concerning the Policy of Apartheid of the Republic of South Africa in 1964, http://www.ilo.org/century/history/iloandyou/WCMS_217915/lang--en/index.htm (accessed on 5 June 2018).

and employees were legally binding). The Commission also established a dedicated court to adjudicate labour matters (Kooy et al., 1979, 11, 27; Dibben et al., 2015, 463). Interestingly, the Wiehahn Commission described South African labour relations at the time as 'tripartite' (Kooy et al. 1979, 3). The Commission marked a fundamental shift in industrial relations in South Africa and resulted in black workers intensifying their struggles for workplace and social rights (Lichtenstein, 2015; Bhorat et al., 2014, 4).

With the practice of bargaining and dialogue having started well before the transition to democracy, by the late 1980s tripartism was accepted as a viable method for crafting social and labour policy. This gradual restructuring within the apartheid state and workplace was eventually institutionalised under the National Economic and Labour Council (NEDLAC), in 1994, both deepening democracy and 'channelling discontent' (Webster and Sikwebu, 2010, 176–177; Benjamin and Cooper, 2016, 3). The intention was to discuss all changes to labour, social and economic policy in NEDLAC before presentation to parliament. Labour-related matters such as basic conditions of employment, the ILO concept of decent work, workers' compensation, minimum wages, employment equity and youth unemployment were addressed by NEDLAC.

In South Africa, the DoL is the custodian of the country's relationship with the ILO. Most labour market institutions in South Africa are located in the DoL with the exception of those dealing with mine health and safety and with the education and training of mineworkers. The latter are located within the Department of Mineral Resources (DMR), formerly the Department of Minerals and Energy. The extended mandate of the mining department is a historical artefact arising from mining's central role in the industrialisation of the country and created room for differentiated approaches to tripartism. The tripartite Mine Health and Safety Act (MHSA) No. 29 of 1996 as amended came into effect two years after the establishment of NEDLAC.

As little social value was attached to black lives, mining operations were not designed for safety and health, from the outset and for most of the twentieth century. Employers in mining and elsewhere upheld apartheid in the workplace by coercive means (Phakathi, 2012). Production was optimised in the support of the 'politics of white supremacy' (Jeeves and Crush, 1995, 6) through migrant labour, low wages and little regard to the health and safety of miners. Work on mines was brutally policed until the mid-1960s, when production incentives and a rational job-grading system were introduced (Moodie, 2005, 547, 566). From the 1980s onwards, the mining sector's dismal health and safety record began to improve on the back of the unionisation and mobilisation of black mineworkers by the National Union of Mineworkers (NUM). In 1994, NUM succeeded in securing a 'Commission of Inquiry into Safety and Health in

the Mining Industry', leading to the enactment of the MSHA in 1996 two years into democracy. The MSHA, which developed alongside the ILO's Convention 176 (ILO, 1995), gave rise to the tripartite Mine Health and Safety Council (MHSC) and the Mining Qualification Authority (MQA). The rights, procedures and arrangements established by the MSHA mirror those of Convention 176. The practice of social dialogue and associated institutional innovations of the new national labour regime were thus also reflected in the MSHA, which represents the first formal application of tripartite principles in mining in democratic South Africa. Through the MSHA, for the first time in South African history, mineworkers and their representatives could influence decisions affecting their working conditions. By that point, a racialised and discriminatory system of labour-intensive mining had prevailed for almost a century.

2 The Practice of Tripartism in Democratic South Africa

2.1 *Statutory Tripartism: The National Economic and Labour Council (NEDLAC)*

The NEDLAC Act of 1994 (NEDLAC, 1994) adapted the concept of tripartism to include the voices of poor and marginalised South Africans. The Act recognised four stakeholder groups—government, organised business, organised labour and 'community' (representatives of civil society)—rather than three. New laws on labour relations, conditions of employment and skills development followed the establishment of NEDLAC (Benjamin and Cooper, 2016, 3). But the implementation of these new laws and policies fell short of expectations (Bezuidenhout et al., 2008, 64–68; von Holdt and Webster, 2005, 21). This diminished prospects for a broad social compact premised on agreed macroeconomic policy, designed to achieve substantive economic upliftment, economic growth and participation in the formal economy by black South Africans.

The advent of democracy and the institutionalisation of tripartism coincided with the rise of globalisation. Alongside the structural problems in the national economy, changes in the global economy also raised formidable barriers to NEDLAC's attempts to improve employment levels and increase participation in the formal economy. The casualisation of work, for example, compounded the problem of systemic unemployment caused by apartheid policies (Theron, 2005, 314; von Holdt and Webster, 2005, 30). In mining, the level of contracting was estimated at 28 per cent by 2012 (Deloitte, 2013, 2). Contract workers earned less than workers in permanent jobs and their living conditions were poorer and often informal. Casualisation increased job insecurity

and created difficulties in maintaining fair labour practices and standards. These were contributing factors to the explosive situation at Marikana Platinum Mine, culminating in 2012 in the deaths of 34 striking miners and the injuring of 78 others under fire from the South African Police (Farlam et al., 2015, 514, 544–559; Deloitte, 2013, 4). Globalisation also created opportunities that benefitted large South African mining companies rather than the local mining industry, and these companies moved their head offices and stock exchange listings offshore as they internationalised their portfolios. Within the country, private sector investments in mining research and development dropped off since it appeared that expertise could be sourced from anywhere in the world.

NEDLAC's capacity to foster deep societal change was also hampered by internal difficulties. Employer organisations and unions represented in NEDLAC were not broadly representative of society. Despite widespread unionisation, large numbers of South African workers were not unionised, and the interests of smaller and large employers diverged (Dibben et al., 2015, 465). As new opportunities became available to black South Africans thanks to democratisation, trade unions' capacity to effectively represent workers diminished, with the loss of senior trade unionists to positions in government and business and promotions into supervisory and management positions at work (Buhlungu, 2010, 157–166; Hirschsohn, 2011). Even the 'community' group was not fully representative of civil society. Many civil organisations failed to meet NEDLAC's membership criteria, and the community group's participation in NEDLAC was limited to discussions on development (Webster and Sikwebu, 2010, 181–184, 214). It was apparent within a few years that dialogue in NEDLAC was more adversarial than consensus seeking. Few agreements were struck, raising questions about NEDLAC's capacity to deliver on its mandate (ka'Nkosi, 1997). This led to the creation of the controversial Millennium Labour Council in 2000 to augment NEDLAC, in which disagreements were to be hammered out before reaching NEDLAC (Dibben et al., 2015, 466). After the events at Marikana in 2012, a review of NEDLAC was commissioned in the face of continued concerns over whether it could deliver a viable social compact (Joffe, 2013). The ILO provided support for this review. To date, no alternatives to NEDLAC have emerged and efforts continue to address its shortcoming and limitations. As reviewers Webster and Joynt pointed out, NEDLAC could be fixed. The foremost challenge was to overcome the insider–outsider problems in which in big business, 'a labour aristocracy' and a highly paid civil service seek to maintain the status quo (Webster and Joynt, 2014) rather than make fundamental compromises.

2.2 *Non-statutory Tripartism in Mining and the Role of 'Summits'*

Prior to the establishment of the MHSa in 1990, NUM called for social dialogue and tripartite discussion over the economic future of the mining industry. While the first of these 'mining summits' failed, the NUM put forward a demand for an inquiry into mine health and safety, which eventually resulted in the appointment of the Commission that recommended the MHSa (Masilo and Rautenbach, 2008, 1–2). After the MHSa was enacted in 1996, from 1998 onwards several mining summits, and initiatives such as Deep Mine, PlatMine and FutureMine, were convened to address issues in gold- and platinum-mining (Durrheim, 2007). These endeavours were collaborative, multi-stakeholder and tripartite in form, and included scientific research. The common thread was to stave off mine closures and prevent job losses. In coal-mining, the CoalTech Research Association, established in 1999, is another example of a multiparty forum in which government, labour and employers are represented, in this case to secure the future of the coal sector by focussing on sustainability, competitiveness and safety (CoalTech, n.d.). Except for CoalTech, these initiatives had limited success as they failed to translate into concrete, ongoing programmes of work.

Cracks became evident in the ad hoc tripartite practices associated with the DMR when the Mining Industry Growth, Development and Employment Task Team (MIGDETT), established in December 2008 by agreement between the tripartite stakeholders, did not conclude its work. MIGDETT was created in response to the global economic and financial crisis, which particularly affected the mining sector. It was to develop strategies for transforming the industry through interventions to improve competitiveness, increase the participation of black South Africans in mining, minimise job losses and position the mining industry for sustainable growth (PMG, 2010). The 2017 Revised Mining Charter (DMR, 2017), developed by the DMR, dealt with the issues assigned to MIGDETT. Serious differences (le Cordeur, 2017) over the appropriateness and viability of the policies and mechanisms proposed in the Charter led to organised business and government turning to the courts for resolution.

The Mining Phakisa ('*phakisa*' means 'hurry up') is a recent and more hopeful expanded tripartite initiative than MIGDETT. It got underway in 2015 without significant involvement from the DMR. The Phakisa adopted a holistic approach to replacing outdated technologies, processes and organisational structures on gold and platinum mines. It recognised the interdependence of the futures of gold- and platinum-mining, and the many people, communities and industries dependent on these commodities. It also revisited the linkages between mining and industrial development. One of the workstreams of

the Phakisa envisaged a mechanised and ultimately automated, low-profile mining system which was to be designed and produced locally. This system would address the challenges in mining, create new employment opportunities, and meet local and international demand for such systems. A similar idea had been set aside in the past because of the depth of mining, the uniqueness of the gold and platinum ore-bodies, worker resistance, and managerial conservatism (Paul Stewart, 2015). Following protracted discussions within and between the private and public sectors, and herculean efforts to raise the necessary funding, the first phase of research and development work finally started in late 2016 (CSIR, 2016). The background to and practice of social dialogue and tripartism in mining, both non-statutory and statutory, is summarised in Figure 4.1.

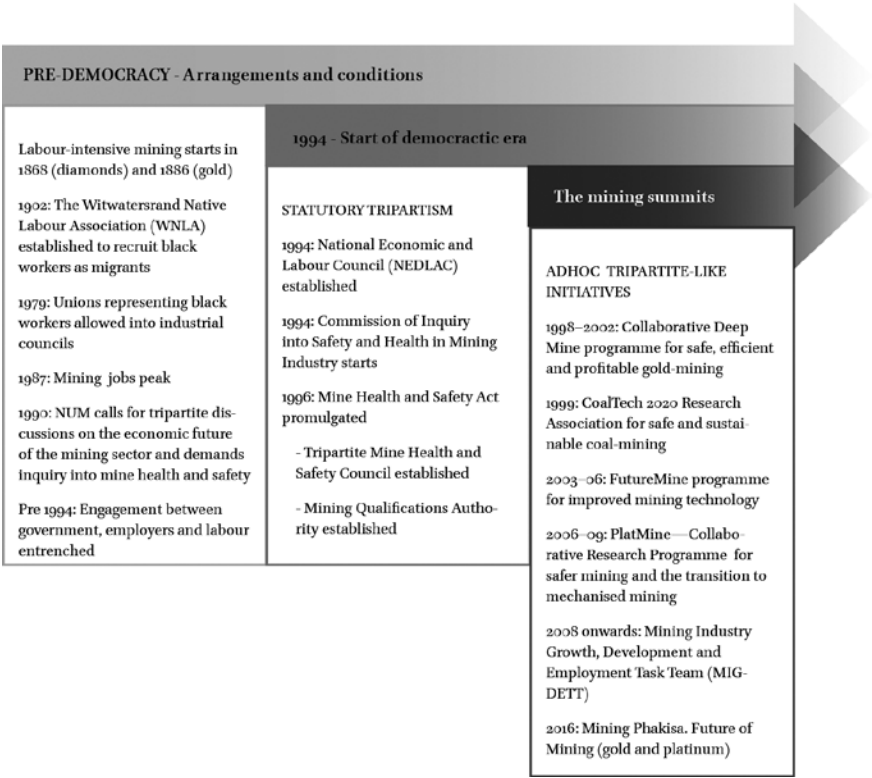


FIGURE 4.1 Practice of social dialogue and tripartism in mining

SOURCES: BAARTJIES ET AL., 2007; BENJAMIN AND COOPER, 2016; COALTECH, N.D.; COMSA, N.D.; COMSA, 2017; COMSA, 2010–17; COMSA, 2005–17; CSIR, 2016; DURRHEIM, 2007; LEON ET AL., 1994; MASILO AND RAUTENBACH, 2008, 1–2; MCCULLOCH, 2012, 9–10; PMG, 2010; WEBSTER AND JOYNT, 2014.

2.3 *Statutory Tripartite Structures of the MHSa: Achievements and Limitations*

The provisions of the MHSa mark South Africa's first legislated application of tripartite principles in mining. The MHSa sets out specific responsibilities for government, employers and workers' representatives. These parties are required to work together to ensure mineworkers' health and safety. The government's responsibility for mine health and safety resides with Mine Health and Safety Inspectorate (MHSI) in the DMR. The MHSI is responsible for health and safety at mines and for the effects of mining on people in surrounding settlements and communities. The MHSa also gave rise to the tripartite MHSC and the Mining Qualifications Authority (MQA). In law, the Chief Inspector of Mines chairs both the MHSC and the MQA.

Under the MHSa, the MHSC was designed to address the extremely high levels of death and injury among mainly black mineworkers. The MHSI is the single representative of government in the Council. Employers are primarily represented by the South African Chamber of Mines (COMSA). The South African Mining Development Association (SAMDA), representing mainly black-owned small and medium-sized mining companies, is largely inactive. The multiplicity of unions representing workers is indicative of the divisions among and stratification of the workforce. The main fault lines are skill levels and race, and more recently rivalry and competition between the NUM and the Association of Mine Workers and Construction Union (AMCU). The NUM and AMCU largely represent black mineworkers, while the other unions—Solidarity and the United Association South Africa (UASA)—represent artisans, technicians and supervisory staff, that is to say, workers in occupations historically reserved for 'whites'. AMCU emerged in 2012 as a militant union in direct challenge to the NUM and just over a year ago agreed to formally participate in the MHSC. The unions representing mineworkers are increasingly more general than sector specific.

2.3.1 The Mine Health and Safety Council

Many achievements are associated with the MHSC and its subcommittees, including the development of regulations and guidelines, the publication of a widely respected handbook on occupational health (Guild et al., 2001), several guidebooks and research programmes. In addition, since the inception of the MHSa several national tripartite initiatives have been launched (Table 4.1).

The MHSa introduced rights for workers—to representation, participation, information and training and the right to refuse dangerous work. Under the MHSa an extensive body of related law was developed over time, which included codes of practice (both mandatory and offering guidance) that invoke

TABLE 4.1 National health and safety initiatives

| | Tripartite initiatives | Lead institution |
|---|---|----------------------------------|
| 1 | 2003 to 2013, Safety Milestones (Journey towards Zero Harm). Main thrusts were to reduce fatalities to sector-leading levels, ^a eliminate silicosis and eliminate noise-induced hearing loss. | Mine Health and Safety Council |
| 2 | 2008, Tripartite Action Plan to achieve 2013 milestones, and the formation of Regional Tripartite Health and Safety Forums. | Mine Health and Safety Council |
| 3 | 2009, Mining Occupational Health and Safety (MOSH) Learning Hub established. | Chamber of Mines of South Africa |
| 4 | 2011, Culture Transformation Framework developed and approved. | Mine Health and Safety Council |
| 5 | 2014, Milestones on Health and Safety. | Mine Health and Safety Council |
| 6 | 2016, Signed pledge by tripartite stakeholders to ensure achievement of occupational health and safety milestones. | Mine Health and Safety Council |

a South African mining fatality rates were benchmarked against the averages of the fatality rates of the mining sectors of Canada, the USA and Australia.

SOURCES: COMSA, 2005–17; MHSC, 2016; MHSC, 2014; MOSH, NO DATE.

the MSHA’s principal concepts—tripartism and risk management. To date, 23 new regulations have been introduced, along with 12 guidelines for mandatory codes of practice and further informal guidance notes.

At mine sites, the MSHA requires engagement between inspectors from the MHSI, employers’ and employees’ representatives, and bipartite engagement between employers’ and employees’ representatives. The latter has resulted in:

- Company and mine-level agreements on arrangements for information sharing, joint planning and decision-making, training and auditing.
- Health and safety committees at every mine or on every shaft (the latter in the case of large mines).
- Mineworker health and safety representatives or stewards, who are members of health and safety committees or subcommittees.

The committees consider issues raised by workers, managerial concerns, levels of compliance to rules and standards, training, health and safety interventions,

and incident investigations and their results. A sector-wide audit of these requirements (which included small-scale mines) conducted by the MHSI in 2008 found that two-thirds of mines comply with these arrangements (DME, 2008).

2.3.2 Mixed Results for Mine Safety

Mining employment peaked at over 827,000 employed in 1987, with just over 564,000 (67 per cent) working on gold mines; but thereafter gold-mining employment declined almost steadily to 115,822 people in 2016 (Nattrass, 1995, 862; Seekings and Nattrass, 2002, 5–6; Baartjies et al., 2007, 3–4; COMSA, 2017, 9). Higher levels of employment in platinum-, coal-, iron-, chrome- and manganese-mining have not offset the job losses in gold-mining, losses that were due to lower gold prices, the declining quality of gold reserves and increasing costs and difficulties in extracting gold at deep levels using labour-intensive methods (Nattrass, 1995, 865). Sharp declines in employment followed. Given the structural linkages between the mining sector and local industry, the contraction of the mining sector affected employment levels across the economy (Fine, 2008; Fine and Rustumjee, 1996).

At face value there have been huge gains for health and safety. The Commission of Inquiry into Mine Health and Safety documented that between 1900 and 1993 over 69,000 mineworkers lost their lives, and that over 1,000,000 were seriously injured (Leon et al., 1994, 15). In 1993, gold-mining fatalities accounted for 418 of the 578 fatalities recorded, while in coal-mining—then ranked the second most dangerous mining environment after gold—90 deaths were recorded (Leon et al., 1994, 19). By 2016 the number of deaths per annum due to mine accidents had fallen by 88 per cent to 73 in total, with the majority recorded on gold, platinum and coal mines, respectively (MHSC, 2016, 20). This change is significant by South African standards.

The major causes of death and injury among mineworkers involve ‘falls of ground’ (FoG) from the roof and sidewalls of the workplaces in underground mines, transport in mining, and machinery. These have been the focus of preventative interventions (MHSC, 2016, 37; COMSA, 2017, 3–4) under the health and safety milestones agreed by the MHSC and referred to in Table 4.1. The mining sector has also been prone to disasters associated with rockbursts in deep-level mines, flammable gas explosions in coal and gassy gold mines, mine fires, and shaft-related accidents in deep-level gold mines. Disasters have decreased from a high of 82 in the 1990s to four in the period 2010–14, through better understanding and avoidance of the conditions and mechanisms that precipitate them. From 2003 onwards, the number of lives lost on gold mines became more comparable to those lost in platinum- and coal-mining (MHSC,

2014, 20), significantly reducing overall fatality frequency rates and the number of fatalities in mining. This is due to the falling numbers of people employed in gold-mining (COMSA, 2017, 9), and to rising employment (albeit not matching gold-mining job losses) at mines on which hazards are more amenable to control, such as mines at which trackless and mechanised mining methods are in use. The DMR currently only reports numbers of fatalities for the sector and each commodity, and not the associated fatality rates, which are indicative of the level of risk per year and are calculated as the number of fatalities per 200,000 or 1,000,000 hours worked.

While health and safety interventions have undoubtedly brought about improvement on all mines, the contraction of gold-mining has had a significant effect on reducing mortality. Figure 4.2 shows the relationship between trends in fatality rates (the number of fatalities per million hours worked) on gold mines and the mining industry overall, as well as employment trends. While overall levels of employment ranged between 400,000 and 500,000 people employed for nearly two decades and employment in gold-mining has fallen dramatically, the annualised fatality rates for the sector still strongly correlate to that of gold-mining. The linear correlation coefficients between the gold-mining fatality rate and the overall mining fatality rate are 0.98 for the period

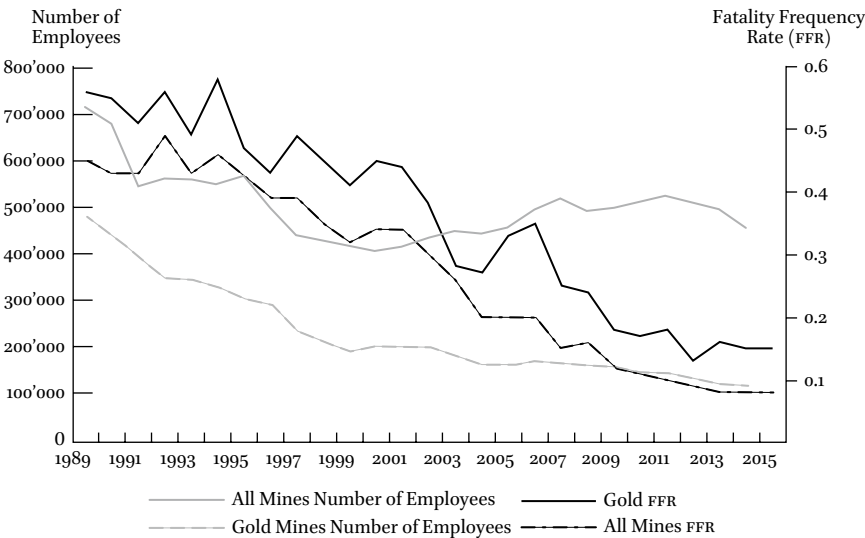


FIGURE 4.2 Gold-mining employment and fatality rates (number of fatalities per million hours worked) vs. industry employment and fatality rates
SOURCES: BAARTJIES ET AL., 2007; COMSA, 2017; COMSA, 2010–17; COMSA, 2005–17; MHSC, 2016; MHSC, 2014.

1990–2015 and 0.92 for the period 2003–16 (when the health and safety milestones applied). This is indicative of how developments in gold-mining influence the level of risk in the sector. The key factor has been the closure of older, difficult to operate and hazardous mines and sections of mines. Consequently, the level of improvement suggested by safety data cannot solely be ascribed to improvements in safety per se, as the effect of the shrinking gold sector has been significant.

Outside of the formal mining sector, the number of deaths among informal miners who work in ‘closed’ or officially decommissioned mines, mainly gold but also coal mines, has risen steeply. These deaths are not yet included in the official statistics. The contexts in which these deaths occur are conflicts between different groups of informal and technically illegal miners, increased environmental damage caused on land already affected by mining, health risks, and child labour. In South Africa, the working of decommissioned mines is illegal. The miners are often destitute ex-mineworkers and many appear to have been recruited by crime syndicates. Fires and rock falls in decommissioned mines are the main reported causes of death among informal miners, and their full extent is unknown. In March 2017, the bodies of 14 informal miners were found in a small town east of Johannesburg and their deaths were ascribed to rivalry among competing groups of miners (Pijoo, 2017). In 2009, 61 miners were estimated to have died in a mine fire (Mail & Guardian Online Reporter and SAPA, 2009), and in May 2017, 40 people were reported dead following an ‘illegal mining’ related explosion (Hosken, 2017).

2.3.3 Occupational Health: Significant Legacy Issues

Improving occupational health remains a serious challenge. The reliability of occupational disease data is a worldwide problem. Reasons for this include long periods of latency before disease becomes evident, difficulties in recognising occupational disease outside of the workplace and inadequacies in the systems for diagnosing, documenting and recording occupational diseases (Burgard and Chen, 2014, 148). These factors are compounded in South Africa by systemic indifference to the well-being of mineworkers and by the manifestation of occupational disease long after miners have returned home to far off rural areas. The Commission of Inquiry into Mine Health and Safety concluded on the basis of various studies that rates of conditions such as tuberculosis (TB), noise-induced hearing loss, silicosis and coal miners’ pneumoconiosis were very high, and possibly at epidemic levels (Leon et al., 1994, 17). Further evidence emerged after the Commission had completed its work, of several epidemics of occupational lung diseases affecting asbestos miners and their communities and gold miners exposed to silica dust (Felix et al., 1994; McCulloch,

2009; Murray et al., 2011). Current data gathered by the DMR suggest that exposure levels to airborne dusts have been reduced, but the effects thereof on levels of occupational disease are not yet apparent.

Efforts to improve occupational health are, as with safety, guided by the milestones set at the MHSC. The priorities are to reduce noise in mines, improve the effectiveness of hearing-conservation programmes, reduce exposure to airborne pollutants through improved ventilation systems, and introduce measures to prevent dust from becoming airborne (MHSC, 2016, 6, 9–10). Data from the DMR show that the number of cases of occupational diseases diagnosed declined between 2003 and 2013, the period to which the first set of health and safety milestones applied. This trend corresponds to declining numbers of cases reported at gold mines. While 7,461, 2,042 and 5,783 cases of pulmonary tuberculosis, silicosis, and noise-induced hearing loss, respectively, were diagnosed in 2003, by 2013 these numbers declined to 1,900, 1,164 and 471, respectively (MHSC, 2014, 20). As shown in Figure 4.3, the entire sector’s occupational health data track that of gold-mining, with particularly close correlations between the number of recorded cases of silicosis and TB in the whole sector and the number of cases recorded on gold mines.

Compensation owed to ex-mineworkers suffering from occupational disease has not been successfully addressed through statutory tripartism and

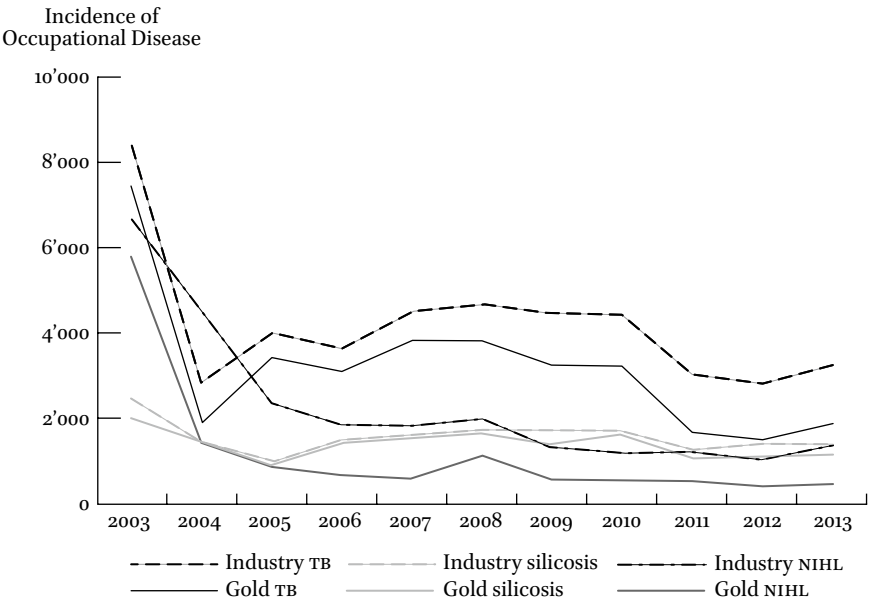


FIGURE 4.3 Occupational health: mining sector relative to gold-mining
SOURCES: BAARTJIES ET AL., 2007; COMSA, 2010–17; MHSC, 2016; MHSC, 2014.

continues to weigh heavily on the sector. In 2003, litigation against Cape plc resulted in a settlement in favour of asbestos miners and mining communities, ‘the award of which was managed by the Asbestos Relief and the Kgalagadi Relief trusts’ (Asbestos Relief Trust, 2003). In 2016, litigation to secure compensation for 4,365 claimants for silicosis and silico-tuberculosis contracted in gold mines resulted in a settlement of USD 35 million (ZAR 464 million) with Anglo American SA and AngloGold Ashanti. This settlement followed 12 years of litigation and may pave the way for an industry-wide compensation scheme for all gold miners with silicosis (Meeran and Martin, 2016). A separate silicosis class action lawsuit, underway since 2012, aims to secure claims against 30 gold-mining companies (Bega, 2017). This claim could benefit over 200,000 miners and their families through a settlement reached on 3 May 2018 (Reuters, 2018a; Reuters, 2018b). These lawsuits point to one of the limitations of statutory tripartism—namely, that legacy issues have not been brought into statutory structures. Recent attempts to resolve compensation payment backlogs affecting tens of thousands of migrant ex-mineworkers are being facilitated through a partnership between the World Bank, the International Organisation for Migration and the Department of Health. While the MHSC hosted the 2016 Compensation Summit, it has not yet found a way to deliberate on one of the most poignant legacy issues in South African mining.

2.4 *Mixed Experience with Workers’ Rights*

The health and safety rights of mineworkers were strengthened by the introduction of the MHSA. Studies show progress with respect to the practice of worker-elected health and safety representatives and with Section 23 of the MHSA, which gives workers the right to leave a dangerous workplace. In each case, however, workers have yet to fully realise their rights.

Case study research found that the activities of health and safety representatives included important health and safety tasks such as risk assessment, worker education and compliance, supervision of worker health and well-being, and administration and reporting. However, in each area of activity, health and safety representatives faced significant obstacles in the execution of these tasks and there were more risks than benefits to being a health and safety representative (Coulson, 2016).

A sector-wide study commissioned by the MHSC found that the provisions of Section 23 had been successfully communicated to mineworkers in the large gold, coal and platinum commodity sectors, and virtually all were aware of their rights and had had some training (albeit by their employer) on how to exercise them. However, there were shortcomings. Workers could not state the procedure associated with the right, mineworkers deferred to their health and

safety representatives prior to taking any action, casual workers were less likely to exercise the right, and up to a third of workers who withdrew from their workplace returned there still thinking it was dangerous (Coulson et al., 2018).

The experience of worker–employer safety committees remains undocumented. It is thought that the emergence of AMCU in direct competition with the NUM may have reduced the effectiveness of these committees and the arrangements for worker representation. The underpinning collective agreements between recognised trade unions and the employer are premised on the presence of a majority union, and relations between AMCU and the NUM tend to be tense, adversarial and prone to violent confrontation (Chinguno, 2013).

2.5 *Divisions between Stakeholders Persist*

The sector-wide Mine Occupational Safety and Health (MOSH) Leading Practice Adoption System aimed to introduce, across the South African mining sector, technologies and procedures that have a demonstrable impact on health and safety performance. This COMSA-led programme was found—despite its best efforts to involve other stakeholders—to, in practice, be expert-led and unable to target mines with the worst health and safety performance; statutory representative structures for workers were bypassed and the DMR was ambivalent about direct involvement (Hermanus et al., 2015). The initiative was conceived outside the MHSC although labour and the MHSI thought it ought to be brought under the Council's umbrella. Ultimately, involvement by the industry in MOSH was not left as voluntary and companies were required to report on their consideration and uptake of MOSH technologies under the Mining Charter II score card (a regulatory instrument that aims to 'transform' the mining sector).

In the last five years the DMR has adopted an increasingly punitive approach to enforcement in an effort to force improvement upon the industry. In terms of Section 54 of the MHSA, mine inspectors can stop a section of a mine, or an entire mine, when there is a serious and imminent threat to the safety of mineworkers. How the DMR and the industry differ on the interpretation of this section of the Act is further straining their relationship (Ryan, 2016). The DMR issued directives to stop mines for a wide range of infractions, some seemingly minor, and described these as evidence of inspectors' stronger approach to enforcement (DMR, 2012). According to industry executives, stoppages were often justified, but not on the scale required by the DMR—closing an entire mine for infractions confined to a single workplace or mining section (Ryan, 2016). A labour decision in favour of AngloGold Ashanti gave weight to this argument when a judge ruled that DMR inspectors unreasonably failed to issue a directive proportional to the harm or potential harm they intended

to prevent, but instead unfairly issued a Section 54 work stoppage to a whole mining operation. This was described as an unreasonable act on the part of the DMR in a Labour Court judgement.³

3 Conclusions

Tripartism and social dialogue is well established in South Africa with a new labour market regime replete with institutions, new laws and entrenched processes. In this the ILO has played a crucial role by opposing apartheid, exposing the links between apartheid and forced labour, supporting liberation and the exiled trade union movements during apartheid, training the participants of tripartite forums and resourcing efforts to institutionalise social dialogue in the transition to democracy.

But dialogue in the premier institution, NEDLAC, has been too fractious and too narrow to bring about agreement on addressing the deeply structural causes of poverty, unemployment and marginalisation in South Africa. Concerns over the adequacy of representation, divisions between stakeholders, and powerful interests in maintaining the status quo are among the issues that hamper NEDLAC. But NEDLAC can be fixed by acknowledging these problems and through a willingness to work towards substantive change (Webster and Joynt, 2014; Webster et al., 2008). There are also opportunities for creating a more comprehensive and 'joined up' form of tripartism by making fully visible the social project confronting South Africa and facilitating the connection between and the amplification of initiatives that show promise. While sectoral issues may require dedicated attention, NEDLAC could be positioned to take stock of, coordinate and influence dialogue across the wide spectrum of settings in which social dialogue takes place. NEDLAC's predicament is indicative of the current challenges facing the ILO in an increasingly globalised but fragmented world. The organisation could create and disseminate knowledge on how social compacts—the ideal that underpins tripartism—can be built and sustained. Extending its presence and bringing its expertise to bear in a wider range of forums could be one way of accomplishing this.

Similar issues beset mining as beset NEDLAC. There are divisions among the key stakeholder groupings, and the tripartite structures responsible for mine health and safety have largely avoided discussion on the inherent limitations

3 Johannesburg Labour Court, J2459/16, *AngloGold Ashanti Limited vs Mbonambi and Others*, 4 November 2016, <http://www.saflii.org/za/cases/ZALCJHB/2016/522.html> (accessed on 5 June 2018).

of labour-intensive deep-level mining, the emergence of informal (illegal) mining, and the epidemics of occupational disease. This has led to one-sided or narrowly defined efforts to improve conditions in mining, unlike the efforts of the latest mining summit—the Mining Phakisa—which aims to transform gold- and platinum-mining in their totality. However, while the low-key role of the DMR in the Phakisa initiative and the lack of recognition of the initiative in NEDLAC might shelter the Phakisa from the turmoil present in these institutions in the short term, in the long run the Phakisa is likely to falter if it cannot garner sufficient and wide-ranging support for its objectives.

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The ILO's Role in Global Governance: Limits and Potential

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Abstract

The International Labour Organization (ILO) has demonstrated a remarkable ability to adapt to changing conditions throughout its long history. At its centenary, the ILO must once again respond to evolving circumstances and find new ways to engage state and private actors participating in an interconnected global economy where labour standards continue to be violated and where work itself is undergoing significant transformations. This chapter explores recent efforts by the ILO's leadership to reassert the organisation's role in broader global policy contexts. Part 1 presents the concept of institutional layering in order to understand better the agents of change and the structures in which they operate. The three sections that follow demonstrate institutional layering across three core dimensions of global governance—actors, rules, and mechanisms—in the period since 1998. The chapter concludes that the ILO's current governance practices have mixed prospects for the organisation's role in a changing governance landscape. New layers of soft law rules and flexible governance mechanisms can potentially augment the ILO's global standing moving forward. Its lack of representativeness and its continuing engagement of new actors, however, demand further formal changes to the ILO's institutional apparatus.

1 Introduction

Over its long history, the International Labour Organization (ILO) has been at the forefront of global debates on social justice and the world of work. It was established in 1919 at a time when frictions between business and labour, the so-called labour problem, were widespread (Helfer, 2006). The ILO's golden age could be said to have culminated in 1969 with the awarding of a Nobel Peace Prize to the Organization fifty years after its foundation.¹ Thereafter,

1 See the website https://www.nobelprize.org/nobel_prizes/peace/laureates/1969/labour-facts.html (accessed on 12 June 2018).

global economic and ideational changes began to challenge some of the ILO's core norms. Globalisation, understood as the worldwide intensification of socio-economic interdependence, the deepening integration of local and national activities into the global economy, and modes of thinking shifting away from the national level towards regional and global levels (Biersteker, 1998), presented a new set of policy problems and priorities and increased pressure on the ILO's foundational structure to adapt.

The extent to which the ILO has met those challenges as well as its role in contemporary global governance has been questioned. Some observers suggest the Organization is increasingly at the margins of influence of global economic governance (Weiss, 2011). Critiques of the ILO centre on its declining standard-setting role (see Figure 5.1, below), low ratification rates of its conventions (Boockmann, 2001), perceived non-representativeness (Alston, 2005), overambitious mandate (Standing, 2008, 2010) and restrictive decision-making processes (Baccaro and Mele, 2012). Recent decades have also seen the emergence of new and diverse governance arrangements and actors outside ILO structures that are also addressing, or potentially undermining, the protection of worker rights.

Despite these criticisms and in an effort to contribute to the debate about the ILO's changing role in global governance at its centenary, this chapter assesses recent efforts by the ILO's leadership to augment the organisation's influence in a number of critical policy domains. The analysis provides a historical institutionalist argument to explain the sources and nature of those reform initiatives—largely driven by different Directors General and sometimes developed outside the ILO—which at times are also supported by governments and employer and worker groups. Part one of the chapter introduces the concept of institutional layering in order to understand why the ILO has adapted incrementally. The three sections that follow demonstrate layering across three core dimensions of global governance—actors, rules, and mechanisms—focusing on the period since 1998. Evidence suggests that the ILO has: (1) shifted in the area of standard-setting towards soft law instruments to promote respect for labour rights rather than an exclusive focus on traditional international legal instruments; (2) developed, with respect to implementation and capacity building, partnerships with multiple and diverse actors beyond action undertaken exclusively within its tripartite structure; and (3) opened itself to the role of decentralised governance mechanisms and self-regulation in addition to more traditional regulation of labour through state-based steering mechanisms. Those changes have significant implications for the organisation's global governance role. While emphasising soft and flexible instruments and involvement in decentralised governance can potentially augment its global

governance role moving forward, the ILO's engagement of new actors will demand further changes to its formal institutional apparatus to be effective.

2 Governance in Layers: The ILO's Gradual Adaptation to a Changing Global Context

Global governance is defined here as 'an inter-subjectively recognized, purposive order at the global level, which defines, constrains, and shapes actor expectations in an issue domain' (Biersteker, 2015, 160). It is based on systems of authoritative *rules* (both formal and informal) that apply to multiple *actors* (both public and private) whose behaviours are coordinated by governance *mechanisms* (ranging from hierarchy and steering by an agent to self-regulation by a market) to achieve particular objectives (Biersteker, 2015).

We argue that the ILO's efforts over the past two decades to (re)assert its role in global governance entail a process of incremental change to the rules, actors, and mechanisms of governance. Why has change been gradual and often at the margins, despite growing concerns that the ILO's global standing has itself been in decline? Even during periods of major change (e.g. wars, global economic crises, the changes brought on by globalisation) significant organisational change does not come about easily. External factors alone are not sufficient to inform change because certain institutional actors must have the incentives and ability to do so (Andonova, 2017).

The ILO's institutional apparatus was established in 1919 and it initially empowered a specific constellation of actors—governments, unions and employers—within a tripartite structure that was revolutionary at the time. Those same actors operate essentially by the same rules today, demonstrating that institutions can persist long after the constellation of interests and actors that initially gave rise to them have changed (Pierson, 2004). The ILO's evolution has thus been shaped by a predictable dynamic whereby the tripartite actors have been incentivised to perpetuate the institutional status quo and to consolidate further their positions, while resisting changes that challenge their privileged positions (Mahoney, 2000). Conversely, changes that could diverge notably from the status quo often originate from relatively weaker actors institutionally, such as the Director General and Secretariat, or external change agents such as civil society or corporations.

Under conditions where actors are either unwilling (e.g. the tripartite actors) or formally unable (e.g. the International Labour Office) to undertake significant change, the ILO's recent reform efforts are examples of what historical institutionalists call 'institutional layering' (Mahoney and Thelen, 2010).

Layering does not alter the formal institutional framework of an organisation, which continues to enjoy at least a modicum of legitimacy. It is a conservative way to go about organisational change and includes new practices being appended to existing institutions. As a result, the institutionally privileged tripartite actors can tolerate deviations from the status quo and even abide by some new practices. If the new governance layers are perceived to threaten their privileged positions, however, the tripartite actors can fall back to the ILO's existing institutional framework and reinforce their positions formally.

Institutional layering can take the form of new rules or policy processes, the addition of new actors, or the introduction of new mechanisms of governance, as the following three sections will demonstrate, respectively. Crucially, the institutional layers do not replicate the ILO's existing formal structures, which specify a well-defined set of actors interacting largely through formal governance mechanisms. The new layers include 'soft' rules, engagements with a multiplicity of new actors, and more decentralised mechanisms for regulating their behaviours. Thus, layering opens the door for other actors, rules, and processes to contest the authority of the ILO and its social partners in the implementation and development of global labour standards. How that contestation is managed will have implications for the ILO's global governance role moving forward.

3 The ILO's Increasing Reliance on 'Soft' Governance

Historically praised for its formal standard-setting activities, the nature of the ILO's outputs and the extent to which they are authoritative has evolved significantly over recent decades. The ILO (like many other international organisations) has increasingly relied on 'soft' governance instruments as opposed to legally binding standards (Vabulas and Snidal, 2013). The ILO's Recommendations, Declarations, and overarching policy frameworks are examples of instruments that move away from traditional forms of legal authority. They are characterised by relatively lower degrees of obligation, precision and delegation (Abbott et al., 2000) and help overcome practical problems like the inability to reach broad acceptance of legally binding commitments and their associated high political costs. For critics, however, such instruments represent a weakening of legally binding commitments and a dangerous turn to more aspirational and promotional approaches to achieving broader progress in labour rights protection.²

² For a helpful summary of debates around the Declarations, see Hughes and Haworth (2011).

3.1 Promoting Labour Standards through Recommendations

During the mid-1990s, a period during which its formal standard-setting role was in decline (Figure 5.1), soft law instruments were viewed as a means by which to breathe new life into the ILO. At that time, the tripartite constituents were largely content with the status quo: workers were unwavering supporters of the adoption of conventions as opposed to recommendations—despite their obviously declining ratification rates—while employers’ groups supported conventions at least implicitly (ILO, 1997a).

Director General Michel Hansenne, who headed the organisation through the 1990s, thought other approaches could be more strategic and called for more frequent use of recommendations. Specifically, he advocated that recommendations serve as autonomous instruments, rather than simply as supplements to elaborate conventions, as was the norm (ILO, 1997a). The idea of promoting recommendations separately from conventions would not challenge the institutional status quo, as Hansenne tried to assure his constituents: ‘The ILO does not need to move away from its constitutional framework or

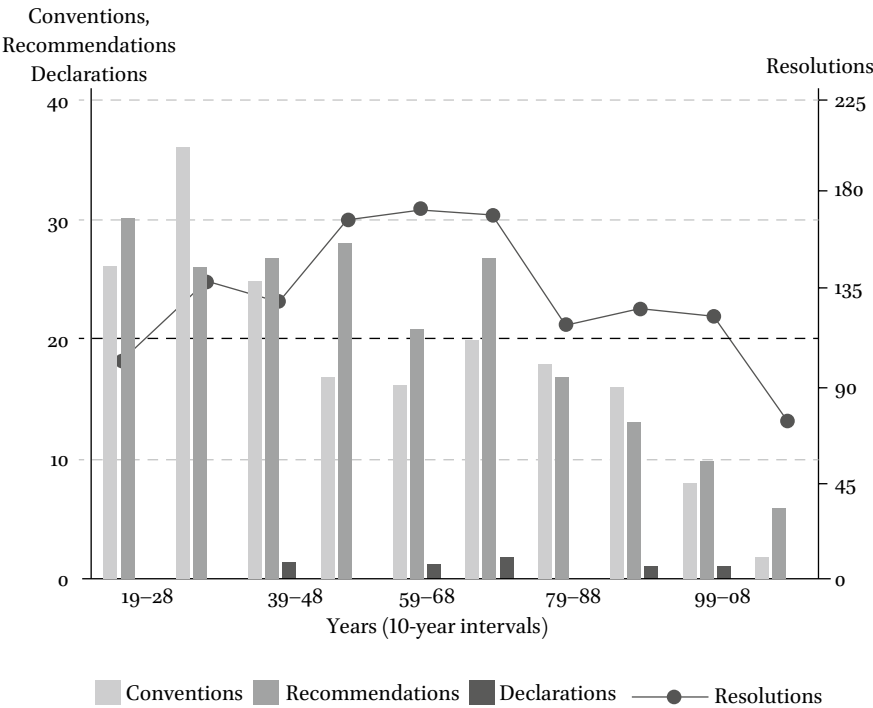


FIGURE 5.1 ILO standard setting over time
SOURCE: ILO (2018a; 2018b, 2018c, 2018d); AUTHORS’ ELABORATION OF THE DATA.

even to change it in order to be able to take on any new standard-setting activities it might assume in this age of globalization. All it has to do is to make a more judicious use -- more in line with their original objectives -- of the unique means of action [i.e. Recommendations] placed at its disposal' (ILO, 1997a).

Since 1998, the ILO's formal outputs include nine conventions, two of which were protocols to existing conventions. The ILO's most recent convention—the 2011 Domestic Workers Convention³—was of a technical nature, rather than a priority 'governance' or 'fundamental' convention. With only 25 ratifications at the time of writing, this convention entered into force in 2013 and signals the declining relevance of 'hard law' instruments issued by the ILO.

During the same period, the ILO has adopted 17 additional soft instruments in the form of recommendations. Notably, over half of those recommendations (9 out of 17) can be classified as 'autonomous' instruments, meaning they were not adopted to simply provide precision to the terms of a corresponding convention. Rather they address new issues by providing guidance through authoritative statements on certain principles, and can shape policies and generate legal effects at the national level. Autonomous resolutions indicate a trend towards greater reliance on less formal instruments that can build on the formal institutional framework already in place. A recent example is the 2015 Transition from the Informal to the Formal Economy Recommendation,⁴ which was adopted nearly unanimously. It was anticipated that the Recommendation would help address a 'major gap in ILO standards' and enhance the global standing of the ILO as a forum for the discussion of good labour practices (ILO, 2012,10).

3.2 *Promoting Labour Standards through Broad Policy Frameworks*

In a similar vein, declarations are another 'soft' instrument that has become important for the ILO in recent decades. The adoption of the 1998 Declaration on Fundamental Principles and Rights at Work⁵ was seen by supporters both as addressing significant shortcomings in the implementation of existing ILO conventions and as solidifying global consensus in a non-legally binding text

3 See Domestic Workers Convention, 2011 (No. 189), available at the website https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189 (accessed on 21 August 2018).

4 See Recommendation No. 204 concerning the Transition from the Informal to the Formal Economy, available at the website http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_377774.pdf (accessed on 21 August 2018).

5 See ILO Declaration on Fundamental Principles and Rights at Work, available at the website <https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm> (accessed on 21 August 2018).

around basic workplace rights or 'core labour standards' that apply in all countries. The Declaration was constituted as an expected standard of performance for all states and was also viewed as a framework that could assist in modernising the structure and operations of the ILO.

Like workers' groups, some states preferred to prioritise formal instruments but many others preferred a non-legally binding alternative (ILO, 1997c).⁶ A declaration was seen as a politically cost-effective way for Member States to acknowledge their commitment to core principles, even for those states not ready to ratify the corresponding conventions (ILO, 1997d). Supporting the idea of institutional layering, the Director General assured his constituents that 'it is in no way a question of imposing, through such a declaration, new obligations on member States against their will' (ILO, 1997d). With no new obligations, a declaration would not put into question the existing legal basis of the ILO system nor would it require a constitutional amendment.

In 1999, Juan Somavía began his term as the ILO's ninth Director General by seeking to build on the declaration's foundation and underlying logic as a governance instrument with the Decent Work Agenda (ILO, 1999). As close observers have noted (Rodgers et al., 2009, 223), the idea of 'decent work' reflected a desire to improve ILO coherence internally and signalled a recognition of rapid changes in the nature of work at the end of the twentieth century, changes to which the ILO needed to respond if it wished to maintain its relevance. This was particularly important after the 2008 global financial crisis, which presented an opportunity for the ILO to play an important role in helping coordinate global action for recovery and for fair and sustainable globalisation. Within that context, the Director General envisioned that 'The ILO's Decent Work Agenda can be a foundation for a global new deal' (Somavía, 2008). It was followed up with the 2008 Declaration on Social Justice for a Fair Globalization⁷ and the 2009 Global Jobs Pact,⁸ with the purpose of once again reaffirming existing principles and objectives of the organisation, in this case those set out in the Decent Work Agenda and already contained in the ILO's Constitution.

To recap, since 1998 the ILO has moved steadily towards non-binding standard-setting processes. In addition to nine autonomous recommendations, it has revised a past declaration and adopted two new declarations and

6 GB.270/3/1(Add.) 270th Session, Geneva, November 1997.

7 See ILO Declaration on Social Justice for a Fair Globalization, available at the website http://www.ilo.org/global/meetings-and-events/campaigns/voices-on-social-justice/WCMS_099766/lang--en/index.htm (accessed on 21 August 2018).

8 See Recovering from the crisis: A Global Jobs Pact, available at the website https://www.ilo.org/ilc/ILCSessions/98thSession/texts/WCMS_115076/lang--en/index.htm (accessed on 21 August 2018).

developed two broad policy frameworks (the Decent Work Agenda and Global Jobs Pact). These instruments have relatively lower degrees of legal obligation, they have broad objectives, and they rarely delegate significant formal authority. As a result, recommendations, declarations and policy frameworks can increase the breadth of the ILO's regulatory reach, but not necessarily its depth. The incorporation of labour standards in trade agreements, as discussed in the next section, provides an illustration.

3.3 *The Added Value of Soft Instruments? Labour Standards in Trade Agreements*

It should be recalled that the World Trade Organization (WTO) identified the ILO as the competent body to negotiate labour standards at its 1996 Singapore Ministerial Conference, with its refusal to incorporate a so-called social clause within the multilateral trade regime. Both employers and developing countries were against including a punitive social clause in the WTO's Charter because of concerns that it might be leveraged into a form of protectionism (Biffl and Isaac, 2002). There was also considerable resistance within the ILO to setting up what would effectively become a punitive social clause, because it would undermine the ILO's traditional emphasis on technical assistance and moral suasion to promote labour standards (Haworth and Hughes, 1997). Soft instruments were a logical way of overcoming the resistance, allowing trading partners to incorporate some ILO labour standards, without necessarily guaranteeing their strict enforcement.

Between 1993 and 2017, 81 trade agreements (29 per cent overall) included labour provisions.⁹ It is noteworthy that since 2010, a greater than average proportion of bilateral/regional free trade agreements have included references to labour standards (Figure 5.2). When trade agreements make specific reference to ILO standards, the 1998 Declaration is the most frequently referenced instrument, found in around 68 per cent of trade agreements (ILO, 2016b), and the Declaration serves as a labour standards floor in most cases (ILO, 2016a). Others, such as the Social Justice Declaration and the Decent Work Agenda, are also invoked more frequently than legally binding instruments, with the exception of Convention 182 on the Worst Forms of Child Labour.¹⁰ The ILO's

9 The data are based on an analysis of 279 trade agreements reported to the WTO. Labour provisions take into account: any standards that address labour relations, any mechanisms that promote compliance with the standards set, and any framework for cooperative activities such as dialogue or monitoring.

10 See Worst Forms of Child Labour Convention, 1999 (No. 182), available at the website https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 (accessed on 21 August 2018).

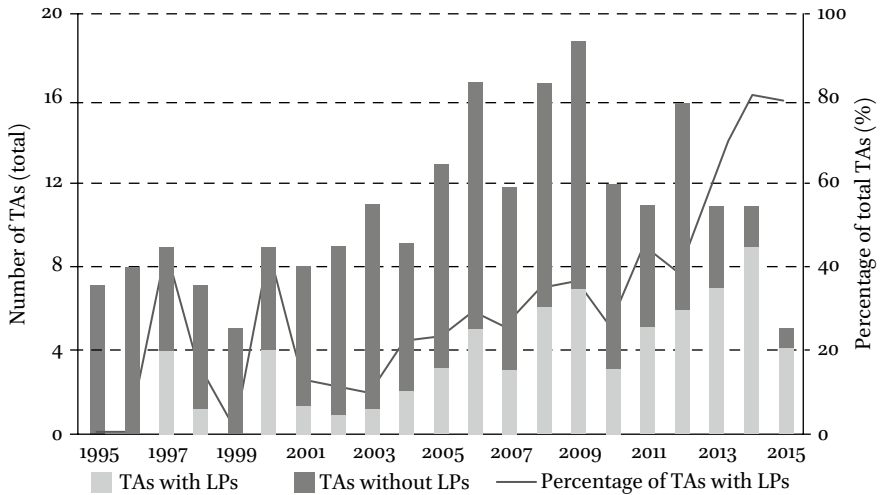


FIGURE 5.2 Proportion of trade agreements with labour provisions, 1993–2017

SOURCE: WTO (2018), AUTHORS' ELABORATION OF DATA.

so-called fundamental conventions are rarely invoked in trade agreements (9.2 per cent) despite the fact that those eight conventions enjoy near universal ratification by Member States (over 91 per cent of all possible ratifications). The discrepancy highlights the significant difference between ratifying conventions (within the ILO) and the eventuality of implementing them, especially within frameworks that can be backed up by formal dispute settlement and sanctions for non-compliance (such as trade agreements). The latter recourse, however, has only rarely been used. A more promotional approach is often used to provide special incentives when partners subscribe to labour standards, rather than punishing them when they fail to do so (ILO, 2016a).

Nevertheless, the ILO's formal processes remain in place and can be invoked—in tandem with the promotion of non-binding standards—when there is sufficient tripartite consensus and political will. A prominent recent example of using the ILO's complaint procedure during the International Labour Conference was the complaint brought against Qatar's violations of the Forced Labour¹¹ and Labour Inspection¹² Conventions. After three years the

11 See Forced Labour Convention, 1930 (No. 29), available at the website http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:Co29 (accessed on 21 August 2018).

12 See Labour Inspection Convention, 1947 (No. 81), available at the website http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co81 (accessed on 21 August 2018).

complaint was withdrawn when Qatar's government agreed to implement a three-year ILO technical cooperation programme. Whether such governance by conditionality proves to be a game changer, and the extent to which Qatar will revise its laws to meet international labour standards, remains to be seen. But it could indicate that the ILO's comparative advantage in improving global labour conditions is increasingly tied to its technical cooperation expertise rather than its legally-binding standards setting procedures.

4 Engaging New Actors in Partnerships

Recognising that 'new international groupings are exercising an influence of increasing importance in the international arena' (ILO, 1998b, para. 52), the ILO has prioritised greater involvement and greater visibility both internationally and at the country level in recent years in order to promote its standards and achieve their progressive implementation. The ILO's approach to engaging with new actors includes both partnership platforms based on strategic bilateral or multilateral engagement with other international organisations and stand-alone public–private partnerships (PPPs) largely focused on implementation (Andonova, 2017).¹³

4.1 *Partnership Platforms and Policy Influence with Other International Organisations*

The ILO has a strong track record of partnering with other international organisations. Since 1946, the ILO has signed 86 partnerships with IOs, with a marked increase during the first decade of the new millennium (Figure 5.3). That trend is more prominent today as part of the ILO's current reform agenda, which seeks to strengthen the organisation's bilateral relationships with other international organisations (ILO, 2013). The partnerships demonstrate that the ILO continues to operate with many traditional and relatively formal arrangements. They also indicate an increasing willingness and recognised need for the ILO to cooperate with other organisations to attain its cross-cutting mandate.

¹³ Partnership platforms are institutional frameworks at the global level that set out broad common goals. To be realised, they require a second tier of collaboration among a multiplicity of actors that then implement the agreements across multiple jurisdictions. PPPs are free-standing individual agreements organised by public and private actors that pursue commonly agreed objectives. Their (non-exclusive) governance functions include: (1) developing norms, standards, or policies, (2) implementation, and (3) information production and dissemination. The governance functions of partnership platforms and PPPs can overlap. See Andonova (2017, 19–20).

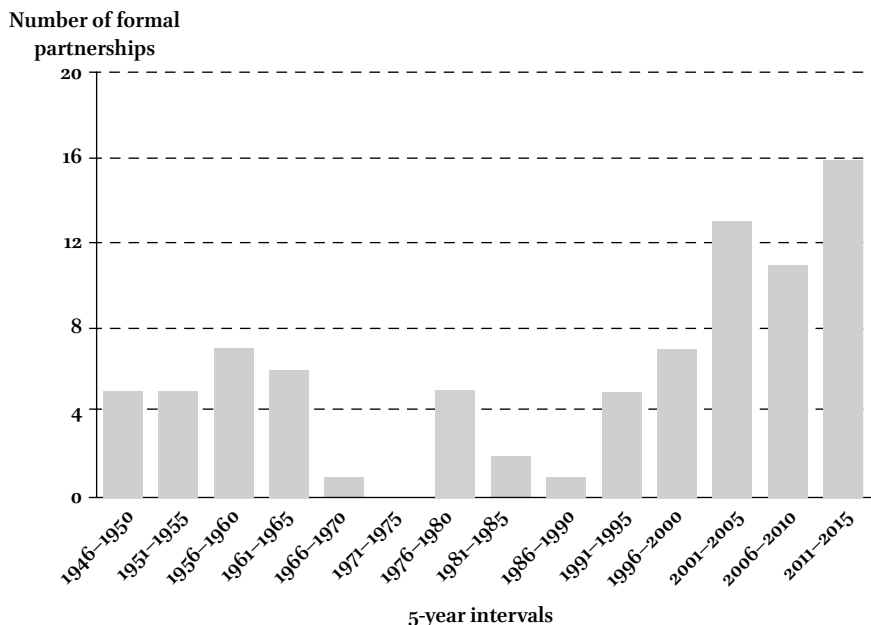


FIGURE 5.3 Bilateral partnerships concluded between the ILO and other international organisations, 1946–2015

SOURCE: ILO (2018e), AUTHORS' ELABORATION OF DATA.

Many other efforts by the ILO in the multilateral arena take the shape of multi-stakeholder partnership platforms that vary in their degree of formality and institutionalisation. The following is a non-exhaustive list for illustrative purposes. In each case, the ILO's objective is not necessarily to play the main governing function but to create a 'multiplier effect' whereby other organisations take up its standards or integrate concepts such as the 'social protection floor' and 'decent work' into their activities (ILO, 2016c, 27).

The Better Work programme, an initiative of the ILO and the International Finance Corporation (IFC), is one high-profile example of a multi-stakeholder partnership. It began in 2001 around a joint project in Cambodia to improve working conditions in the country's apparel export industry. Today, the Better Work programme is active in eight countries with over 1,400 participating factories. Independent evaluations conclude that the programme has been instrumental in preventing abusive labour practices, limiting excessive overtime and closing gender pay gaps in factories involved.¹⁴

14 For more information, see *Better Work, Progress and Potential: How Better Work is improving garment workers lives and boosting factory competitiveness, A summary of an*

The 2007 Green Jobs Initiative, described by Kees van der Ree in this volume (Chapter 12), provides another example. It was launched as a partnership between the United Nations Environment Programme (UNEP), the International Trade Union Confederation (ITUC) and the International Organisation of Employers (IOE). Subsequent successes for the ILO in terms of integrating its standards into other relevant agreements include the United Nations Framework Convention on Climate Change's (UNFCCC) inclusion of 'decent work' in its shared vision for a future global climate change regime, and the Rio+20 outcome document one year later recognising decent work as a key part of sustainable development. According to van der Ree, both internal factors (e.g. the role of ILO Directors General) and external factors (including growing consensus on the links between climate change and labour issues) contributed to the establishment of the link between decent work and the environment in the ILO's core work.

Another example of partnership platforms is the way the ILO seeks to influence programmes of the International Monetary Fund (IMF) and the World Bank (WB) in low- and middle-income countries. Independent critiques of these programmes conclude that they have been directly at odds with core ILO norms, and that their flexible labour requirements are negatively correlated with labour rights implementation in the countries involved (Blanton et al., 2015). In 1994, the ILO was granted observer status at annual IMF/WB meetings, and observer status at the IMF/WB Development Committees in 1999. Since then, there has been a tempering of some of the World Bank's and IMF's more extreme reform requirements, as well as the inclusion of labour standards in some development loan contracts (Onida, 2008; Anner and Caraway, 2010). Since 2010, the ILO and IMF have also agreed to work together on policies that promote social dialogue, employment-creating growth and a minimum social protection floor for the most vulnerable (Servais and Van Goethem, 2016).

Recent ILO Directors General have also invested considerable resources to promote core labour standards and the Decent Work Agenda in the deliberations and outputs of other global governance fora, with the G20 a notable example. During the period 2008–15, the G20 made some 1,627 commitments¹⁵ of which 92 were classified as 'employment and labour' commitments

independent assessment of the Better Work programme, 2016, available at the website <https://betterwork.org/blog/portfolio/impact-assessment/> (accessed on 17 August 2018).

15 Commitments are the specific passages in documents released publicly that carry the authority of the group of leaders. Commitments must be determined to have enough precision, obligation and future orientation so as to shape the subsequent behaviours of the G20 members in a measurable way.

(G20 Research Group, 2015).¹⁶ Among all commitments by the G20 during this period, ILO standards were explicitly invoked on only two occasions.¹⁷ More often (seven times) the ILO was called on to play a supportive role, in helping implementation, monitoring, and providing information or expertise.¹⁸ For instance, in response to the G20 calling on the ILO to play a role in examining how to address the social repercussions of the 2008 financial crisis, the ILO strengthened its capacity to monitor and assess crisis response policies (ILO, 2009). Director General Guy Ryder even entertained a proposal to set up an ILO Tribunal to those ends (ILO, 2011). The latter example demonstrates that while the ILO is actively engaged in major processes of global governance, the organisation is playing a secondary, supportive role, even when the issues in question are part of its constitutional mandate.

4.2 *Operational Public–Private Partnerships*

The shift towards partnerships by the ILO is consistent with the general trend towards a growing number of transnational, public–private governance initiatives (Abbott and Snidal, 2009; Andonova, 2017). The transversal nature of the issue of social justice has prompted the ILO to take a leadership role in many multi-stakeholder initiatives. One example is the ILO's leading role in Alliance 8.7, a new multi-actor initiative that seeks to eradicate forced labour, modern slavery, human trafficking and child labour in line with the UN Sustainable Development Goals. The ILO's response to the 2013 Rana Plaza factory disaster and its involvement in the governance of the resulting Accord on Fire and Building Safety in Bangladesh has highlighted the organisation's ability to work outside of traditional modalities and in greater direct contact with companies and other actors.¹⁹

16 Among the G20 Research Group's 27 mutually exclusive coded categories, the 'labour & employment' category was the seventh most prevalent category of commitment (92), after: macroeconomic policy (375), development (179), financial regulation (154), trade (111), reform of international financial institutions (115), and energy (98).

17 An example of a commitment to ILO standards is: 'To assure that global growth is broadly beneficial, we should implement policies consistent with ILO fundamental principles and rights at work' (G20 Research Group (2015), under 'Putting Quality Jobs at the Heart of the Recovery').

18 An example of a reference to the ILO in a supporting role is: 'We recognize successful employment and training programmes are often designed together with employers and workers, and we call on the ILO, in partnership with other organizations, to convene its constituents and NGOs to develop a training strategy for our consideration' (G20 Research Group (2015), under 'Putting Quality Jobs at the Heart of the Recovery').

19 An ILO representative serves as the Independent Chair of the Steering Committee for the Accord, an independent and legally binding agreement between leading apparel brands and trade unions to improve safety in Bangladesh factories; available at: <http://bangladeshaccord.org/> (accessed on 17 August 2018).

Operationally, partnerships play an important role in the ILO's development activities (ILO, 2016c), as also highlighted by Alenda-Demoutiez et al. in this volume (Chapter 6). During the period 2008–15, the ILO entered into 243 partnerships, involving private sector firms (56 per cent), foundations (17 per cent), academia (13 per cent) and NGOs (9.5 per cent).²⁰ The plethora of partnerships varies in terms of their objectives, including: project implementation and development, funding, advocacy, knowledge exchange, or simply organising meetings or events. Nevertheless, all partnerships in which the ILO is engaged are informed by the Director General's Announcement and Office Procedure of 2009, which requires that all partnerships must: (1) conform to ILO principles and values (as contained in the ILO's various Declarations); (2) promote the Decent Work Agenda; (3) foster tripartism (harkening back to the institution's core organising structure); (4) assure accountability; (5) promote sustainability; (6) guarantee impartiality; and (7) ensure non-preferential treatment.

The ILO's engagement in global partnerships, whatever their form, constitutes a form of institutional layering because partnerships introduce new actors into the implementation—and to a lesser extent the formulation—of governance objectives. Yet the ILO's formal institutional structures—for example, tripartism—remain firmly in place and limit to some extent the degree to which the organisation can engage with external non-state actors. This has not been the case with the ILO's global engagements with other international organisations, which are explicitly mandated by its Constitution (ILO, 2008b).

4.3 *The Limits to Partnerships and Tripartism*

The ILO's recent strategy of partnering with non-state actors—beyond the tripartite actors—was partially influenced by former UN Secretary General Kofi Annan's UN reform agenda, which called for greater engagement with the private sector and civil society and their increased involvement as 'shapers of policy' (ILO, 1998a).

The ILO has recognised on many occasions that globalisation and changing employment structures are altering the roles of public and private actors. But the tripartite actors continue to be wary of including external 'private entities' more substantively as shapers of policy, fearing that their own traditional influence could be undermined (ILO, 2008b). A strong proponent of opening up to civil society, former Director General Somavía was not concerned that including other voices would 'change the balance of the ILO' and had to reassure

20 For details, see the website http://www.ilo.org/pardev/public-private-partnerships/WCMS_456482/lang-en/index.htm (accessed on 15 June 2018).

his core constituents that the ILO's tripartite decision-making processes would not be diluted (ILO, 2001).

Despite extensive discussions at different points over the past two decades or more, the social partners (employers and unions) have 'used their institutional prerogatives as voting members of the ILO's legislative and executive organs to block further attempts' (Baccaro, 2015, 284) to adapt the tripartite governance model to respond better to the realities of today's world. Employers and workers agreed in 2002 on the Resolution on Tripartism and Social Dialogue, which formally reaffirmed the traditional structure of the ILO. Moreover, the social partners were to be consulted every time the Secretariat planned to work with civil society going forward (Baccaro and Mele, 2012).

Presently critics see the composition of the ILO's tripartite governance system as being unrepresentative of key constituents. Growing criticisms contend that ILO tripartism only reflects the formal economy, thereby largely leaving out the voices and concerns of those in the vast and growing informal economy, especially in developing nations (Standing, 2008). With trade union membership on the decline in many countries and large numbers of companies not affiliated with their national employer groups, the representativeness of these organisations is now questioned, leading to calls for wider perspectives in setting ILO priorities (Rodgers et al., 2009, 17).

The ILO Secretariat has managed to circumvent the resistance to broadening representativeness to a certain extent through institutional layering by engaging non-state actors strategically and less formally where appropriate. For example, staff at the International Labour Office worked on issues related to the informal sector 'if not in open defiance certainly in open non-compliance' (Bangasser, 2000, 27–28) with the preferences of the tripartite actors, who were threatened by the very existence of a sizable informal sector. When the Decent Work Agenda broadened the regulatory scope of the ILO to include non-organised labour, the non-state actors that the ILO usually engages with—employers and unions—had no incentive to promote the interests of this constituency (Helfer, 2006, 718, footnote 308). As a result, the Secretariat partnered with other civil society actors to reach informal workers, actors that eventually played a more prominent role in shaping substantive policies related to the Decent Work Agenda as well as the Agenda's implementation (Helfer, 2006, 719).

5 Decentralised Governance of Labour Standards

During the early years of the ILO, the organisation was the preeminent actor in the global governance of labour issues. Through the development of formal

and largely non-negotiable standards, the ILO attempted to harmonise global labour standards to the greatest extent possible. Partly in response to criticisms regarding a lack of effective enforcement of labour standards globally, the ILO today is considerably more open to how decentralised governance mechanisms could help encourage greater adherence to international labour standards in a changing global economy.

Decentralised governance is based on actors coordinating their behaviour in a voluntary, ad hoc, networked and often competitive fashion, which can lead to approximation to certain standards (Lavenex and Schimmelfennig, 2009). Such 'private' modes of governance can emerge spontaneously (and may be institutionalised thereafter) or they can be developed at the initiative of a 'public' entity (Aoki, 2001). The ILO has become more open to decentralised governance mechanisms in order to promote labour standards, without replacing its traditional governance methods or relinquishing its standard-setting role. The following sections provide illustrative examples of the ILO's efforts in this regard.

5.1 *Governance by Data*

A High Level Panel appointed by the UN Secretary General to advise on the post-2015 global development agenda recommended that governments, international agencies, civil society and the private sector should work together to harness the 'data revolution' to help governments track progress and make their decisions more accountable (UN, 2015). As part of the 2030 Agenda for Sustainable Development, the ILO is making a concerted effort to boost measurement and statistics to advance its Decent Work Agenda.

It should be recalled that following the launch of the Decent Work Agenda a major effort was made to develop a composite index to measure labour conditions comparatively across countries, inspired by the widely referenced Human Development Index. Despite past failures to set up a global labour standards index, over recent years there has been a gradual shift towards more systematic measurement within the ILO. The 2013 launch of ILOSTAT,²¹ which provides key indicators on the labour market, builds on an earlier attempt at global governance by data. Contained within ILOSTAT are the Key Indicators of the Labour Market (KILM), first published in 1999 to provide a core set of labour market indicators to inform the ILO's technical assistance priorities. In its current form, the KILM also draws on data reported by countries by incorporating

21 ILOSTAT is the ILO's centralised statistics database of labour market statistics for over 200 countries and over 100 indicators. See <https://www.ilo.org/ilostat> (accessed on 17 August 2018).

data from other organisations, such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Organisation for Economic Co-operation and Development (OECD) and the World Bank.

In its promulgation of indicators, the ILO can be viewed as using data to govern indirectly, because indicators can have a regulatory effect when implemented nationally (Davis et al., 2012). However, its efforts have been circumscribed. ILO constituents have not been able to agree on a common framework for measurement that would serve as a basis for comparisons globally. Establishing a social label would have been a major institutional development had it succeeded because it would have amounted to regulatory competition—as opposed to governance by steering—assuming that a global league table of labour standards implementation would result in social pressure and a competitive race to the top.

Instead, the ILO's efforts further indicate an incremental form of adaptation through the KILM, with a continuing emphasis on data and measurement. The fact that the ILO relies on data self-reported by governments and other IOs suggests that it aggregates data more than it governs by it, although the aggregation itself can perform a governing function. And while subscribing to the motto of 'what gets measured gets improved' can help improve accountability with regard to protecting labour standards globally, over reliance on the quantification of performance in general can also lead to perverse consequences such as distorted priorities and a focus on the quantity rather than the quality of standards (Biersteker, 2016).

5.2 *Governance by Best Practices*

During his tenure (1989–99), Director General Michel Hansenne considered the ILO's governance model too 'vertical' and encouraged 'horizontal' dynamics between states as a better way to promote labour standards. Hansenne advocated for developing a social label—effectively certifying governments based on their labour practices (through a Convention no less)—to give 'an impulse and force to the ILO's standard-setting action beyond its normal audience' (ILO, 1997a). The proposal, which ultimately failed, only had one strong constituency within the ILO: workers' organisations (ILO, 1997e). Several employers' organisations expressed their reservations, while many countries were sceptical largely because they considered it to be a way of reintroducing the 'social clause' in trade and thus serving as a proxy for protectionism (ILO, 1997b).

Hansenne's successor, Juan Somavía, was likewise committed to ensuring that the ILO, 'project its values, concerns and objectives in a wider arena'

(ILO, 1999). To accomplish this, Somavia favoured closer collaboration with existing private and voluntary governance initiatives. Part of the reason for this was the concern that external actors that lacked sufficient expertise would begin to interpret and apply ILO standards incorrectly in their private initiatives (ILO, 2001). Rather than steer, there was a perceived need for the ILO to move those external initiatives in line with the ILO's existing norms and standards.

Throughout the first decade of the new millennium, the ILO increased its involvement in corporate social responsibility (CSR) related initiatives, for example through its role in the UN Secretary General's Global Compact initiative. CSR is driven in part by elements of regulatory competition, such as companies learning through the sharing of experiences to 'build a common understanding of social responsibility in competitive markets' (ILO, 2008a, 38). The ILO has generally promoted the principles contained in the Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration²²) as the basis for good CSR practices. References to the 1998 Declaration have also been incorporated into a significant number of other non-binding standards that apply directly to the performance of companies, such as the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises²³ and the ISO 26000 Social Responsibility Standard. It is also noteworthy that international framework agreements between trade unions and multinational enterprises have become a common tool for incorporating core labour standards directly into the operations of major corporate actors globally (ILO, 2007).

Relying on non-binding and decentralised mechanisms when engaging with multinational corporations might be a more effective means by which to improve working conditions at the national level compared to relying solely on traditional interstate conventions. Establishing cross-supply-chain standards that require suppliers to ensure minimum labour standards can potentially affect more workers more efficiently, circumventing the traditional channel whereby a government first ratifies and then implements relevant ILO conventions. However, such frameworks can result in the context-dependent and uneven application of labour standards, which highlights the need for more active engagement by the ILO.

22 See MNE Declaration, available at the website https://www.ilo.org/empent/Publications/WCMS_094386/lang-en/index.htm (accessed on 21 August 2018).

23 The OECD Guidelines for Multinational Enterprises have been revised to better align with the language of the ILO Tripartite Declaration on MNEs, the Decent Work Agenda and the 1998 Declaration. See Servais and Van Goethem (2016).

To help with global supply chain management, the ILO has already partnered with stakeholders in technical cooperation projects such as its Programme of Action for Asia and the Garment Sector in Cambodia. In 2009, the ILO established a Helpdesk for Business on International Labour Standards to advise companies seeking information on how to ensure their supply chains and procurement operations were consistent with such standards. More recently, the ILO has taken a leading role in the global discussion on how to ensure labour protection in increasingly complex supply chains, especially where governments have limited capacity to enforce compliance. The ILO is developing a programme of action to address decent work in global supply chains that combines many elements of governance raised in this chapter. The programme will be consistent with the ILO's existing instruments (various declarations) and it calls on the ILO to be 'at the centre of the global effort' (ILO, 2016a, 5–6), which will include developing partnership platforms with other international actors and partnerships to bolster the capacity of tripartite constituents at the national level.

The ILO views the increasing number of voluntary codes developing outside its structures—particularly those that invoke the ILO's values and standards—as possible stepping stones that can support further standard-setting activities (ILO, 1998b). In other words, these supplementary institutional layers do not contradict (and may augment) the ILO's formal ways of doing business. Directors General have consistently called for greater ILO engagement with such initiatives over the last two decades and this engagement has taken the form of providing information to companies or of promoting ILO standards in external private initiatives. When successful, such efforts help to broaden the scope of the ILO's regulatory reach while at the same time avoiding explicit challenges to ILO standards.

The extent to which the ILO is able to shape existing private governance arrangements is questionable. Even if it had the means to do so, the UN's Guidelines on Cooperation with the Business Sector specify that nothing in such partnerships 'shall be deemed to establish either party as the agent of the other party' (UN, 2009, 2), reinforcing the decentralised nature of the guidelines. The ILO's efforts have also been met with some scepticism, in part because CSR campaigns are sometimes no more than PR activities run by profit-seeking corporations, and because workers are third-party beneficiaries of CSR programmes (Lichtenstein, 2016). Where the ILO can have potentially more traction in decentralised governance, however, is when it takes a leadership role in an emerging policy issue, like its recent efforts in regulating global supply chains.

6 Conclusion

Organisations require routine maintenance to remain effective and legitimate. This chapter has highlighted the ILO's recent attempts to do this across three dimensions of global governance. The organisation is increasingly reliant on non-binding standards to make labour protection more palatable, although legal instruments and the enforcement of states' obligations remain central to its mandate. It is engaging with an ever more diverse range of actors beyond its tripartite structure in order to reach its objectives. And its involvement in decentralised mechanisms for coordinating the behaviours of its constituents and external actors is an attempt to increase the ILO's regulatory reach.

Each of the ILO's efforts is an outcome of a compromise: a changing economic, social and political environment has incentivised some actors to push for change while an institutional legacy has contributed to the traditional tripartite actors perpetuating the institutional status quo. The resulting additional institutional layers of actors, rules, and mechanisms do not replicate—nor do they replace—the ILO's existing structures. Change has been incremental and in some instances insufficient to address broader global governance gaps in the areas of work and labour rights protection. As a strategy of adaptation, institutional layering has shown itself to be a viable short-term option. Over time, however, incremental adjustments can accumulate and lead to a disjuncture between formal rules and actual practices, which could incentivise further and more substantial change.

Having coexisting and potentially diverging institutional layers in place makes agency paramount, as actors will select the institutional forum—be it formal or informal—in which their interests will be best represented. The ILO's current lack of representativeness in its decision-making processes is therefore untenable in the long run. Priority needs to be given to incorporating the voices of workers and employers from the informal sector. By the ILO's own estimates, the informal economy comprises more than half of the global labour force and over 90 per cent of micro- and small enterprises worldwide.²⁴ The informal sector is also associated with higher occurrences of abuse of workers' rights and insufficient social protection (that is to say, the area in which the organisation is most needed in today's world).

The trepidation of unions and employers' associations about broadening their representativeness, combined with the diversity of the informal sector

24 See more details at the website <http://www.ilo.org/global/topics/employment-promotion/informal-economy/lang-en/index.htm> (accessed on 12 June 2018).

itself, makes it difficult to institutionalise a form of collective organisation of informal actors that could be directly represented at the ILO (Lindel, 2011). However, broadening the number and type of non-governmental organisations with consultative status with the ILO that can represent the informal sector would be a starting point.²⁵ It would afford more actors the ability to contribute to discussions of the ILO's governance objectives. Perhaps more importantly, it could help promote compliance with international labour standards, because actors with consultative status can trigger the ILO's supervisory apparatus for certain violations.²⁶

Recent decades have seen more attention paid to 'bottom-up' and flexible international agreements such as the Paris Climate Agreement and agreements with greater scope for active engagement by outside actors including business and civil society. Indications are that this trend will continue. The ILO appears to have traded some of the depth of its regulatory reach in return for an expanded breadth of outreach, as can be seen in its recent activities and in increasing references to its standards in public, private, and hybrid global governance arrangements. However, instruments like declarations, and in particular autonomous recommendations, are a means by which to fill gaps in the ILO's standard setting, as shown by the recent Transition from the Informal to the Formal Economy Recommendation. They can help build consensus gradually on contested issues (e.g. what constitutes the 'informal economy' and how to address it) and serve as a stepping stone to formal standard setting.

While the instruments being promoted might be non-binding in strictly legal terms, they nevertheless are standards of expected performance applying to all actors, and the global governance structures through which they are promoted are not necessarily any less important or authoritative than in previous periods. The ILO is promoting newer instruments through less formal governance structures (e.g. the G20) and more traditional arrangements (see Figure 5.3). The ILO needs to build its role as an advocate for core labour standards

25 At the time of writing, the following non-governmental regional and international organisations have consultative status with the ILO: the International Co-operative Alliance, the International Organisation of Employers, the International Trade Union Confederation, the Organization of African Trade Union Unity, Business Africa, and the World Federation of Trade Unions.

26 For example, the Committee on Freedom of Association (CFA) reviews complaints of violations to collective bargaining and freedom of association raised by governments, employers' and workers' organisations and other international organisations with ILO consultative status.

further, prioritising engagement with willing coalition partners. As sufficient trust develops among partners, their commitments can crystallise over time into more formalised standards, norms, and implementation systems on specific issues. History shows that many formal institutions have informal beginnings, suggesting a potential to augment the ILO's future standard-setting and governance roles.

The ILO's increasing engagement in PPPs indicates that a significant range of partners are willing to play by the ILO's rules to leverage both its legitimacy as a standard setter and its wealth of expertise in supporting technical assistance to implement those standards on the ground. Globally, its engagement with the G20 and Bretton Woods Institutions shows that the ILO remains for many largely in a supporting role. A channel for greater influence would be to re-establish itself as a leading knowledge agency, using its investment in data collection to make inputs to inform major global policy processes. This might, however, require additional financial and human resources in order to compete in the research and knowledge space. For the time being the ILO's comparative advantage may remain in targeting implementation as a predominantly technical assistance agency.

Part of that role should include dedicated ILO efforts in shaping the form and content of private governance initiatives in the areas of decent work and labour rights' protection, which are growing in importance given the limits of public regulation. Interested actors are already engaging in self-regulation, as demonstrated by proliferating CSR initiatives in a wide range of industry-specific and geographically focused areas. The ILO, on its own or in cooperation with government authorities supported through technical assistance, can reinforce desirable private initiatives to make them more responsive to labour related concerns (Locke, 2013). As the ILO's own history suggests, getting in at the ground level of institutionalisation can have important and lasting effects.

The fact remains that major policy challenges remain largely unresolved and call out for effective global leadership. Guy Ryder made a bold claim for the ILO's mandate and its role in such leadership on labour issues in his statement as a candidate for the post of Director General: 'The stability of our societies, the sustainability of the global system which binds them ever more closely, and ultimately peace itself depend on its realization' (2012, 1).

The ILO needs to continue to evolve to fulfil that ambitious leadership role. This will require strong leadership within the ILO itself, and an acceptance that the ILO cannot lead the global policy agenda in this important issue domain on its own.

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PART 2

Protecting People



Health Protection in Ghana and Senegal: What is the ILO's Role?

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Abstract

In West Africa, the right of access to universal social security is far from being respected. International institutions and African governments have been mobilising for several years to fight this phenomenon. In a role that has evolved over the years, the International Labour Organization (ILO) provides technical and financial support to countries in this regard. How and why does the ILO intervene in protecting the health of populations in West Africa? For this institutional study, the methodology is based on a literature review focused on the history of the role of the ILO in the protection of healthcare in West Africa, specifically in Ghana and Senegal. We show the ILO's involvement since the 1990s for two main reasons: firstly, the lack of access to healthcare in countries with a specific labour form; secondly, the rejection of the idea of social protection by dominant players on the international scene, leading to criticism following the structural adjustment programmes. In the contexts of Ghana and Senegal, both of which have experienced transitions from community-based health mechanisms to universal health coverage, we explain that the ILO has several ways to intervene—technically, institutionally, and financially. An important outcome is the revelation that the vision of the ILO with regard to health protection is systemic, articulating alternative ways to address social protection for the informal economy compared to other international organisations. But this approach is understated considering the dire situation in Africa and the need to improve access to healthcare and progress towards the Sustainable Development Goals.

1 Introduction

Inequalities persist among and within countries in sub-Saharan Africa. In 2013, 41 per cent of the continent's population lived on less than USD 1.90 per day (World Bank, 2016). And the right of access to universal social security is not

being upheld. International institutions and African governments have mobilised for several years to address this. The objective of this movement has been to ensure substantial coverage of the poor and most vulnerable by 2030 in these countries and to put in place sustained social protection measures.

However, sub-Saharan countries have different paths in the establishment of what the World Health Organization (WHO) calls Universal Health Coverage (UHC),¹ due to political, economic and social reasons. The International Labour Organization (ILO) provides technical, financial, and institutional support to these countries in their efforts to achieve this goal. Although it is not the only international actor involved in protecting the health of African populations, it has interesting characteristics—its actions have been carried out for several years in both the formal and informal sectors, in a role that has evolved since its inception and that was not devolved to the organisation originally. Thus, how and why does the ILO intervene in protecting the health of populations in West Africa?

Firstly, through a parallel history between the ILO, its vision of social protection, and the evolution of health insurance systems in West Africa, we seek to understand why the ILO has played this important role of protecting the health of inhabitants in this region, but also the laws put in place in these countries since 2000. Secondly, we contextualise two West African countries, Ghana and Senegal, in analysing particular interventions and the place of the ILO in supporting community-based movements towards national health insurance schemes, in line with its Social Protection Floor (SPF) Recommendation. Finally, we discuss two points that are important and that emerge from this analysis: the opportunity for the ILO in maintaining its important role in the development of recommendations, with a systemic framework regarding health and labour in developing countries; the institutional and technical obstacles in a complex and saturated sector with diverse actors.

The methodology for this institutional analysis is composed of several stages. A first review of the literature allows us to better understand the links between the ILO, its evolution and the health coverage systems in West Africa. The link between the ILO and the countries under study, particularly through mutual health organisations (MHOS), has already been observed by some participant researchers in previous works. The second step is a systematic review of the two countries concerned. We predetermined first a set of parameters regarding

¹ UHC in developing countries is, according to the WHO definition in the 2010 World Health Report, to 'provide all people with access to needed health services of sufficient quality to be effective', and to 'ensure that the use of these services does not expose the user to financial hardship' (WHO, 2010, 6).

health, work, and the ILO. The literature mobilised comes from academic and institutional sources. An analysis of common and differential trends is made, adopting an approach that consists of comparing homogeneities and peculiarities in understanding the ILO's role in each context.

2 The ILO's Vision, from Its Origin to Its Interventions in West Africa

2.1 *Before the 1990s, a Vision Based on Wage Labour*

The ILO's vision of social protection and labour has remained but the scope of its missions and activities has evolved over the last hundred years. Before 1944, the focus was more on a technical vision of health than on socio-economic conditions (Weindling, 1995). In the thirties, it began to develop technical cooperation activities, first with Latin America. These technical cooperation activities grew with international development programmes after 1945 (Guthrie, 2013). The aims and purposes of the ILO became larger after the International Labour Conference of 1944, taking in welfare, including several missions on the protection of health. Social security, including medical coverage and care for all, became one of its goals.

This vision of social protection was strongly Western-based, relying on the principle of wage labour; this continued until the 1990s. For the ILO, social protection was to be organised on a large scale by the state and/or public institutions, with the assumption that members of society have already reached a certain standard of living and that this should be protected (Jütting, 2002). With the decolonisation of African countries in the 1960s, the ILO persisted with this vision, with the idea that a growing part of the populations of developing countries would eventually join the formal wage sector of the economy and thus benefit from the social protection of health, for themselves and their families (ILO, 2001).

This vision has been applied in West African countries, first by their colonisers, and then during independence. While Western health insurance systems have a long history, the oldest formal health coverage systems in West Africa are the result of the colonial era. Systems were created by the colonising countries to protect expatriates. During this time, some were extended to urban and industrial African workers in order to maintain their productivity. These systems are at the root of what exists for formal sector workers and civil servants in most West African countries. These are traditional, European-style health coverage systems, based on the Beveridge model (national coverage), tax-financed and state-run, or Bismarck model (social security), financed by contributions from workers and employers and managed by an independent

fund. After decolonisation, West African countries decided for the most part to provide free public healthcare in public institutions. The state financed and provided these services. At the same time, social security systems persisted, sometimes expanding, diffusing the legitimacy of such systems in relation to their effectiveness in Western countries. Countries that did not experience widespread coverage under colonisation nevertheless took inspiration from Western systems, still seeking the legitimacy of these methods (Destremeau and Lautier, 2006). But the focus was on occupational diseases and accidents at work.

The end of the 1980s marked a sudden change in the way health protection was managed, from free to direct payment, in a context of economic crisis. Indebted African countries were looking for help in the form of international co-operation. In return, states withdrew from healthcare provision and imposed programmes influenced by the neo-liberal doctrine (Plassart, 2011). Structural adjustment programmes (SAPs) targeted spending that was considered excessive, health being part of this (Berkhout and Oostingh, 2008). By then, international financial institutions did not have a monopoly of these initiatives. But, from 1980, the United Nations went through a crisis, with its role turning away from economic aid and towards humanitarian aid. Three institutions—the International Monetary Fund, World Bank and World Trade Organization—gradually became the pillars of the global economy and of development strategies (Favreau, 2003). The logic changed: the goal was no longer development but economic growth. This era was marked by deteriorations in infrastructure, a shortage of medicines, deteriorations in working conditions and a flight of qualified personnel due to the health sector being underfunded.

2.2 *A New Vision of Social Security for Development*

In the 1990s, the vision of the ILO evolved in terms of the form that social security could take in Africa and the organisation began intensive lobbying to bring social protection back to the forefront of development. An international consensus had been formed incrementally, denouncing the injustice of the direct payment system and the SAPs. Health coverage became the new objective, the goal being to make it possible to extend access to healthcare through a fairer and more viable financing mechanism in the long term, provided that health care services improved (Alenda-Demoutiez, 2016).

But the problem remains the same for the ILO. Promoting social protection cannot be done in the same way in Africa as in Western countries. This brought about two important changes in the ILO's vision: the extension of social security through decentralised, community-based mechanisms, and a better consideration of the informal economy. The ILO is still promoting the ratification and

implementation of Convention No. 102 (1952)² concerning social security. But to take account of different national contexts, flexibility clauses are included.

2.2.1 Community-based Mutual Health Organisations

Interpersonal solidarity in West Africa has been important in terms of compensating for the lack of protection in terms of healthcare. Family ties, community support or help from the informal economy to employees all contribute to health. Faced with significant needs and a population unable to access care, MHOs, and more particularly community-based MHOs, emerged in the 1980s, impelled primarily by socio-professional, sociocultural, faith-based, and women's groups.

An MHO is 'a voluntary, non-profit insurance scheme, formed on the basis of an ethic of mutual aid, solidarity and the collective pooling of health risks, in which the members participate effectively in its management and functioning' (Atim, 1998, 2). Nowadays, many forms of MHOs exist, divided into two groups: complementary or 'top-up' MHOs, designed by and for formal sector workers, and MHOs providing 'first-dollar' cover (i.e. 100 per cent insurance with no excess). The latter aim at households that do not have existing health cover and are therefore the priority target group for extension policies. These 'first-dollar' MHOs consist primarily of community-based MHOs based in a neighbourhood, village or district. Their origins are diverse: they may have been set up by residents of a neighbourhood, members of a community, voluntary associations, health providers, etc.

This particular mechanism gained momentum in the 1990s, with ILO support. Those excluded from social security, and its extension, were the organisation's new key focus for development, and this priority was affirmed at the 89th session of the International Labour Conference in 2001. For the ILO, the development of community-based health systems is the result of a real demand for socio-professional or community organisations. Hence its support for these organisations from that moment. While 76 MHOs were registered in West Africa in 1997, 366 were created in 2003 and 626 in 2006, according to estimates (Ridde, 2012).

2 The Social Security (Minimum Standards) Convention is based on basic social security principles; it establishes worldwide-agreed minimum standards for all nine branches of social security (medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity, and survivors' benefits). While Convention No. 102 covers all the branches, it requires that only three of these branches be ratified by Member states, which allows for the step-by-step extension of social security coverage by ratifying countries.

2.2.2 The Informal Economy

The concept of the informal sector, as used for the first time by Keith Hart (1973), refers to the economy unknown to public policymakers. As it evolved, it became characterised by pejorative elements, such as small size, a non-capitalist way of producing, etc. (Laville, 2010). This sector is regarded as the failure of development. However, the ILO shows the influence of its social-democratic vision in its definition of the informal sector, or the informal economy.

The ILO at first considered the informal economy as ‘units engaged in the production of goods or services with the primary objective of generating employment and incomes to the persons concerned’. The definition continues: ‘These units typically operate at a low level of organization, with little or no division between labour and capital as factors of production and a small scale. Labour relations—where they exist—are based mostly on casual employment, kinship or personal and social relations rather than contractual arrangements with formal guarantees’ (ILO, 1993, 52). Thus, the ILO focuses on different elements than other international organisations: the emphasis on labour before capital, solidarity, social responsibility. The measurement of the informal economy was a problem, forcing the ILO to restrain its definition in order to operationalise it—‘a group of production units which [...] form part of the household sector as household enterprises or, equivalently, unincorporated enterprises owned by households’ (ILO, 1993, 53). This definition was limited to enterprises. In 2003, the 17th International Conference of Labour Statisticians at the ILO tried a new perspective, focused directly on jobs and people, and not on structures: ‘The purpose of the conceptual framework developed for the ILO report was to relate the enterprise-based concept of employment in the informal sector in a consistent manner with a job-based concept of informal employment, and thereby extend the former concept to a broader one’ (ILO, 2003, 49). From this point, informal and formal economies are viewed as complementary.

The ILO’s vision thus presents a systemic approach to health protection in Africa, prioritising the excluded: it is a question of adapting to the shape of the labour market, mostly informal, but also to the needs of people. Actions of the ILO in Africa focus on these two areas.

2.3 *From Decentralised Mechanisms to Social Protection Floors*

Beginning in the 1990s, the ILO focused on microenterprises, cooperatives and especially, in this case, on social health protection through MHOS. The ILO, like the United States Agency for International Development (USAID), the German Organisation for Technical Cooperation (GIZ), the National Alliance of Christian Mutuals (ANMC, Belgium), and Solidarité Mondiale (a Belgian non-governmental

organisation), has played a vital role in developing MHOS in West Africa since the 1990s. The ILO was formerly involved through its ACOPAM/ILO programme (Cooperative and Organisational Support to Grassroots Initiatives), as early as 1978.³ This programme lasted until 1999. The other international stakeholders have been mainly involved since 1998, the date of the platform of Abidjan.⁴ For the ILO, social protection has two main objectives: to guarantee income security (following illness, maternity, work accident, unemployment, disability, old age, or death of a member of the family) and to guarantee access to care of an acceptable quality and at a reasonable cost. The notions of democracy, empowerment, social cohesion and decentralisation are also important, which makes it easy for the ILO to accept the principle of community-based MHOS.

In 2004, Clive Bailey, for the ILO's Global Campaign on Social Security and Coverage for All, wrote: 'The reality in Africa however, is that there is also a need for different and innovative approaches, of which micro insurance schemes based on solidarity and redistribution within the group is but one example. There is often a need for a blend of activities, which strike a balance between community-based initiatives, the strengthening of public social security schemes, and the development of universal schemes for health care and other benefits' (Bailey, 2005, 2). A new consensus on social security was adopted at the 2001 International Labour Convention, leading to the launch of the Global Campaign on Social Security and Coverage for All in 2003. This was followed in 2008 by the Declaration on Social Justice for a Fair Globalization, by the Global Jobs Pact in 2009, and by the SPF Recommendation in 2012.

The SPF is a flagship initiative of the ILO. It is defined as 'an integrated set of social policies designed to guarantee income security and access to social services for all, paying particular attention to vulnerable groups, and protecting and empowering people across the life cycle' (ILO, 2011, xxii). The strategy comprises two dimensions. The first, expansion of social security by a basic set of social guarantees, is the horizontal dimension. The second dimension consists of implementing progressively higher standards from minimum standards, representing the vertical dimension. Also, the SPF integrates healthcare for all, social protection for all children, support for all people of working age in the event of unemployment, maternity, disability or work-related accidents, and retirement pensions for all the elderly. Based on local needs and capabilities, countries can adapt the recommendation.

3 It was a multi-bi ILO programme financed by Norway, originally to respond to the severe drought in the Sahel region at that time and ended in 1999.

4 The platform of Abidjan is the result of the collective reflection of the different actors involved in the promotion of MHOS gathered at a workshop held in Abidjan in June 1998.

Thus, the ILO has been involved in protecting health in Africa for two main reasons. The first is pragmatic: in the 1990s, people in West Africa did not have access to care or social protection, particularly those working in the informal economy. The second is institutional: international recommendations with regard to development have exacerbated Africa's problems, and the dominant players on the international scene rejected the idea of social protection in developing countries, leaving room for criticism of the obvious failures of previous programmes in the developing world.

3 The Role of the ILO in Health Protection in Ghana and Senegal

3.1 *Ghana and Senegal: Two 'Exemplary' Countries Regarding Health Protection in Africa*

Ghana, Senegal and Rwanda are often presented as examples in sub-Saharan Africa regarding progress in health indicators and the expansion of mutual health insurance. We restrict our comparison to Ghana and Senegal, two countries in West Africa—the focus of our study—that offer interesting common trends in their economic, social and institutional make-up (Table 6.1). The Republic of Ghana, in West Africa, is located on the shores of the Gulf of Guinea and is surrounded by Côte d'Ivoire, Burkina Faso and Togo. It was one of the first countries in the continent to achieve independence, in March 1957. The political history of the country has been turbulent, particularly in the 1980s, but has stabilised. The official language is English. The Republic of Senegal, also in West Africa, is surrounded by Mauritania, Mali, Guinea, and Guinea-Bissau and is open to the Atlantic Ocean. In April 1960, the country became independent. Senegal is also politically stable. Of all the languages spoken there, French remains the official language.

Regarding health, the disease burden of the continent includes HIV/AIDS, maternal and infant mortality, non-communicable diseases, and other conditions. The recorded HIV/AIDS prevalence rate is very low in Senegal and there is a lower infant mortality rate than in other West African countries, but there are wide disparities at regional levels and within urban and rural populations. In Ghana, in comparison to indicators on health in the subregion, the incidence of non-communicable diseases is higher (Saleh, 2012). With regards to health coverage, both countries have chalked up some successes, with reductions observed in under-5 child mortality and maternal mortality rates. A significant proportion of the population works in the informal sector. In Senegal, agriculture and fisheries employ around 44 per cent of the population and this is no different from Ghana, where the population is predominantly rural. Child labour is an important feature of informal work in both countries.

TABLE 6.1 General characteristics of Ghana and Senegal

| | Ghana | Senegal |
|--|----------------------|----------------------|
| Population | 28 million | 15 million |
| Population under 15 | 42 per cent | 42 per cent |
| Life expectancy | 61 (women)/57 (men) | 69 (women)/65 (men) |
| Unemployment rate | 16.6 per cent (2016) | 15.7 per cent (2015) |
| Share of population in informal sector | 80 per cent | 88 per cent |
| GDP (USD) | 42.69 billion | 14.79 billion |
| HDI (rank) | 139th | 170th |
| Income status | Lower middle-income | Lower middle-income |
| Child labour rates (5–17 years) | 21.8 per cent | 37 per cent |

SOURCE: THE AUTHORS, BASED ON WORLD BANK DATA AND THE GHANA LIVING STANDARDS SURVEYS; BAUMANN (2010); MOSS AND MAJEROWICZ (2012); BITRAN (2014).

The governments of Ghana and Senegal have made political commitments to implement UHC by involving MHOS. Both countries seek to apply the ILO's dual strategy on which the SPF programme is based: a horizontal dimension, having primary health protection for the whole population, and a vertical dimension, improving existing protection from risk. Another common point in both countries is that the first community-based MHOS appeared in 1989, supported by a Catholic diocese: the Nkoranza Community Health Insurance Scheme at St. Theresa Hospital in Sunyani District for Ghana; the Fandène MHO, supported by the Saint Jean-de-Dieu Hospital, in the Thiès region for Senegal. In the ensuing sections of this chapter, the specific case of each country is examined in order to illustrate the various interventions carried out by the ILO and the specificities of this path to UHC.

3.2 *Senegal and the ILO/STEP Programme*

Until 2012, only around 20 per cent of the Senegalese population had (limited) health coverage. Among those covered were civil servants (7.35 per cent of the population), covered by the system inherited from the colonial era, and wage earners in the formal sector (3.60 per cent), protected by the *Institut de Prévoyance Maladie*, social security funds created in 1975. The elderly—covered

when above 60 (4.87 per cent of the population)—and members of MHOS (3.79 per cent) were also covered (CAFSP, 2008). Since the Fandène MHO in 1989, MHOS have developed rapidly, first in that same region of Thiès as well as in Dakar and then throughout the country. Despite the absence of complete censuses, from 19 functional units (units that are in activity) in 1997, they increased to 129 in 2007 and to 200 in 2008 in Senegal (Villane and Faye, 2008).

The government-level transition in the health system settled in the first decade of the new millennium, with the promotion of MHOS. In 1996, CAMICS (Cellule d'appui aux mutuelles de santé, aux IPM et comités de santé) was created to support the creation and the evolution of MHOS in the country. Attached to the Prevention Department, the organisation brought together several stakeholders with the intention of strengthening the capacities of the promoters of MHOS and to create links with health structures. By 2003, the country developed a legal framework for MHOS.

The ILO's Strategies and Tools against Social Exclusion and Poverty (STEP) programme's role in this process was influential. The STEP programme (under the Social Security Department) was the operational instrument of the Global Campaign on Social Security and Coverage for All. It operated on two levels: forming direct support to the promoters of mutuals; pursuing advocacy for the extension of social protection. In Senegal, and more generally in West Africa, the ILO, through this programme, fought to see the creation of legal frameworks to supervise MHOS. The ILO was one of the CAMICS' partners that supported the 'Concertation'—an organisation bringing together several African countries and international structures—the objective of which was to create an exchange network between MHOS. In 2004, in Senegal, the UHC Agency relied on several promoters, particularly on the ILO, in its mission to improve social protection and promote MHOS. From 2003 to 2006, the ILO also supported the establishment of a legal framework on MHOS in the eight members of the Economic Community of West African States. The ILO and USAID as well as other donors (French, Belgian and German) have all been involved in Senegalese MHOS (Alenda-Demoutiez, 2016). The ILO/STEP programme has supported the creation and capacity-building of various community-based MHOS, such as the Werwerlé MHOS in Dakar and Thiès or the PAMECAS MHO in Pikine. In the first decade of the new millennium, the ILO/STEP programme supported MHOS through training and funding programmes, including the creation of the Dakar MHOS Union.

In 2012, the newly elected president, Macky Sall, announced the introduction of UHC. The objectives were ambitious. The proposition was for 75 per cent coverage of the population by 2017. On the one hand, the compulsory and medical assistance schemes were strengthened for civil servants and the

formal sector; on the other, voluntary MHOS developed in order to cover the rest of the population. As part of the experimentation of the National Strategy for the Extension of Health Risk Coverage, a decentralised scheme was developed, calling for at least one MHO per local authority and setting up unions by department. The total coverage was 32 per cent in 2014, according to the UHC Agency. Since 2013, MHOS have received government grants, calculated in relation to their membership fee. In this way, community MHOS are supposed to take charge of primary care (through contributions), while the state takes responsibility for secondary care. USAID and Abt Associates⁵ are the government's main partners in its efforts to move towards UHC.

3.3 *Ghana's Path towards the National Health Insurance Scheme (NHIS)*

Ghana, since its independence in 1957, has experienced various evolutions in its health system. As in Senegal, the country chose free healthcare before implementing the SAPs in the 1980s. In the 1990s, the 'Cash and Carry' system was established, introducing full payment for medication. Although the first MHO was created in 1989, their development was especially important in the late 1990s. In 2001, the country had 47 MHOS, 43 of which were created in 1999 or 2000 (Atim et al., 2001), and 168 in 2003 (Diop et al., 2006). MHOS, as in Senegal, originated from various sources (healthcare providers, ethnic networks, social movements mainly for employees in the formal urban sector, etc.) (Atim, 1998). But unlike in Senegal where MHOS are dominant, Ghana has seen the evolution of both MHOS and of other community-based mechanisms, experimenting with various types of microinsurance. In 2003, Ghana had less than 1 per cent of its population covered by health insurance (Diop et al., 2006).

The ILO intervened institutionally from 2001 to 2003, through a global trust fund. This fund provided strategic guidance on the feasibility of community-based MHOS and the promulgation of the new law regarding mutual health insurance. But, unlike in Senegal, the STEP programme has not been involved in Ghana's MHOS. The environment with regard to international institutions was different, with the presence of the Danish International Development Agency (DANIDA) and USAID's Partners for Health Reformplus (PHRplus) programme. On the domestic front, the Catholic Church played an important role in the development of MHOS, at the regional and district health assemblies level. Earlier in the 1990s, WHO, the ILO, the European Union, the Ghana Medical Association and labour unions had called on the government to create health

5 Abt Associates is a global research and programme implementation firm based in the US, providing expertise on health, social and environmental policy, climate change, and international development.

insurance to offset the negative consequences of the 'Cash and Carry' system (Fusheini et al., 2012).

In contrast to the system existing in Senegal for civil servants and employees in the formal sector, Ghana decided to rely on an extension of the social security system based on the principle of mutual health insurance for the entire population. Thanks to institutional arrangements between the decentralised administration system and national policies, the extension of coverage, from 2003 to 2005, was trialled in all districts in the country paving the way for the NHIS. To establish the National Health Insurance Act, a consultation process was initiated between the two main partners, DANIDA and USAID, and also the ILO, WHO, the UK Department for International Development and relevant non-governmental organisations (Mensah et al., 2010).

The NHIS and Community-Based Health Planning and Services (CHPS) in Ghana are based on the principles of equity, solidarity, the pooling of risks, cross-subsidisation, partnership, the democratic participation of all stakeholders, sustainability, and geographical and financial reach for all. Act No. 650 initially established three kinds of health insurance schemes in the country: District Mutual Health Insurance (DMHI) schemes, Private Mutual Health Insurance schemes, and Private Commercial Health Insurance. The National Health Insurance Council was set up, giving technical support to DMHIs. These DMHIs are allowed to operate as companies limited by guarantee and are thus autonomous. In 2012, the law was revised (Act 852) and brought the district insurance schemes into a single, pooled fund. The Ministry of Health is the lead ministry for the National Health Insurance Authority, which manages the scheme. Policy is formulated at the national level, where the accreditation of health services, the monitoring and evaluation of MHOS, logistics and technical support also take place. Thus, the extension of health coverage has been achieved through the NHIS (for financial access) and the CHPS (for geographical access), although with initial progress, the enrolment in the NHIS has stagnated at 40 per cent of the population since the scheme's inception and for the CHPS at 5 per cent (Atim and Amporfu, 2016). Unlike Senegal, which separates health protection for civil servants, the formal sector and the informal economy, the system is the same for all in Ghana. All contribute—formal sector employees pay a percentage of their salaries, informal economy workers pay a flat premium, and an important part of NHIS funding comes from value added tax. While Senegal is seeking to combine different forms of health insurance, Ghana has brought everything together into a single system (government, other public initiatives, private sector insurance, community-based health mechanisms) (Wietler, 2010).

The ILO has been involved directly in health coverage in Ghana through capacity building, undertaking several initiatives aimed at improving the competency levels of people involved in social security. The ILO provided technical and policy advice to the government of Ghana on the administration of the NHIS. The Financial, Actuarial and Statistical Services Branch of the ILO in particular has been closely participating in a technical capacity, advising on national health budgets, the institutional infrastructures required, medium-term financial planning and implementation (ILO, 2005). Further examples of this effort are the training and capacity building of staff of the Social Security and National Insurance Trust, where the administration of pensions for formal sector workers is domiciled (and which also forms a regular flow of revenue for the NHIS), building capacity in actuarial science and budgeting (some of which has occurred through a collaborative effort between the ILO and the University of Maastricht), and the development of a health budget model for Ghana (Dovlo, 2005).

4 Discussion: A Systemic Vision

Two strong points emerge from this analysis regarding the ILO's role in the health of the populations of West Africa. Both represent opportunities for the ILO in its efforts to maintain its important role in developing recommendations, but they are also institutional and technical obstacles. The first is the importance of the informal economy in West African countries and the role of the ILO in its protection, within a systemic framework. The second is the role of the ILO on the international scene regarding development, in a complex and saturated space with various actors.

4.1 *A Systemic Vision between Health and Labour*

In Africa as in the rest of the world, the organisation is, at a national and regulatory level, using what has been its principal tool since its inception: the ratification of conventions. Ghana and Senegal have been members of the ILO since independence, in the process ratifying several important conventions. In West Africa, these conventions and recommendations can be considered as a complementary tool, difficult to apply but fundamental to well-being in the long term. Convention 102 still influences many African health protection systems, countries setting up pension schemes modelled on it, even if formal social security systems cover only a small portion of their populations. This Convention is still regarded as a goal for development (Servais, 2014). In this way,

the ILO emphasises the importance of governance conventions in improving the application of international labour standards. But collective agreements, complaints (filed by workers when employers do not respect a convention) and the ability to act on these rules are mainly based on the strength of trade unions. It is public unions that mainly take a central role with regard to labour demands in these two countries. The functioning and relations between the different unions in these countries can also be problematic. In Senegal, teachers can affiliate to any of some 30 different unions. Thus, the various actions of the ILO depend on the strength of public institutions, on trade unions and on the access of information for workers about their rights, in models where formal wage labour is not the norm.

The magnitude of the informal sector and its diversity in Africa has, above all, obliged states and international organisations to make an effort to define interventions that take into account the need to promote the actors, and contain the growth, of the informal sector. The attitude of governmental and institutional actors with regard to the informal sector has evolved. The initial desire to curb its expansion has given way to a certain tolerance, even a willingness to support it. In Senegal, the informal economy is considered an important cultural element that enables the majority of the population excluded from the formal sector to subsist and is widely accepted by all. It is not considered an end but a means (Fall, 2011). Thus, while employment is one of the components of Senegalese reforms,⁶ there is no intention—for the moment—to eradicate the informal economy, the approach, rather, being to develop it in order to achieve ‘more decent’ work (Kanté, 2002).

Overall, there is a broad consensus on the need to improve incomes and productivity in the informal sector so as to reduce poverty and bring the sector's economic and employment conditions closer to those of the formal sector. This justifies the ILO's involvement in the health protection of workers in both sectors in the countries studied, and the development of MHOs to reach the informal economy. Finding and delineating a contributory basis is indeed complex with a dominant informal form of labour. The concept of ‘decent work’,⁷ appeared for the first time in 1999, in the report presented by the Director General of the ILO to the 87th Session of the International Labour

6 Employment (especially for young people) is a strong part of the national Strategy for social and economic development, within two axes, growth and human capital.

7 According to the official webpage of the ILO (available at <http://www.ilo.org/global/topics/decent-work/lang-en/index.htm>, accessed on 11 June 2018), the ‘decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express

Conference. The concept is based on four pillars: employment, social protection, workers' rights and social dialogue. The term 'employment' here refers to work in all its forms. As a result, the concept applies not only to workers in the formal economy, but also to informal employees, the self-employed, and home-based workers (Ghai, 2003). The SPF programme is, essentially, part of the 'decent work' vision of the ILO, covering the health of workers and their families.

The ILO thus outlines a very systemic vision of the health of the populations of West African countries. A system, in the systemic approach, is considered to be the organised totality of a set of active and interdependent units that relate to and interact with one another through flows. There are interactions between system elements, both to stabilise the system and to make it evolve. The study of a system must be coupled with the study of its transformations, and the converse is true. Systems are complex and must be approached as a whole—since the whole is more than the sum of the parts—and not in a reductionist way (Donnadieu and Karsky, 2002). In practice, this involves—when analysing the impact of a policy or actor—always thinking about its consequences and its interactions with the entire system. The systemic approach provides another contribution to efforts to take into account the diversity of factors that influence health (work, environment, education, the cohesion of various health-financing schemes, etc.). The systemic approaches, the 'Health in All Policy' programmes,⁸ the analyses of social inequalities and of the social determinants of health are developing in the developed as in the developing world, but they are far from being generalised.

4.2 *The ILO and the International Environment*

For West African countries, the role of the ILO has been and remains important and systematic. In the 1990s it filled a vacuum, working to improve health protection for informal workers in African countries, in contrast to the position taken by international financial institutions. Thus, we have noted, the actions of the ILO are important for health coverage in West Africa, but also for the organisation itself, by adapting its vision of social protection where formal labour is not the norm. All in all, the ILO's work could be seen as an application of the 'Health in All Policies' approach—an approach whereby, due to the

their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men'.

8 'Health in All Policies is an approach to public policies across sectors that systematically takes into account the health implications of decisions, seeks synergies, and avoids harmful health impacts in order to improve population health and health equity' (WHO, 2014, 2).

ultimate goal of productivity in the workplace, the health and well-being of persons engaged in either the formal or the informal sector is covered. The role of the ILO is also due to the fact that its historical vision of social protection has, for a while, led to it adopting a systemic approach to the safety and health of workers, whereas other international institutions have taken the more restrictive approach of health protection (Alenda-Demoutiez, 2016). While the ILO's action on 'decent work' and social protection in West Africa dates back to the 1990s, it was not until 2010 that WHO promoted the transition to UHC, in 2008 highlighting the need for a systemic approach by all, as reported by the Commission on the Social Determinants of Health (work being, itself, a social determinant of health).

Such broad actions cannot be undertaken without the intervention of other agencies with similar and differing interests. Referring to health protection, the international consensus has turned towards a functionalist view of the state. The challenge is to improve the situation within the constraints of limited resources (Letourmy, 2003). Health insurance is definitely capable of providing a means to alleviate the funding challenges of institutions and to improve the quality of care of populations. Within such a framework, UHC serves as a necessary investment with regard to economic growth and health protection for African countries. But health coverage and social protection have an important redistributive character, emphasising the fact that protection is a factor in social cohesion (Euzéby and Fargeon, 2011). However, international cooperation targets poverty, not the national cohesion that is fundamental to achieving a sustainable and legitimate system (Stiglitz, 2002). This is one of the special features of the ILO that fits in the national cohesion approach, whereas the World Bank, for example, will focus on economic growth. Social dialogue is core to the ILO's strategy, regarded as the 'social pillar of the United Nations', as opposed to the 'economic pillars'—international financial institutions (Favreau, 2003). For the ILO, promoting social security is a political choice, reflecting a certain vision of society, considering social security as a fundamental human right (Waelkens and Criel, 2004).

Regarding health protection, the ILO and WHO carry out similar tasks, but not exactly the same vision: 'The ILO is a global guardian of human rights and social rights at work; similarly, WHO is a global guardian for the right to both health in general and health at work' (Rantanen et al., 2013, 137). Principally, both the ILO and WHO support social security schemes and UHC. They have jointly taken charge of the SPF initiative since 2009, leading to progress—a joint position paper was developed and a meeting organised for the 19 participating UN agencies, bilateral donor agencies, and international non-governmental organisations. This culminated in the establishment of an 'agreed language' for

the SPF initiative (Cichon, 2013). As seen from the two examples, the Ghanaian UHC (NHIS and CHPS) and Senegalese UHC are sponsored mainly by USAID and other donors, with support from WHO, thus regaining its recommendatory role with regard to developing countries. For WHO, MHOs are not the solution in themselves: MHOs, and more generally microinsurance, are an interesting tool to develop a financial solidarity between people and become a lever for setting up national systems, public and/or private.

Besides, systemic approaches and solidarity mechanisms as supported by the ILO require a large amount of resources and time, especially considering the dire situation in Africa and the urgent need to improve access to healthcare in developing countries and to progress towards the Sustainable Development Goals. This ties in with the literature on 'government silos', which argues that departments may function as 'silos' within a vertical organisation. These divisions are considered to be barriers to the implementation of effective public policies. According to Carey and Crammond (2015), this 'departmentalism', intended to simplify the process of governance, results in public authorities wanting to restrict themselves to their mandate alone. But this does not promote systemic action by all, which would include an overall evolution of the health system and consideration of the social determinants of health. The WHO has been committed to this vision for several years now, emphasising the importance of systemic and adaptive approaches to specific contexts and social and cultural norms (WHO, 2013). In 2008, the WHO Commission on Social Determinants of Health stated that 'given the marked failure of markets to supply vital goods and services equitably, [the emphasis on public finance] implies strong public sector leadership and adequate public expenditure', advocating for better involvement of the state and local civil society in decisions (CSDH, 2008, 12). But systemic approaches are still too rare, not only in the field of health but also in general (Kelley, 2014; Houéto and Valentini, 2014). And the needs and voice of the population, emphasised by the ILO, are also rarely considered in development programmes generally. International technical efficiency is always emphasised instead of legitimacy of actions and local actors (Alenda-Demoutiez, 2016).

5 Conclusion

The ILO is important for the health protection of African workers, especially for those in the informal economy. The action of the ILO in West Africa is very specific and different from its actions the world over. This capacity of adaptation comes in part from the ILO's vision regarding social protection, health,

and the informal economy. Now, the ILO has a leading role with WHO in the promotion of social security and the protection of the health of formal and informal workers. Its work is divided into many complementary constituents for social protection and poverty reduction. The levels of interventions are broad, varied, and require the capabilities of a systemic approach, adapted to the specific labour and socio-economic structures of developing countries. This resulted in the inclusion of social protection in the Sustainable Development Goals, although the views of development actors are still divergent as to the actual meaning of social protection. The stakes in terms of health and 'decent work' are considerable and matters urgent in West Africa, and the ILO stands in this regard as an inescapable architect for the actualisation of this vision.

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The ILO's Shifts in Child Labour Policy: Regulation and Abolition

Edward van Daalen and Karl Hanson

Abstract

After WWII the International Labour Organization (ILO) slowly but surely developed a 'two plank' approach to child labour, aimed at harmonising the need to protect children who do work, with the long-term goal of abolishing all forms of child labour. During the 1990s the 'two plank' approach, which included the regulation and humanisation of children's work, gradually evolved into a more singular approach aimed only at the full eradication of all child labour, starting with the 'worst forms'. Based on an analysis of the relevant legal and policy documents produced by the ILO and other international Organizations, completed with in-depth interviews with key informants, we examine the internal and external developments that made the 'abolitionist' approach now the only perspective that shapes the ILO's child labour policies. We conclude that, after a century of ILO child labour policy, the intermediate objective of improving children's working conditions is now just as relevant as it was before the turn away from the 'two plank' approach. For the ILO to shift its position at this time, it needs to reach out to the research community, international development actors as well as local governments and social movements to develop locally relevant, evidence-based policies for dealing with the diversity of children's work in the world's fast changing formal and informal economies.

1 Introduction

The abolition of child labour has been one of the principle objectives of the International Labour Organization (ILO) ever since its inception in 1919. However, when analysing legal and policy documents issued by the ILO over the last 100 years, a more nuanced picture emerges that shows how the ILO had durably adopted a dual approach to child labour. This approach included the abolition of child labour in the long run combined with transitional measures aimed at improving the working conditions of children. This approach was, for instance, made explicit in the ILO's 1979 Resolution Concerning the

International Year of the Child and the Progressive Elimination of Child Labour and Transitional Measures, which calls upon member states to ‘take all necessary social and legislative action for the progressive elimination of child labour and, during the transitional period until the elimination of child labour, to regulate and humanise it’ (ILO, 1979c). This dual approach to child labour, which would later be coined ‘the two planks of ILO policy’, occupied a central place on the ILO’s agenda, in particular between 1979 and 1999, before it gradually disappeared to make way for a more singular approach aiming at the eradication of all forms of child labour, starting with the worst.

On the eve of the ILO’s centenary we seek to rescue from oblivion the Organization’s commitment to combining the progressive elimination of child labour with its regulation and humanisation, which seems to have disappeared from the Organization’s own collective memory. By looking into how and why this two-plank policy came to be, and how and why it seems to have disappeared and been forgotten, we try to make sense of the ILO’s shift from the progressive elimination of child labour and the protection of children at work to its current priority of the ‘sustained eradication’ of the worst forms of child labour. Section 2 looks at the period between 1919 and 1946, during which the foundation was laid for a flexible and pragmatic approach to child labour. In Section 3, we then discuss the period between 1946 and 1992, during which the two-plank approach of ‘protecting and regulating while eliminating’ was developed and crystallised. How and why the discourse gradually changed to ‘the worst forms of child labour’ is addressed in Section 4. In the last section, we look at some of the tensions that were revealed by the study of shifts in ILO child labour policies.

The data that informs this chapter was gathered through document analysis and multiple in-depth interviews. Over 50 ILO documents—including declarations, resolutions, reports and other publications relevant to the scope of this chapter—were identified and studied. Guided by these findings, nine in-depth interviews were conducted with key informants selected on the basis of their position in the ILO, or in other Organizations closely involved, at crucial times during the process described below. The informants were promised anonymity and will be addressed by their professional function only.

2 The Abolition of Child Labour as a Long-Term Goal (1919–46)

2.1 *The 1919 Constitution and the Abolition of Child Labour*

The Constitution of the ILO was first published as Part XIII of the 1919 Versailles Peace Treaty, which made the ILO an independent organization within the framework of the League of Nations. Annexed to Part XIII was Article 427/

Article 41,¹ which consisted of nine 'labour clauses' that were those 'methods and principles for regulating labour conditions' considered to be 'of special and urgent importance' for the future of the Organization (ILO, 1919). Among them was 'the abolition of child labour and the imposition of such limitations on the labour of young persons as shall permit the continuation of their education and assure their proper physical development' (ILO, 1919). Unfortunately, the legislative history of the ILO Constitution provides no information regarding what exactly was meant by the abolition of child labour. All that is clear is that in the two earlier draft versions of the article there was no mention of a general 'abolition of child labour' clause, but instead a more specific reference to a minimum age for admission to work in industry and commerce, set at 14 years. Dahlén (2007) argues that governments and the labour movement had pushed for the regulation of children's and women's work—as they were seen as a threat to WWI soldiers re-entering the labour market—but that a constitutional commitment to a specific minimum age was thought of as too controversial for non-industrialised nations. Where the text of the Constitution was hence limited to referring to the abolition of child labour in general terms, the ILO immediately, as of 1919 onwards, began to set standards on minimum ages by means of adopting sector-specific conventions aimed at regulating the 'non-beneficial' forms of child labour. These sector-specific conventions adopted a pragmatic approach to some forms of child labour that were not considered intrinsically problematic. In undertakings where only members of the same family were employed as well as when its purpose was to educate or train young people, child employment was even considered to be beneficial (Hanson and Vandaele, 2003). At the onset of WWII, only very few countries had ratified these sectorial minimum age conventions.

2.2 *A New World Organization and a New, Flexible Approach*

By adopting the Declaration of the Aims and Purposes of the International Labour Organization (better known as the Declaration of Philadelphia) in 1944, the ILO started shaping its future role in the 'new world Organization' governed by the UN—of which it would become the first Specialized Agency in 1946. This meant it had to revise its 'old world' Constitution (ILO, 1946, 10). Consequently, a special delegation was tasked with 'remodelling' and 're-equipping' the ILO and its Constitution. The most significant amendment was the incorporation of the Declaration of Philadelphia, which thus stated the new aims and purposes of the ILO. A member of the Delegation explained that it 'would seem unnecessary to retain in the Constitution Article 41, which sets

1 Article 427 became Article 41 when, in 1934, the ILO stepped out of the framework of the League of Nations and its constitution became independent from the Versailles Treaty.

forth certain methods and principles for regulating labour conditions which were regarded in 1919 as being of special and urgent importance' (ILO, 1946, 20). One of the parts of Article 41 that was omitted was 'the abolition of child labour', which was thought of as having lost its 'special and urgent importance' in the new world Organization of labour. This seemingly had much to do with the so-called general considerations to which the Delegation attached 'the highest importance' (ILO, 1946, 15). First and foremost, the Delegation wanted a flexible constitution because 'rigidity is likely to result in frustration rather than progress' and 'nothing in the existing practice and tradition of the Organization can be regarded as sacrosanct whenever new needs create new requirements' (ILO, 1946, 15).

One year after the Declaration of Philadelphia but one year before the newly amended Constitution was adopted, the Resolution Concerning the Protection of Children and Young Workers was submitted to the 1945 Conference in Paris by the Committee on the Protection of Children and Young Workers. In a way, the Resolution rescued the ILO's constitutional commitment to the abolition of child labour, at least on paper, by explicitly referring to Article 41 of the 1919 Constitution just before it would be omitted. However, in its report about the Resolution the Committee recognises that the objective to abolish child labour 'may fail in its effect if at the same time no solution is found for other wider social problems—poverty, family disorganisation, inadequate facilities for education, etc.—which lead as an inevitable consequence to the employment of children at an early age' (ILO, 1945a, 3). The Committee argued that in many countries it is *inevitable* for young children to work due to the specific social and economic circumstances, and that until those circumstances change, the mere 'prohibition of employment may do more harm than good' (ILO, 1945a, 3). This principle is reflected in the policy set by the Resolution: 'exemptions permitting the employment of children of school age outside school hours should be eliminated as soon as possible and pending such elimination should be strictly limited [...]' (ILO, 1945b). With hindsight, the 1945 ILO Resolution Concerning the Protection of Children and Young Workers can be seen as a harbinger of the ILO's two-plank policy on child labour, the advent of which we will discuss in detail in the following section.

3 The Two Planks of ILO Policy (1946–92)

3.1 *The Post-War Years and Convention No. 138*

While the decades following WWII brought economic prosperity to most Western countries, tensions between them and other ILO member states rose, especially concerning the implications of the Organization's aim to achieve 'social

justice' (Maupain, 2013). Besides the Cold War divide, the majority of member states were now 'independent' Third World countries with stagnating or declining economies. Although the situation in many Third World countries led to a new surge in child labour, the ILO kept relying on its 1945 policy of 'promoting' the sector-specific minimum age conventions and urging governments to take protective measures pending abolition.²

It was only when, in the early 1970s, the beginning of the end of the 'golden age' led to concerns about mass unemployment that discussions about a new and more comprehensive legal instrument on child labour were started (Dahlén, 2007). With the adoption of the 1973 Convention No. 138 on the minimum age for admission to employment, the ILO finally gave a blanket legal definition of the term 'child labour'.³ In short, for the ILO 'child labour' in 'developing countries' constitutes: *all* work carried out by children under 12, work by children between 12 and 14 that is not 'light' work, and 'jeopardising' or 'hazardous' work carried out by children younger than 16.⁴ Besides Convention 138's general aim of achieving the total abolition of what was now legally defined as 'child labour', the supplementary Recommendation No. 146 on minimum ages provides further guidelines for implementation and stresses the importance of ensuring 'that the conditions in which children and young persons under the age of 18 years are employed or work reach and are maintained at a satisfactory standard' (para. 12(1)). This recommendation addresses the importance of improving the working conditions not only of children and young people who are legally permitted to work, but also of all persons under the age of 18 years who are employed or work, independently of the minimum ages. These conditions involve fair remuneration; the limitation of daily and weekly working hours so as to allow enough time for education and training, for rest and for leisure activities; the granting of a 12 hours' night rest and of weekly rest days; annual paid holidays; social security coverage, including employment injury, medical care and sickness benefit schemes; and satisfactory standards of safety and health (para. 13(1)). Much like all the previous minimum age conventions that it was supposed to replace, Convention No. 138 received only very few ratifications in the first years after its adoption.⁵

2 The minimum age conventions that were adopted during that period were specifically aimed at night work (No. 79 and No. 90), fishermen (No. 112) and work underground (No. 123).

3 Convention concerning Minimum Age for Admission to Employment, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138 (accessed on 1 June 2018).

4 Different minimum ages apply for 'developed' countries. See Articles 2, 3 and 7 of Convention No. 138.

5 Up until 1979 only 22 countries had ratified the Convention.

3.2 *The International Year of the Child*

In 1976 the UN's General Assembly adopted a resolution on the International Year of the Child (IYC), which would be held in 1979—20 years after the adoption of the Declaration of the Rights of the Child. The purpose of the IYC was to provide a framework for advocacy, 'to make governments and people hold up a mirror to their consciences and examine their failures on behalf of their children' (Black, 1986, 356). The ILO took up a mirror as well. After it was involved in the preparatory work of the IYC advisory group, it made the following statement: 'It is a well-known fact that, despite the efforts made by the ILO and member States to abolish child labour, there exists a substantial number of children, particularly in developing areas of the world, who are at work, often in exploitative conditions. No doubt, they belong to the most vulnerable category for whom the IYC intends to offer intensive assistance. The immediate question would be how the ILO should confront this reality of working children and reconcile it with the long-term objective of eliminating child labour; how to harmonise the need to protect these working children with the existing ILO activities in order to relate policy action to IYC' (ILO, 1978a, 1).

The intention of understanding the complex situations in the developing world and adapting policy accordingly, instead of the other way around, was in line with a new way of 'development thinking' that had taken hold of other UN Organizations as well. The United Nations Educational, Scientific and Cultural Organization (UNESCO) especially had taken on the task of spreading information about the process of world development, with a 'rejection of crude and simplistic messages' and 'a desire to learn more about the complexities of trying to transform underprivileged societies' (Black, 1986, 362). The ILO's learnings resulted in combining the long-term objective of eliminating child labour with 'transitional policy measures' to promote working children's welfare, particularly in developing countries (ILO, 1978b, 1). The ILO was then quick to point out that this 'dual concern' had motivated the Organization ever since the first minimum age convention, in 1919 (ILO, 1979a, 4). This policy was made public and explicit during the actual IYC in 1979, in the Director General's Declaration Concerning the International Year of the Child. It urges governments to strengthen their action programmes for children and stresses that one of the principles that should guide these attempts is that 'pending the elimination of child labour, it must be regulated and humanised' (ILO, 1979b). A few months later, the ILO adopted the Resolution Concerning the International Year of the Child and the Progressive Elimination of Child Labour and Transitional Measures, which reaffirmed the Organization's commitment to, as the title suggests, progressively eliminating child labour and regulating and humanising it by means of transitional measures (ILO, 1979c). After the 1945

Resolution, this was only the second general resolution on child labour that the ILO had adopted.

3.3 *A Successful Policy Framework*

In the years following the IYC, the thus formulated ILO child labour policy framework was reaffirmed, most importantly in the 1983 Report of the Director-General. This report states that 'the elimination of child labour as an objective coupled with a commitment to action, pending its attainment, to improve the conditions of working children *are the two planks of ILO policy*' (ILO, 1983, 5; emphasis added). It also made it clear that although the goal of improving the conditions of children that do work was listed as a 'short-term goal', it was thought of as a long-lasting one: 'pending the improvement of economic conditions to the point where it will no longer be necessary or profitable for children to work, efforts must be made to complement long-term employment and development policies with progressive measures aimed at regulating and humanising child work' (ILO, 1983, 19). The report also provides clarity regarding what was to be the most important goal of these progressive measures—namely, 'to deal with the worst forms of child labour wherever they exist, and to provide minimum levels of protection where such labour is unavoidable' (ILO, 1983, 19). It furthermore stresses that child labour legislation, even if in line with the ILO Conventions, should 'never be implemented in isolation from the socioeconomic setting' as it may lead to 'greater clandestine work and more exploitative work situations' (ILO, 1983, 19).

Two years later, in a report entitled *Towards a Global Programme of Action on Child Labour*, the ILO went one step further in the promotion of its progressive and pragmatic approach. According to the Organization, 'a reduction in the incidence of child labour can provide for improved terms of employment for children' and countries should thus 'set realistic quantitative and qualitative targets such that there will be a gradual reduction in the incidence of child labour while they provide for the protection of those who are and will continue to be at work until such time that the abolition objective is attained' (ILO, 1985, 5). The 1985 report also re-prioritises the two planks of ILO policy: countries must aim to *first* improve the conditions of working children, and *secondly* gradually abolish child labour (ILO, 1985).

It is important to note that at the same time the International Confederation of Free Trade Unions (ICFTU)—the most influential Organization on the workers' side of the ILO's tripartite system—was fully supporting the two-plank policy. In 1979 the ICFTU itself adopted two resolutions concerning the IYC and in its 1986 report on 'how to combat child labour' it urges trade unions 'to complement long-term employment and development policies with

progressive measures aimed at regulating and humanising child work' (ICFTU, 1986, 26). According to the ICFTU, it was 'the only realistic approach' and 'long-term measures ought not to rule out short-term action' (ILO, 1989, 53).

What the two-plank policy had accomplished in practice, during the first ten years since the IYC, was laid out in a 1989 special report of the Director General. The ILO had witnessed a 'growing reorientation of public policy and programmes as policy-makers and practitioners search for pragmatic and effective new approaches to the concentration of child labour' (ILO, 1989, 25). This had led to a 'remarkable surge' in creative projects, conducted by governments and NGOs alike, to 'prevent the abuse of child labour and to protect and assist those children who do work' (ILO, 1989, 30). For the ILO, these creative projects represented 'a reason for optimism in the long-term struggle against child labour' (ILO, 1989, 25).

4 Immediate Action for the Elimination of the Worst Forms of Child Labour (1992–present)

4.1 *The IPEC in Practice*

In 1992 the ILO launched the International Programme on the Elimination of Child Labour (IPEC), which, at first, was intended as the technical co-operation arm of the ILO's Interdepartmental Project concerning child labour. It is important to note that the IPEC was not born out of an internal drive to provide technical co-operation to members regarding child labour. Soon after the Director General had announced the launch of the Interdepartmental Project, the government of Germany announced that it would make a five-year-long annual donation of around USD 7 million for an ILO programme on child labour. With and especially *for* this donation, the IPEC was created. The founding document of the IPEC states that the long-term objective of the programme is the effective abolition of child labour. For the two immediate objectives the document refers to the 1979 Resolution concerning the IYC. The first is to help countries design and implement policies, programmes and projects for the elimination of child labour *and* the protection of working children. The second is to raise global awareness concerning child labour and the consequences thereof.

Before the IPEC started, the ILO had already facilitated a project aimed at improving the conditions of children working at a garbage dump in Manila, Philippines, the so-called Smoky Mountain. It started in 1987 and it was the ILO's first ever technical cooperation project on child labour. Yet, to one of the ILO experts who was involved in the project, it was more a tool of

advocacy. The media coverage of young children working on a smoking mountain of garbage combined with previously released global statistics on child labour helped the ILO to draw attention to the issue (interview with a former ILO staff member). With the IPEC in place the ILO was now ready to provide more structural technical assistance inside member states. The IPEC's first Implementation Report showed that the implementation of the programme was in line with the two-plank policy. Projects in India and Thailand were mainly focused on improving the conditions of working children (ILO, 1993a). In Brazil, working children were trained in order to defend their rights as workers and to guide them to 'get organized and encourage their involvement in trade unions' (ILO, 1993a, 11).

In a 1993 report on the implications of the ILO's child labour policy for the cooperation activities in the field, the ILO states that while the primary aim of the IPEC is to 'promote and support action in ILO member States which contributes to the effective abolition of child labour', as a transitional measure, the 'protection of working children, especially in terms of improving their conditions of work, can constitute another objective of technical cooperation' (ILO, 1993b, 2). However, now that the ILO itself would be responsible, to some extent, for the implementation of the two planks, the Organization became more conscious of its wording, and pointed at a potential conflict between the objectives to abolish and to regulate child labour by stating that 'it is of the greatest importance, in technical cooperation activities with a secondary aim of protecting or improving the lot of working children, not to legitimize what is prohibited by ILO standards' (ILO, 1993b, 3).

4.2 *Child Labour in the Globalised Economy*

While previously the ICFTU had supported and implemented the ILO's two-plank policy, as was noted above, from 1994 onwards it took a different direction. This had much to do with the collapse of the Soviet Union. The absence of the necessity to discuss the Cold War opened up the agenda for 'a real debate about improving the labour conditions for people around the world' (interview with a former ICFTU Staff member). In the new, globalised economy, child labour had become 'global child labour' (Nieuwenhuys, 2007) and the labour economists of the Western trade unions feared for their competitive position vis-à-vis cheap and child labour in other parts of the world. For them it was time to go back to the agenda of trade liberalisation from before WWI.

At this time, due to only few ratifications of Convention No. 138 and critical country reports, discussions were ongoing in the Office of the ILO about gradually replacing the objective of abolishing *all* child labour with the abolition of harmful work and thereby 'operationally re-defining child labour as work

harmful to children' (interview with a former ILO Staff member). There was furthermore an informal consensus about leaving 'child labour' out of what became the Declaration on Fundamental Principles and Rights at Work. When the ICFTU was confronted with these developments, it fiercely objected and launched its own anti-child labour campaign pushing for more ratifications of Convention No. 138. According to one of the people behind the campaign, it was impossible to regulate and humanise child labour because the very nature of child labour is an exploitative relation in the marginal areas of the labour market, and thus a strategy of improving that relation will never work (interview with a former ICFTU Staff member). The ICFTU thus kept pushing the first plank, that is to say, the long-term objective of abolishing child labour, but replaced the second plank, that is to say, the short-term objective of improving the conditions of working children, with the promotion of Convention No. 138 and international instruments against the trade in goods produced by children (ICFTU, 1994). The ICFTU campaign played an important role in the development of the ILO's new convention on child labour and in its shifting policy.

4.3 *A New Convention on the Worst Forms of Child Labour*

The hard work undertaken by the ILO to put the spotlight on the problem of child labour, combined with advocacy efforts concerning the ratification and implementation of the 1989 UN Convention on the Rights of the Child (CRC)⁶ and the remarkable rise of international advocacy campaigns on violence against children (Poretti et al., 2014), pushed the issue of child labour higher up the international development agenda during the 1990s. There was a surge in coverage in both the academic literature and the mainstream media, and many other international Organizations started working on the topic as well. This also meant that more and more attention was drawn to the tension between the two planks of ILO policy and to the progressive and pragmatic approach adopted by the IPEC.

Now that the eyes of the world were on the programme, from within the IPEC office demands arose for a new or revised instrument that would be more in tune with reality (ILO, 2000). An unpublished internal review of the IPEC stressed the importance of a two-way translation of international child labour norms, in the sense that not only should it be the case that 'technical cooperation promotes the ratification and implementation of standards', but also that the ILO's practical activities should 'inspire our standard setting work and

6 United Nations Convention on the Rights of the Child, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (accessed on 1 June 2018).

policy development' (ILO, 2000, 13). The IPEC's action programmes thus far had been aimed mainly at helping children who worked in the 'most intolerable', 'most hazardous' or 'worst' forms of child labour. For example, many of the IPEC programmes were dealing with child prostitution, something that Convention No. 138 had not foreseen. For the proponents of a new or revised Convention it was thus evident that it would be focused on these forms of child labour.

Besides the experiences gained from the IPEC projects in third world countries, a 1994 report of the Committee of Experts on the Application of Conventions and Recommendations provided important input on what was understood by the 'most intolerable' or 'worst' forms. Commenting on the application of the 1930 Forced Labour Convention (No. 29),⁷ the Committee raised concern about 'forced child labour, and particularly the exploitation of children for prostitution and pornography. [...] No longer is such exploitation of children a responsibility only of the country in which it occurs, it is an international responsibility' (ILO, 1994, 28). The idea that the ILO would take up this international responsibility by means of a new convention provoked strong resistance from the technical and standards departments of the ILO's Office (ILO, 2000). Yet, all three constituencies of the ILO's tripartite system were in favour and in March 1996 the Governing Body accepted a proposal to place the adoption of a new convention on the agenda of the 1998 International Labour Conference. The cause was further strengthened with the adoption of a new resolution on child labour in 1996. The Resolution recalls the 1979 Resolution concerning the IYC and stresses that in the context of the progressive elimination of child labour there is the need to 'immediately proceed with the abolition of its most intolerable aspects' (ILO, 1996b). A few months later the ILO prepared a special report for the World Congress on Commercial Sexual Exploitation of Children, in Stockholm, in which it identifies prostitution and other forms of commercial sexual exploitation of children as a form of forced child labour. In a more elaborate publication on the reasons for a new convention, entitled 'Targeting the Intolerable', the ILO made clear its intentions for its new child labour policy. Instead of taking immediate action to improve the conditions of working children by regulating and humanising child labour, member states were now urged to give 'priority in the first instance to abolishing the worst and intolerable forms of child labour such as slavery and slave-like practices,

7 Convention concerning Forced or Compulsory Labour, http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C029 (accessed on 1 June 2018). In 2014 a protocol to the Convention was adopted, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029 (accessed on 1 June 2018).

all forms of forced labour including debt bondage and child prostitution, and child work in hazardous occupations and industries' (ILO, 1996a, 115). This more narrow focus on the worst forms of child labour in the developing world quickly gained support from some of the larger industrialised countries, such as the US, Canada and Australia, who at that point in time were not willing to ratify Convention No. 138, which was considered difficult to ratify for federal states (interview with a former ICFTU Staff member).

During the negotiations over the content of the new convention the ICFTU drove a hard bargain on behalf of the trade unions. They had learned that there would be no 'social clause' in the new World Trade Organization (WTO) to enforce ILO labour standards and were adamant about reinforcing the ILO's original commitment to the abolition of all child labour, afraid of a so-called race to the bottom (Nieuwenhuys, 2007). The proposed formulation—'most intolerable forms of child labour'—was the subject of objections from the unions because this implied there were tolerable forms of child labour. They also demanded that despite the focus on the worst forms, the new Convention would explicitly refer to Convention No. 138 as the fundamental instrument and to the objective of the effective elimination of *all* forms of child labour. It was furthermore decided that both Convention No. 138 and the new Convention No. 182 would be amongst the so-called 'ILO fundamental Conventions' reflected in the Declaration on the Fundamental Principles and Rights at Work, which would mean that each individual member state would have to abide by them even if it had not specifically ratified them. The final version of the 1999 Convention No. 182 indeed refers to Convention No. 138 and to the 1996 Resolution, but no longer to the 1979 Resolution concerning the IYC.⁸ It was the writing on the wall for the 'old' two planks of ILO child labour policy.

After the adoption of Convention No. 182, which quickly became one of the most ratified of ILO conventions, the short-term objective of humanising child labour by regulating and improving working conditions gradually disappeared from the ILO's discourse. In practice, the two-plank policy seemed to remain an important part of the IPEC action programmes for at least a few more years. The IPEC Implementations Reports until 2001 provide statistics on the number of children impacted by programmes aimed at improving working conditions. In 2002 the ILO participated in the UN Special Session on Children. With regard to its role in drafting the outcome document of the Special Session, the ILO stated that 'discussions on how to incorporate the elimination of child

8 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 (accessed on 1 June 2018).

labour were continually side-tracked by proposals appealing for improvement of children's working conditions' (ILO, 2003, 16). Instead of referring to its long-standing two-plank policy, the ILO pointed out that Conventions No. 138 and No. 182 allow 'governments a certain degree of discretion and flexibility in setting the minimum age for admission to work' (ILO, 2003, 17). This proved to be an important turning point in the ILO's approach to child labour. From 2003 on, the IPEC Implementation Reports and other global policy publications on child labour (ILO, 2010, 2013, 2015; 2017) no longer mention the humanisation, regulation or improvement of the working conditions of children under the minimum age as a transitional policy measure. Instead the focus now lies on the 'sustained' eradication of all forms of child labour by 2025, as stipulated in Target 8.7 of the Sustainable Development Goals. The decade following the official introduction of the two-plank approach in 1979, which was previously described as a period that saw a surge in creative, pragmatic and progressive projects around the world (ILO, 1989), is now considered by the ILO as a period that 'represented a lost opportunity to launch a sustained worldwide campaign against child labour' (ILO, 2007, 10).

5 Tense Translations of International Child Labour Norms

The study of the shifts over a period of almost 100 years in ILO child labour policies shows that the international standards and norms on child labour—which have both provided a basis for these policies, which in turn have influenced the development of the said standards and norms—are open to different interpretations. What is at work here are 'translations' of children's rights (Hanson and Nieuwenhuys, 2013), a concept that suggests that international discourse and policy making are not merely about transferring one idea or standpoint into another context but imply an active stance of reproducing and change (Freeman, 2009). As a theoretical construct, the concept of translation is a prompt to reflexivity and can make the active reproduction of meaning more explicit and open to debate. Considering the changes in the way that the ILO has addressed child labour over time, the translation concept reveals a series of tensions that deal with the regulation paradox, principled approaches versus pragmatism, and the place of the ILO within wider transnational developments.

A first tension that underlies many of the policy debates on children's work is about trying to advance apparently conflicting objectives. Can an activity that ultimately needs to be abolished at the same time be regulated? The ILO itself (1993b, see above) pointed at the risk that by regulating child labour, the

target of eliminating child labour would by the same token be further removed instead of brought closer. Reversely, as was noted in a 1983 report by the ILO's Director General, there is a risk that legislation aiming at merely abolishing child labour, if it is not accompanied by socio-economic changes, 'may lead to greater clandestine work and more exploitative work situations' (ILO, 1983, 19). The ILO's long-held but now disappeared two-plank policy to regulate/humanise child labour in the short term while aiming at its abolition in the long term indeed reveals a 'regulation paradox', with which many other significant social debates also have to deal. Think, for instance, of the criminalisation versus regulation positions in debates about drug policy (Pardo, 2014) or the, in feminist circles, heated debate as to whether sex work should be regulated (granting specific rights to sex workers) or once and for all be outlawed by criminalising the customers (Munro and Della Giusta, 2016). Situations such as these, which express contradictory policy objectives, do not necessarily preclude the establishment of specific programmes that go in varied and even opposite directions. In the case of child labour policy, there seems to be no readily available way out of the regulation paradox, especially given the strong, principled positions that cut across the debates.

This leads to our second point, which deals with principled versus pragmatic approaches. Child labour policy is intimately connected to labour rights, human rights and children's rights, all fields that are traversed by firm principles, leading to deep-seated ideological positions. However, when making policy even in a field where strong moral convictions abound, at least some portions of pragmatism tend to crop up. When in 1919 the drafters of the ILO Constitution, at the last minute, decided to simply refer to 'the abolition of child labour' instead of a fixed minimum age, they did so for pragmatic reasons. It would be up to the constituents to decide on the exact standards in conventions, and up to member states to ratify them or not. When in 1946 the ILO decided to scrap from the Constitution the commitment to the abolition of child labour, it did so because of a lesson it had learned from the first 25 years—namely, that 'rigidity is likely to result in frustration rather than progress' (ILO, 1946, 15). When the ILO introduced in 1979 its two-plank policy, it did so because it faced the fact that for millions of children working in third world countries their work was inevitable. The standard-setting practice of the ILO was failing them, and member states were encouraged to progressively restrict, regulate and humanise child labour while striving for a socio-economic climate in which the abolition of child labour would be a realistic goal. Subsequently, when the IPEC was established in 1992, the ILO initially pursued its two-plank policy through technical assistance programmes on the ground. The success of the programme within as well as outside the

ILO, and the concomitant rise of a worldwide campaign against child labour, provoked a shift of the ILO's child labour policy in a new direction. Ironically, the attempts to translate the ILO's progressive and practical activities from the field up into new standards rehabilitated a principled approach to the abolition of child labour. The extant pragmatic approach came to be replaced by a new form of pragmatism contained in the rigid 1999 Convention—pending the abolition of all forms of child labour, eliminating the worst forms first—leaving little room for flexible measures like the regulation and humanisation of child labour. One of our respondents, a former IPEC Staff member, provides a compelling explanation for the reappearance of entrenched ideologies in child labour policy, which he links with the return of trade unions to the now much more publicly exposed discussions. According to our respondent, trade unions are 'culturised in abolishing child labour', and so the question was not so much about data and the demonstrable realities of children in work, but rather 'about organised labour's sense of identity. They felt the integrity of the labour movement was at stake'.

Even if the institutionalised labour movement, employers' Organizations and governments, who make up the tripartite ILO constituency, are significant actors in the pursuit of social justice, decent work for all and the advancement of human and labour rights, they are not the only transnational actors in these fields. When developing policies and programmes related to child labour and children's work, the ILO must find its place amongst a myriad of other stakeholders including entities engaged with economic development such as the World Bank or the United Nations Development Programme (UNDP), children's rights agencies and bodies such as the United Nations International Children's Emergency Fund (UNICEF) or the Committee on the Rights of the Child, as well as civil society Organizations such as Save the Children or Human Rights Watch. Hence, the ILO as a transnational actor also needs to deal with the tension between its position as leader with regard to legal and technical questions in the field of child labour and the intimate connection of this field with larger developments related to human rights and global economic developments that lie beyond the control of any single actor. The ILO has, for instance, played a leading role in the drafting process of Article 32 of the CRC, which deals with children's economic exploitation; it has also largely influenced the positions of the Committee on the Rights of the Child and other children's rights entities including UNICEF and children's rights NGOs on how to interpret children's rights in relation to child labour (Hanson et al., 2015). More recently, through providing seed funding to facilitate its inception and serving as its secretariat during the initial stage, the ILO has played a central role in Alliance 8.7, a global partnership established within the framework of

the 2030 Agenda for Sustainable Development that is committed to securing the prohibition and elimination of the worst forms of child labour and ending child labour in all its forms by 2025.

The shift of the ILO's child labour policy from a position that included reasonable regulation to an almost exclusive abolitionist one was accompanied by an increase of referencing the most egregious forms of child exploitation such as child trafficking, the recruitment of child soldiers and slave-like practices. This is in line with a broader trend towards a moralisation of international human rights and children's rights discourses and policy (Poretta et al., 2014; see also Mouffe, 2005). The ILO has been only one of many transnational actors that emphasise dramatic stories, children's victimhood and vulnerability, leaving less space for addressing the political responsibility for dealing with economic and structural inequalities.

6 Conclusion

In our analysis of the history of the ILO's child labour policies, we have seen that, over the years, important changes have taken place in the way in which ideas and practices concerning child labour have been translated into international standards, discourses and policies. Working children's opinions and representations have played an indirect role, in particular during the period when the ILO designed and implemented its two-plank policy combining the long-term abolition with the short-term regulation of child labour. During its early years, the IPEC did foresee space, both in its discourse and in its programmes, for including working children's representations by explicitly including the regulation of children's work as part of its child labour policy and by giving financial support to working children's organisations. The remarkable policy shift operated at the end of the twentieth century has, however, seriously diminished these influences. Today, the abolitionist perspective upheld by trade unions, which are firmly established as one of the Organization's three constituencies, are at the core of the ILO's child labour discourse and policy. It is this particular language that is now dominating not only actual translation processes but also particular interpretations of the history of the ILO's child labour policy itself. Other particular languages that deal with regulating and humanising children's work, as a matter of principle or while awaiting total abolition, and that have been present for a long time in the ILO's history of child labour policy have slowly but surely disappeared from its discourse and practice. However, after 100 years of ILO child labour policies the Organization's own global estimates (ILO, 2017) show us that more than 150 million

children are still working under the minimum age or in hazardous conditions. Just like in 1979 the ILO must face the fact that in many countries the social and economic conditions make the work of these children inevitable and that the short-term goal of improving their working conditions is just as relevant as it was back then. To shift its position at this time, the ILO would need to engage with the ever-growing body of literature providing evidence about the detrimental and beneficial consequences of work for children's well-being as well as about the impact of its own policy on children's lives (e.g. Morrow and Boyden, 2018; Bourdillon et al., 2010). In doing so, the ILO should actively collaborate with the research community, international development actors as well as local governments and social movements to develop locally relevant evidence-based policies for dealing with the diversity of children's work in the world's fast changing formal and informal economies.

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From the Centre to the Margins and Back Again: Women in Agriculture at the ILO

Christine Verschuur

Abstract

Women in agriculture play a particularly important role in the economy. But their work—as peasants and as agricultural wage earners—their knowledge, their place in agricultural systems of production and their contribution to global prosperity have only been recognised in recent years, or still lack significant recognition. With changes in systems of production that are related to globalisation, the marginalisation and the workload of women in agriculture has often increased due to the perpetuation of an unequal sexual division of work in agriculture, and due to unequal access to the workforce and to agricultural inputs, technologies, credit schemes and land. One of the main constraints faced by female peasants and agricultural wage earners is the continuous and increasing reproductive work, which rests disproportionately on the most excluded women.

Feminist studies have theorised and underlined the centrality of social reproduction, deconstructing what women's work is and contesting the binary distinction between 'production' and 'reproduction'. They have, further, shown how the prosperity of the global economy benefits from women's work, including subsistence production where women play a major role.

The focus on women in agriculture has been a starting point for gender and development studies. The International Labour Organization's (ILO) programmes on women in rural areas have included groundbreaking research, the recognition of women's unpaid *and* paid work, and support for women's empowerment in grass-roots organisations. After having disappeared to the margins, rural women are back at the centre of the ILO's discussion on rural economies in recent years. The approach is now guided by the Decent Work agenda, which prevails globally in the ILO. We will explore how the ILO's programmes on rural economies and gender have evolved since the Organization's inception. We will also consider how the ILO's analysis and programmes

directed at the work of the most excluded women in agriculture could contribute to informing the Decent Work Agenda and changing the organisation of social reproduction and livelihoods.

1 Introduction

Rural issues have occupied a central place in the history of Development Studies, and issues regarding women in agriculture have been the starting point in Women/Gender and Development Studies. While the International Labour Organization (ILO) is not the specialised United Nations (UN) agency on rural issues, it has nevertheless also started its pioneering work on gender issues in the UN system by focusing on women's work in agriculture. In this chapter, we will concentrate on one component of rural women's economic participation—their work in subsistence agriculture and as agricultural wage earners—and particularly on marginalised women in rural areas.

In order to situate women in agriculture in the gender and development debate, the chapter starts with a brief history of the understanding of 'development' and the place of rural economies in this discourse and an overview of how the women/gender and development debate has evolved. This requires an intersectional approach to include women who are at the margins—for reasons of class, race, ethnicity, caste or other mutually reinforcing categories of exclusion.

We will then present how, since the ILO's inception, rural issues and an interrogation of women's work in agriculture have gone through ebbs and flows, moving from the centre to the margins and back again in the Organization's work on gender issues.

The field of knowledge on gender and development, which has been constructed with close interaction between scholars, feminist movements and international organisations, has been fuelled by some of the contributions of the ILO. Selected groundbreaking central feminist concepts elaborated on this path will be discussed, in particular women's work and social reproduction. Analysis of women's work in agriculture has been pivotal to the discussion of these concepts, and to understanding the articulation between subsistence production and the global economy and capitalist prosperity (Meillassoux, 1975).

We will conclude with a discussion on how, and if, the ILO's Decent Work Agenda in rural economies takes into account marginalised women in agriculture and how it can contribute to the discussion on the future of work, and to changes in the organisation of social reproduction and livelihoods.

2 Workers and Women's Work: Debates and Challenges

The protection of wage earners was the target of the ILO at its inception—those who operate in the labour market as formal, paid workers. Women's organisations and feminist movements managed to introduce women's issues into the early ILO debates, with contrasting positions on protectionist laws and laws promoting the principle of equality—positions that have continued to influence policy deliberations throughout the history of the ILO (ILO, 2009). At the first International Labour Conference (ILC) in 1919, two of the six conventions adopted concerned women—prohibiting night work for women and ensuring maternity protection for working women.

However, the way in which the ILO's target had been defined meant that the majority of women were not included, since most were not formal, paid workers but rather peasants, informal, home-working, or domestic workers (see, for instance, for France, Maruani and Meron, 2013). With the ILO Declaration of Philadelphia in 1944, independent workers were included as targets, but not informal workers. But even today informal workers constitute the majority of the workers in the world.¹

In the 1970s, the ILO's definition of informal workers referred to the 'working poor' in urban areas of developing countries, working in very small-scale units, mostly self-employed or with some assistance from family members or hired workers, whose income-generating activities are not registered, recognised or regulated by the government (ILO, 1991a). Rural employment statistics (see Table 8.1) show a large number of 'self-employed' people in agriculture, a small number working in non-agricultural employment, and a significant number of 'non-active' or 'not reported'. The number of wage earners is marginal, particularly in agriculture and specifically among women. The 2002 ILO Resolution concerning decent work and the informal economy included both wage earners and 'own-account workers'—people engaged exclusively in non-market production are not taken into account. There is no universally accurate or accepted description or definition of the informal economy, except that in it activities are insufficiently covered by formal arrangements, leading to workers lacking protection, rights and representation.

¹ For instance, in India in 2002, 93 per cent of workers were informal workers. On average, for the year 2000, the levels of informality were 78 per cent in Asia and 52 per cent in Latin America. In Africa, where statistics are less reliable and comparable, figures by country indicate high levels of informality too (for example, 80 per cent for Zambia in 1998) (Bacchetta et al., 2009, 30).

TABLE 8.1 Rural Employment by gender and employment status, Year 2000 (per cent of the adult population)

| Employment status | Sub-Saharan Africa | | South Asia | | East Asia and the Pacific (excl. China) | | Middle East and North Africa | | Europe and Central Asia | | Latin America and the Caribbean | |
|----------------------------|--------------------|-------------|-------------|-------------|---|-------------|------------------------------|-------------|-------------------------|-------------|---------------------------------|-------------|
| | Female | Male | Female | Male | Female | Male | Female | Male | Female | Male | Female | Male |
| Agriculture | 54.9 | 60.6 | 24.1 | 54.9 | 44.1 | 56.2 | 39.6 | 34.0 | 12.3 | 18.6 | 25.1 | 59.3 |
| Self-employed | 53.5 | 56.6 | 12.7 | 33.1 | 38.4 | 46.8 | 38.6 | 24.6 | 6.9 | 8.5 | 22.8 | 38.4 |
| Wage earner | 1.4 | 4.0 | 11.4 | 21.8 | 5.7 | 9.4 | 1.0 | 9.4 | 5.4 | 10.1 | 2.3 | 20.9 |
| Non-agriculture | 9.6 | 15.5 | 5.6 | 27.2 | 19.7 | 28.9 | 6.7 | 39.7 | 19.7 | 38.7 | 23.2 | 26.4 |
| Self-employed | 6.8 | 6.9 | 2.9 | 11.8 | 11.3 | 11.5 | 2.8 | 8.8 | 1.6 | 7.4 | 11.7 | 9.2 |
| Wage earner | 2.8 | 8.6 | 2.7 | 15.4 | 8.4 | 17.4 | 3.9 | 30.9 | 18.1 | 31.3 | 11.5 | 17.2 |
| Non-active or not reported | 32.7 | 21.7 | 64.3 | 14.6 | 35.5 | 14.4 | 53.3 | 26.0 | 46.9 | 27.5 | 51.2 | 13.4 |
| Total | 97.2 | 97.8 | 94.0 | 96.7 | 99.3 | 99.5 | 99.6 | 99.7 | 78.9 | 84.8 | 99.5 | 99.1 |
| Residual | 2.8 | 2.2 | 6.0 | 3.3 | 0.7 | 0.5 | 0.4 | 0.3 | 21.1 | 15.2 | 0.5 | 0.9 |

SOURCE: FAO, IFAD AND ILO (2010, 5).

Women are disproportionately affected by informality (ILO, 2016, 11) and are thus considerably disadvantaged. In addition, across the world, unpaid reproductive work—goods, services or care for the household—is mostly performed by women.² This unequal sexual division of work has been recognised as being a persistent source of inequalities, particularly regarding access to the formal labour market. Generally, women are more likely to work shorter hours for pay or profit. Globally, in 2016, women represented less than 40 per cent of total employment and made up 57 per cent of those working on a part-time basis (ILO, 2016, 17). Women's contributions to the global economy thus include a huge amount of work that is either not valued as work and thus not included in Gross National Product (GNP) calculations (UNDP, 1995) or that does not lead to equal benefits, rights, protection and space for political participation.

The ILO's contributions on Third World peasant women's work contributed to the broad recognition of women's work and fuelled the gender and development debate. To better understand these debates and contributions, it is necessary to include a brief discussion on the notion of 'development', and on the construction of the field of knowledge 'gender and development'.

3 Discussing Development as a Specific Reading of the Trajectories of Societies

The term 'development' was coined in 1949 in an address by the then newly elected President of the US, Harry Truman, and was linked to a call to fight poverty and hunger:

More than half the people of the world are living in conditions approaching misery. Their food is inadequate, they are victims of disease. Their economic life is primitive and stagnant. Their poverty is a handicap and a threat both to them and to more prosperous areas [...]. What we envisage is a program of *development* based on the concepts of democratic fair-dealing [...]. Greater production is the key to prosperity and peace.

H. TRUMAN, 1949, author's emphasis

Today, 70 years later, half the global population is rural, poverty is persistent and hunger has not been eradicated. Famines repeatedly occur, including in

² Women spend an average of 4 hours and 30 minutes per day on unpaid reproductive work (ILO, 2016, 20), with important variations due to social belongings (class, race, caste, gender) and across countries.

1970 in the Sahel region, in 2008 with world food prices at their highest levels, or at the time of writing in Yemen and Sudan. According to its Charter, the UN (1945) has, amongst other aims, the goal to 'promote social progress and better standards of life in larger freedom'. However, 'development' did not eradicate hunger, and famine and food riots are recurrent. Unequal power relations along gender, race and class lines are persistent and inequalities are growing.

Diverse schools of thought have addressed development processes, from 'developmentalists' (Rostow, 1963) and dependence theorists (Frank, 1969; Amin, 1973; Furtado, 1976; Wallerstein, 2006) to 'decolonial' theorists (Quijano, 1992; Escobar, 1988 and 2004). Adherents of the developmentalist current argued that modernisation theories would pave the way for 'underdeveloped' countries to take off in order to catch up with 'developed' countries and that, overall, wealth would trickle down from the rich to the poor. For theorists of dependency the 'periphery' was hampered by unequal trade relationships and needed to sever its dependency ties to the 'centre' in order to industrialise in similar ways. The association of 'development' with a process moving from 'underdeveloped' (and primarily rural) to 'developed' (and industrial) states has reinforced the image of agriculture as a sector of activity that had to be transformed in depth. The contemporary agricultural revolution (Mazoyer, 2002) introduced rapid changes, in the form of large-scale, mechanised, chemicalised, intensified systems of production. Small farming systems were generally considered as 'primitive', poorly 'developed', and 'backward', with low productivity and irrational ways of producing, not related to the global economy. Agricultural industrialisation, meanwhile, was considered a necessary step towards modernity and 'development'. Peasants were seen as a group that would progressively disappear.

A critical analysis of the 'development' discourse suggests that it constitutes a system of beliefs that imposes its specific reading on the trajectory of societies (Quijano, 1992; Rist, 1996). The concept of 'coloniality of power' has interrogated this Euro-American modernist and 'civilising mission' that is considered as a form of intellectual colonialism. Decolonial feminist scholars have significantly contributed to critically revisiting development theories, incorporating gender, class and race exclusions, including marginalised female peasants, and revealing the production-reproduction nexus (Benería, 1979; León, 1982 and 1985; Elson, 1991; Agarwal, 1992 and 1994). Today, the dominant industrialised agricultural system of production is under scrutiny and movements working towards sustainable, healthy and more equitable food-production systems are gaining momentum, including agro-ecological movements, where female farmers and feminist claims are very present. These critical views have contributed to re-conceptualising women's work and suggest that we reflect on how

this specific reading of the trajectory of societies influences the discussion on formalisation—namely, of women's work—and the debate on unpaid reproductive work, including peasant women's work.

4 Rural Women and the Construction of the Gender and Development Field of Knowledge

The drive to include women in development has existed ever since the discussion on development began (Verschuur, 2009; Verschuur et al., 2014). As a result of pressures exerted by feminist movements, the UN included consideration of the advancement of women's rights, since its very inception, both in its discourse and in the practices of its institutions. Already in 1946, a Commission on the Status of Women (CSW) was formed within the UN Commission for Human Rights in order to address problems faced specifically by women and to introduce equality between women and men.

Academics too exerted, through their writings, an influence to include women's issues, writings that informed the policies of international institutions and fostered change in conceptual and analytical frameworks. The seminal work, *Woman's Role in Economic Development* (1970), by Ester Boserup, a Danish economist, provided an analysis of the labour of peasant women in Africa, Asia and Latin America, arguing that both colonialism and modernisation policies had had negative effects on women's status. This analysis, while having several insufficiencies, opened the way to recognition of female farmers and their work. At the time, the term 'gender' had not been coined and power relations, in particular in the family, were not taken into consideration. Inspired by feminist practices, the works of feminist scholars fuelled women's liberation movements, which, in turn, exerted added pressure on the UN and international cooperation organisations. These various pressures led the UN CSW to launch International Women's Year, in Mexico City in 1975. Subsequently, the Commission held the responsibility for the organisation of women's conferences, including in Copenhagen in 1980, Nairobi in 1985 and Beijing in 1995. The ILO contributed importantly to the huge body of research and publications that was produced during this period, as we will see. These moments were particularly important to the creation of a field of knowledge on women/gender and development and to the push for resolutions, recommendations and plans of action to introduce gender into development institutions, programmes and policies.

In a first moment, the previously unacknowledged work of women, in particular that of Third World peasant women, was recognised as such (Benería and

Sen, 1981; Boserup, 1970). The next period was marked by analyses of the social relations of sex, race and class within the new international division of labour in the context of globalised neo-liberal capitalism. Many studies focused on issues such as the integration of women into the delocalised manufacturing industry, the feminisation of the proletariat, women's increasing importance in informal urban economies and the feminisation of migration (Verschuur and Catarino, 2013). The ILO was the driver, with domestic workers associations, of the promotion of a groundbreaking resolution on domestic workers (No. 189, in 2011³), and carried out extensive work on migrant women workers and indigenous women. However, female small farmers and rural workers were not part of the main research or policy agendas of the ILO during this period. In the following period, researchers and feminist movements deconstructed the colonial image of the supposedly homogeneous 'Southern woman' and provided an impulse for the re-examination of the interlocking nature of race, caste, class and gender categories, as well as for critiques of the hegemony of Western feminisms (Mohanty, 1988), which had also contributed to the marginalisation of rural women's issues, opening the way for analyses and practices that consider individuals as subjects of their own history (Rauber, 2003). Women's and feminist movements in the global South contributed to the emergence of concepts such as the solidarity economy or the right to food, and of environmental concerns and the defence of alternative systems of production, as networks like *Via Campesina*⁴ do, taking into account intersectionality.

Critical theories on 'development', the inclusion of an intersectional and decolonial approach in the women/gender and development field and social, economic, financial and environmental crises have led to a rethinking of the agrarian question and the place and work of marginalised women—whose livelihoods are related to rural areas. These issues have been brought back to the agenda in the ILO.

5 Ebbs and Flows in the ILO on Rural Development—Women and Work in Agriculture

Rural development has been on the ILO's agenda since the Organization's establishment in 1919. The 1921 ILC is sometimes referred to as the 'Agricultural

3 See the website https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189 (accessed on 13 August 2018).

4 International peasant's movement. For more information, see <https://viacampesina.org/en/> (accessed on 8 August 2018).

Session', since many agriculture-centred conventions and recommendations were adopted (on unemployment, living conditions, night work for women and youths, the right to association). In 1922, it was decided⁵ that the ILO should concern itself with workers in agriculture as well as those in industry, and shortly afterwards the first Director General, Albert Thomas, established an Agricultural Division (de Luca et al., 2011, 13). Since then, the ILO has adopted over 30 international labour standards that are of direct relevance to agriculture and rural development. In the beginning, the main concerns of the ILO in rural areas were labour standards, working conditions, social dialogue and employment issues.

Expert committees were set up on indigenous labour and work on plantations, and rural employment conditions were a priority in the ILO's work. In 1951, stronger relations were established with the Food and Agriculture Organization (FAO), confirming the ILO's mandate to work in rural areas, more specifically on training, cooperative development, rural industries and migration (de Luca et al., 2011, 19). With the decolonisation process starting from the 1950s, priorities changed from an emphasis on modern industry to rural issues. With the arrival of new member states from 'developing economies', agricultural and rural issues became dominant. Rural issues became central to the ILO's work from the 1950s onward, peaking in the 1970s and 1980s.

The ILO's Resolution 1960⁶ highlighted the challenge of rural development and set up an Office-wide, rural-oriented strategy. In 1969, the ILO had launched the World Employment Programme (WEP), and the Director General's report introducing the WEP stressed (among other points) the need to shift investment from capital-intensive to labour-intensive activities, from physical (i.e. machinery) to human capital, and from urban to rural development (ILO, 1969, 68 and 81).

The Rural Employment Policies Research Branch (EMP/RU), set up in 1973, constituted the lead unit and was designated as the 'in-house hub' for rural matters, promoting research on these issues and designing the ILO's rural development strategy. The emergence of rural issues as a priority was further evidenced at the UN World Food Conference in 1974, which called on the UN to place more emphasis on rural development (de Luca et al., 2011, 21).

5 Between 1922 and 1932, the Permanent Court of International Justice, since 1946 the International Court of Justice, issued four advisory opinions related to the International Labour Organization, two on agriculture, one on women's work at night.

6 See the website https://www.ilo.org/public/portugue/region/eurpro/lisbon/pdf/resolucao_ilo_1975.pdf (accessed on 13 August 2018).

The World Employment Conference (WEC) in 1976 called for ‘according high priority to the development of rural areas in all its dimensions, from agriculture modernization to development of agro-based industries, including rural crafts, to the provision of physical and social infrastructure, appropriate technology, vocational training, credit facilities and cooperatives [...], special efforts to ensure effective workers’ participation, and agrarian reform including land distribution, to achieve effective national development strategies’ (de Luca et al., 2011, 22). However, women in rural areas appeared only sporadically, in chapters referring to disadvantaged groups such as indigenous and tribal people, youth and disabled persons.

5.1 *Innovative Approaches and Debates*

Considerable and high-quality research and analysis was produced during those years by world-renowned scholars (Jolly, 1976; Sen, 1981; Benería, 1982) and on issues of land reform, rural technology and female rural workers, contributing to important innovative concepts. Among these was the ‘basic needs’ approach (Jolly, 1976; Ghai et al., 1980), the debates on informality, the questioning of growth in itself as a way of ensuring employment creation and poverty reduction or, concerning gender issues, the deconstruction of the concept of women’s work and the sexual division of labour (de Luca et al., 2011, 31). A lot of research was also produced on rural cooperatives. This progressive and groundbreaking research provoked resistance, from the constituent parts of and internally within the ILO. Interestingly, the huge volume of research documents and training material produced on cooperatives by ACOPAM (*Appui Coopératif au Programme Alimentaire Mondial*—Cooperative and Organizational Support to Grassroots Initiatives) was not supported by the ILO—despite growing prestige within the ILO, important contributions to poverty alleviation by increasing rural employment and securing social rights, and being considered as ‘exemplary in gradually strengthening a project’s gender sensitivity and in screening projects for gender sensitization’ (de Luca et al., 2011, 66). In part, this reluctance is attributed to the fact that ‘all documents and training materials were in French’ (de Luca et al., 2011, 66), which also tells us a lot about the ‘unequal traveling and translation of feminist practices, theories and texts, and their reception’ (de Lima Costa and Alvarez, 2014, 558). The rich body of feminist literature produced by non-Anglo-Saxon feminist scholars since the seventies (Delphy, 1970; León, 1982; Bisilliat, 1985; Lagarde, 1994; Devreux, 1995) has been poorly incorporated into the UN apparatus and only weakly influenced debates, programmes or research. Transnational encounters have, however, opened spaces of circulation of ideas.

In preparation of the first UN conference on women, in Mexico in 1975, a Women's Programme had been opened around the WEP in 1974, with studies on the sexual division of labour and on the contribution of women to development and the gender biases. The 1976 WEC had pointed to the fact that women faced the most disadvantages and had called for action to relieve 'the work burden and drudgery of rural women by improving their living and working conditions and providing more resources for investment in favour of women in rural areas' (Ghai, 1982, vi). The Programme attempted to implement the relevant recommendations of the WEC as well as those adopted by the World Conferences on Women held in Mexico City and Copenhagen in 1975 and 1980, respectively. The introduction of a seminal book produced by the ILO on women and development recognised that the studies published in the book contributed to understanding 'the forces that perpetuate [women's] subordination' (Ghai, 1982, vi).

5.2 *The Programme on Rural Women*

The Programme on Rural Women established in these years was an icebreaker in the UN system. 'I remember how the first reaction of my colleagues [of WEP, where we were initially only two women] to my proposal to calculate women's unpaid work was initially quite negative and received with smiles' (interview with Lourdes Benería, August 2017). The Programme undertook groundbreaking research (Benería, 1982; ILO, 1991b), produced innovative concepts and approaches, 'from women awareness raising, social mobilisation and working collectively to solve problems, generate income, and give women a voice; to increasing women's access to government officials, and awareness-raising among employers to women's needs (in terms of health, education, shelter, water and sanitation); to women capacity building; to micro-finance for income-poor women' (de Luca et al., 2011, 40). 'By 1990, the ILO's analytical work and practical experience had been synthesized in over 150 working papers, books and conference papers covering a wide range of topics' (de Luca et al., 2011, 43).

Research produced by the Programme on Rural Women contributed to discussions not only of what women's work—including domestic work—is, but also of what is considered to be women's work in terms of non-domestic production (Benería, 1982, xiv). It documented how some rural women perform the same agricultural tasks as men, and others perform sex-typed activities like processing food for sale (the Hausa region in Nigeria) or making laces (India). It showed that the sexual division of work in agriculture is not universal—coffee production may be carried out by women or by men according to country, ethnicity, etc.—and is subject to change according to global economic changes and the process of accumulation. It illustrated the differences between women

and men in the proletarianisation of the labour force with the transformation of agrarian structures and in the processes of land commercialisation and concentration that occurred in these years. It also illustrated how global economic changes intensified reproduction activities, and how the household also is subject to changes. The Programme on Rural Women not only paid attention to women, it also defended the idea that 'one of the dimensions of women's oppression is the existence of mechanisms of exploitation that feed on and accentuate inequalities related to class and gender' (Benería, 1982, xvi). This accent on the need to link gender and class differences leads us to 'ask questions about the reasons for their existence and about the possibility of doing away with them' (Benería, 1982, xvii). Institutional questions derived from these statements. 'If private ownership, unequal distribution of resources, and a capitalist organization of production result in fundamental class differences—affecting women in a variety of ways—we need to ask whether any institutional change addressed to altering these factors will do away with gender-related mechanisms of subordination affecting women' (Benería, 1982, xvii). Studies showed that a more egalitarian distribution of economic resources was not sufficient and that patriarchal systems need to be challenged in order to achieve real changes with regard to gender equality. Finally, the Programme's remarkable contribution was to document the 'extent to which women's economic activities are underestimated in labour force and national income statistics and are undervalued in general' (Benería, 1982, xvii), including in economic activities other than domestic work. This led to major theoretical contributions to feminist studies, to 'redefine the concept of economic activity, so that it includes not only tasks related to commodity production but also tasks that contribute to human welfare' (Benería, 1982, xvii). The focus on commodity production—in other words, the production of exchange values rather than use values—has distorted the way participation in the labour force is defined. Feminist scholars in the ILO's Programme on Rural Women argued that participation in the labour force should also include use value production (Benería, 1982, xvii). While some efforts had been made to estimate this participation in subsistence agriculture—this was not done in domestic activities, viewed at that time as outside the economic realm—they remained seriously insufficient and often failed to relate it to human welfare rather than to a process of growth and accumulation.

The Programme on Rural Women also supported income-generating projects and grass-roots level organisations and cooperatives among poor rural women. It helped organise women into rural worker's organisations, for instance with the Self-Employed Women's Association (SEWA) in India,⁷ and in

⁷ For more information, see the website <http://www.sewa.org> (accessed on 8 August 2018).

some countries worked with women plantation workers (including in Bangladesh). But although it had contributed to a huge body of knowledge, the Programme had not managed to change the approaches and projects. Projects targeted women, but due to the fact that they did not sufficiently recognise women's already huge burden of work in domestic activities and in subsistence production ended up overburdening the most disadvantaged women. The Programme could not structurally change the mechanisms that reproduce unequal power relations and sexual division of labour; nor could it change the global economic system. It did not get the necessary high-level support to integrate its findings into all the departments of the ILO and remained isolated and poorly funded. For instance, one of the major components of the ILO's rural work in the 1970s and 1980s, the Special Public Works Programme, had absolutely no mention or inclusion of women or gender issues. The same happened with the ILO Unit Management Development Programme, which focused on small-scale enterprises considered as having an important capacity to 'create jobs, multiply, and satisfy the basic needs of local population' (de Luca et al., 2011, 68). In the ILO programmes also reaching rural areas like Skills, or Occupational Safety and Health and Working Conditions, the absence of gender was also striking.

Tensions also came to surface between concepts and approaches such as 'landlessness, poverty, work at village level, and "traditional" ILO work' (de Luca et al., 2011, 29), or between 'constituents and traditional ILO officials' on the one hand, and the 'donor-funded rural research programme that focused on land reform, organizing the poor and women on the other' (de Luca et al., 2011, 29). In 1987, the EMP/RU, the 'in-house hub' for rural matters, was dismantled. Many innovative approaches and programmes had not been integrated into the ILO, in particular those regarding rural women.

After a marked decline within the ILO for around twenty years, rural issues regained attention from the year 2008 onwards, when hunger riots exploded, illustrating the limits of the agricultural and food production and exchange system, the social, economic, financial and environmental crises and more generally the crisis of social reproduction and the widespread and persistent poverty in rural areas.

The accent on reducing poverty expressed in the international agenda urged the ILO to redirect policies towards rural areas that had been present at the beginning of the ILO's mandate and work. Following its discussion of the ILO (2008) ILO report *Rural Employment for Poverty Reduction*, the ILC confirmed the need to engage more decisively and urgently in rural areas, mobilising the Decent Work Agenda. The ILC adopted, in 2009, a Resolution and Conclusions to promote rural employment, and a Resolution to put gender equality at the

heart of decent work. 'In March 2011, the Governing Body adopted a strategy on promoting decent work for rural development, identified as one of the areas for priority action in 2014–15 and one of ten Policy Outcomes in 2016–17 to continue providing high-value services to the ILO's tripartite constituents' (ILO, 2017). In 2011, FAO published its annual report on women in agriculture, recognising their central role as food producers in farming systems; and 2014 was decreed as the year of 'family farming', and joint programmes between the ILO, the International Fund for Agricultural Development (IFAD) and FAO have been established. The 2030 Agenda for Sustainable Development also included priorities on rural development and agriculture and food security.

6 The ILO, the Decent Work Agenda in Rural Economies, and Gender

The concerns of the ILO in rural areas are nowadays related to the Organization's agenda on decent work. As a study on the ILO's rural work legacy observed: 'decent work deficits are numerous and include higher rates of un- and under-employment (especially among youth and women); an alarming prevalence of child labour (agriculture alone represents 60 per cent of all child labour); a high frequency of precarious work as wage workers are mostly temporary or casual; widespread informal activities; limited social protection; exposure to adverse working conditions due to poor labour standards coverage and monitoring; and little or no unionization' (de Luca et al., 2011, 13). The Decent Work Agenda in rural areas includes, according to ILO statements, paying 'special attention to women, youth, and other disadvantaged groups with untapped potential' (de Luca et al., 2011, 16). It addresses 'issues such as access to skills and employment services, sustainable entrepreneurship, extension of social protection and improved occupational safety and health and working conditions, International Labour Standards, and the need for strengthened rural organization' (de Luca et al., 2011, 16).

Agriculture is acknowledged as being the main source of rural employment for both women and men in sub-Saharan Africa, South Asia and South-East Asia. In Latin America, female rural work is equally distributed between agricultural and non-agricultural sectors. In the Middle East and North Africa, rural women work mostly in agriculture and rural men as non-agricultural wage earners. In Central Asia and Europe, the majority of the rural population works as waged employees in non-agricultural activities (FAO, IFAD and ILO, 2010, 4). In all cases, a significant proportion of women are either 'self-employed', as referred to by the FAO, IFAD and ILO report, or non-active or 'not-reported'. Decent rural work programmes by the ILO concentrate however on 'remunerative

employment' (FAO, IFAD and ILO, 2010, 20), where women are only marginally represented. Unpaid work and informal work are not part of the Decent Work Agenda. As underlined by a high-level officer: '[The] ILO's specific area of work is wage-workers' (personal interview with van Leur, Director of the Sectoral Policies Department, July 2017).

While the Decent Work Agenda does mention the necessity to '[take] women's role in the care economy adequately into account, for instance through work-family balance measures and providing workplace-level incentives for the provision of childcare and parental leave' (ILO, 2018), this concerns only formal workers. Unpaid and reproductive work—including food production, goods, services and care—carried out by women in rural economies, in particular in agriculture, is thus still not taken into account in the Decent Work Agenda and does not give access to women, *as workers*, to rights, social protection and representation.

The ILO's tripartite structure enables employers' organisations and trade unions to be officially represented in its governing bodies. However, feminist scholars and movements question to what extent mainstream trade unions—generally male dominated—represent the specific interests of women workers. More importantly, and specifically in rural areas since women constitute a major proportion of unorganised workers and unpaid agricultural workers (see Table 8.1), there is a serious shortcoming with regard to voicing rural, less advantaged women's interests. At the level of governments, while a small number of them are strong promoters of gender equality (for instance the Nordic countries, Australia, Canada and the Netherlands), many others do not include gender equality as a real priority, even if gender mainstreaming is present in the discourses. Rural agro-industrial lobbies may also have decisive power to influence their governments and the employers' parties so that support towards small peasants is reduced. All of this reinforces the marginalisation of a major proportion of women in agriculture.

Working on rural economies implies coordination and collaboration but also some tensions and competition with other specialised agencies of the UN that have a specific mandate to deal with agriculture and food issues (in particular FAO and IFAD). The ILO explained its focus on decent work for wage-earners in rural economies in order to define its specificity. In 2010, FAO, IFAD and the ILO prepared a joint report on gender and rural employment, based on an impressive number of studies and research from different agencies and scholars. It extends the notion of women's participation in rural employment to 'farming, self-employment working in trade, small enterprises providing goods and services, wage labour in these and wage labour in agriculture' (FAO, IFAD and ILO, 2010, 3). The report describes the gendered constraints that women

in rural economies face and how to reduce them. In 2012, the ILO, FAO and IFAD jointly organised a panel discussion, during the 56th Session of the CSW, on Rural Employment and Agriculture. Amongst other issues, 'examples and success stories of cooperatives unleashing rural women's potential and giving them a stronger voice' were presented (ILO, 2012, 2). Recognition of women as farmers with associated rights was included in the issues discussed, as was 'decent work for indigenous women in rural areas' (ILO, 2012, 2). ILO Convention No. 169 on Indigenous and Tribal Peoples⁸ was highlighted as a framework for indigenous women's rights.

The ILO's Sectoral Unit on the Rural Economy⁹ has prepared, since its establishment in 2013, a series of policy guidelines on gender and rural issues, one of which focuses on women's empowerment. On International Women's Day 2012, the chosen focus was to 'empower rural women—end hunger and poverty', and a call was made to increase employment, education and organisation as key tools in the empowerment of rural women. There seems to be a shift from the category gender—sometimes understood as a politically correct concept that displaces attention to men—to women's empowerment and continuous attention to women's grass-root level initiatives and 'small projects' (personal interview with van Leur, Director of the Sectoral Policies Department, July 2017).

The ILO considers that 'the rural economy holds significant potential for creating decent and productive jobs and contributing to sustainable development and economic growth' (ILO, 2017). The lack of support given to rural areas is considered by an ILO report as 'missed opportunities', 'such as the waste of agricultural produce [...]; an under-utilization of the rural workforce [...]. Well-developed rural areas hold considerable potential for economic growth with high returns and good, productive jobs and livelihoods' (de Luca et al., 2011, 13). Rural areas are seen as having a potential that needs to be unlocked, and investing in them is seen as 'good business' (de Luca et al., 2011, 14). Supporting rural areas is understood as being 'smart economics', following the World Bank in its proposal to invest in women and girls and in women's empowerment as individual persons, to reinforce the efficiency of the neo-liberal economic model of development. However this 'smart economics' approach has been widely criticised by feminist scholars as one that is embedded in the neo-liberal gender agenda, aiming at investing in women and girls for more efficient

8 See the website https://www.ilo.org/dyn/normlex/fr/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:312314,en:NO (accessed on 13 August 2018).

9 Forestry, Agriculture, Construction and Tourism (FACT) Unit of the Sectoral Policies Department (SECTOR).

development outcomes (Chant, 2012). This instrumental approach considers women as an underutilised resource, it does not understand the concept of gender as an expression of power (Scott, 1986), it does not take into account the critical approaches to empowerment, the analysis of women's subordination and of the mechanisms that reproduce gender and social inequalities. Numerous studies have demonstrated that the neo-liberal model of development cannot contribute to increase social and gender justice and to reduce inequalities, poverty and hunger without structural changes (Razavi, 2002 and 2009; UNRISD, 2005). The way the Decent Work Agenda is conceptualised could benefit from critical feminist analysis on 'smart economics', from the seminal contributions the ILO's Programme on Rural Women has made on social reproduction, and from the critical analysis of the specific reading of the trajectories of societies offered by 'development' and feminist studies. Some of this has indeed been included in the programme of the ILO's Bureau for Gender Equality. Besides many resolutions¹⁰ that respond to long lasting feminist struggles, important efforts have been made to encourage the recognition, redistribution and reduction of care work, considered as the cause of the reproduction of gender inequalities, in particular in relation to access to employment.

7 Women's Work in Agriculture, Social Reproduction, and Family Agriculture

Research on agricultural activities has for a long time neglected small-scale family farming, associated with backwardness and unproductivity, and irrationality—a system of production that was considered unable to feed the world. Women in agriculture have often only been represented as spouses or daughters, not as workers. The female small peasant's work has long been considered as 'help' and not as work. Failure to acknowledge the power relations and the division of work in the household and the farm has tended to reinforce inequalities and devalue the specific knowledge, practices, and crops cultivated by women peasants. It has also meant ignoring issues of unequal rights to land, to means of production, to the market, and of unequal participation

¹⁰ The Equal Remuneration Convention (No. 100); the Discrimination in Employment and Occupation Convention (No. 111); the Workers with Family Responsibilities Convention (No. 156); the Maternity Protection Convention (No. 183); the Resolution concerning Gender Equality at the Heart of Decent Work; the Resolution concerning the Promotion of Gender Equality, Pay Equity and Maternity Protection; and the Convention for Domestic Workers (No. 189). See the website <https://www.ilo.org/gender/Aboutus/ILOandGenderEquality/lang-en/index.htm> (accessed on 13 August 2018).

in decisions regarding the process of production and distribution. The under-representation of women in rural unions and farmers' unions contributes to their invisibility, notably that of their agency, and disregards their political subjectivity.

Feminist and critical rural social scientists have highlighted instead the centrality of the small peasantry in food production and the importance of women's work, as peasants as well as wage earners. They have shown how the sexual division of work, with marginalised peasant women working on subsistence production and men as wage earners, sustains the prosperity of the global economy. As an ILO publication of 1993 noted, '[agricultural] workers are not fully salaried and depend for a part of their income on the produce of their small farms, most often in the hands of women. This subordination of small peasant production to the labor market allows employers to pay a very low daily wage to agricultural workers' (Egger, 1993, 58, author's translation). These words from an ILO official illustrate well the articulation between different systems and relations of production, which is pivotal for the working of the global economy (Meillassoux and Verschuur, 1985).

Social reproduction includes all activities, relations and institutions that are necessary for the reproduction of life. It comprises biological reproduction, the reproduction of the labour force, and all activities that are necessary for daily life and future generations. This includes, for instance, food production, preparation and transformation, petty commodity production and commercialisation, caring for the others (dependents and non-dependents) and caring for nature. Unpaid labour in the production of goods and services and in care is considered a fundamental economic activity in feminist economics.

With changes in systems of production, changes related to globalisation and male migration, the marginalisation and workloads of rural women often increased, due to the persistent unequal sexual division of labour in agriculture and to unequal access to the workforce, agricultural inputs, technologies, credit and land. One of the major constraints faced by women peasants and agricultural wage earners is the continuous and increasing nature of reproductive work, which relies disproportionately on the most excluded women because of unequal power relations, sexual division of labour in the family and the coloniality of power. With neo-liberal globalisation, a crisis of social reproduction can be observed (Federici, 1999) and includes disappearing public services, unemployment and falling wages. In rural areas, the reproductive activities of disadvantaged women peasants are particularly burdensome due to poor infrastructure (electricity, water, roads...) and a lack of facilities and institutional support (day care, schools, health centres, social protection schemes...).

The food crisis and the crisis of social reproduction have generated doubts about the sustainability of the agribusiness model, for social, economic and environmental reasons. This has led to the rehabilitation of and support for other systems of production that value food production, agro-ecological practices and support for family agriculture. This change of perspective is not only due to the food crisis, it is also a consequence of the mobilisation of rural social movements claiming the right to land and to decent work and livelihoods, and of ecological movements. Family agriculture has featured in development agencies (FAO decreed 2014 to be the year of family agriculture) and public policies as a strategic proposal to fight poverty and improve food security through the modernisation of agriculture.

Public policies with regard to family agriculture are promoting enhanced productivity and farmers' participation in the market, mainly through access to credit provided to the most integrated 'productive farmers'. These policies mainly aim at an increased integration of the farmer into the capitalist system and not at the construction of alternative models of production and alternative markets, nor at pushing forward agrarian reform agendas or including feminist issues. While such moves seem to be an attempt to create a new social identity to replace the traditional opposition between large- and small-scale agriculture, they still lack a clear definition and do not provide an analysis of the system of production, on the scale of the land, on the sexual division of work, on the gender inequalities in the family, or on the nature of work, and of marginalised women's work in particular.

Some social movements, including *Via Campesina* mentioned above, contest the very category of family agriculture as not being representative of the peasants and their values and not in line with their struggles for change. Other rural social movements have envisaged family agriculture as the construction of alternative modes of agricultural development, to defend small-scale peasants and peasants without land (much like in Brazil, with the *Movimento Sem Terra* [MST]¹¹), decent work and livelihoods and sound environmental practices. Women's movements, including the *Marcha das Margaridas*¹² in Brazil, included feminist issues in their claims, including women's equal access to land titles and to social rights as workers, extension services directed at female farmers, the struggle against gender violence, and women's political representation.

11 For more information, see the website <http://www.mstbrazil.org/content/what-mst> (accessed on 8 August 2018).

12 For more information, see the website http://transformatoriomargaridas.org.br/?page_id=139 (accessed on 13 August 2018).

Data are difficult to obtain on female agricultural-waged workers since it is a complex category, including irregular, part-time, seasonal, unregistered and non-formal work and data collection is scarce. Women are generally far less often employed as rural wage earners than are men (see Table 8.1 above). FAO's report on the *State of Food and Agriculture 2010–11*, which focused for the first time on women and agriculture, provides some scattered information on the employment gap between men and women (FAO, 2011). For instance, 'almost 15 per cent of men but fewer than 4 per cent of women are employed for wages in Ghana. The gap is even wider in some other countries, such as Bangladesh, where 24 per cent of rural men and only 3 per cent of rural women work in wage employment. [...] In Ecuador almost 30 per cent of rural men and only 9 per cent of rural women receive a wage' (FAO, 2011, 18–19). However, women constitute the majority in several export-oriented agro-industries, including for instance in Colombia's flower industries. In all cases, women 'are more likely to be in part-time, seasonal and/or low-paying jobs. Similarly, rural wage-earning women are more likely than men to hold low-wage jobs' (FAO, 2011, 19). More data and analysis with regard to female agricultural workers is needed.

8 Conclusion

The ILO's Decent Work Agenda in rural areas concentrates on rural wage earners. However, this means neglecting the majority of women in rural areas, who do not work mainly for wages or profit. If the Decent Work Agenda is about promoting social and gender justice, it needs to be extended to all women, including both small peasants who are working to provide a livelihood for their families, rural waged workers and the urban poor. It needs to be better informed by previous debates in the ILO, which contributed to the recognition of the place of women in social reproduction in a broad sense, including care and also producing food, goods and services and livelihood provision for all. This work is mostly performed by marginalised women in the form of unpaid, non-registered or informal work.

Women have long been associated either with the domestic sphere or with subsistence farming, which has contributed to them being ignored and devalued as workers and their central contribution to food security and social reproduction has been disregarded (Boserup, 1970; Benería, 1982; FAO, 2011). Until today, peasant women still lack equal access to recognised status as farmers, to policies and resources that support agricultural production and to social rights and social protection, and lack a voice and representation in rural trade unions.

The attention given to women and development issues was born from research on rural women carried out in the 1970s. Their work, their knowledge, their place in agricultural systems of production and their central role in livelihoods and social reproduction was late to be recognised and this led to changes in women's influence in development policies, programmes and research programmes. With the organisation of the United Nations World Conferences on Women, which connected feminist movements and scholars and stimulated research and evaluation programmes, a large field of study on women/gender and development has been constituted. Feminist studies and women's movements discussed and challenged the sexual division of labour and asked 'difficult questions about how societies are organized to satisfy basic human needs' (Benería, 1982, xi), and women's struggles for equality posed 'fundamental questions about the nature of inequality, of exploitation and subordination, and about the type of social change necessary to eliminate them' (Benería, 1982, xi).

Feminist studies introduced the concept of gender as an expression of power (Scott, 1986). Women's oppression is not only located in the labour market and in the sphere of paid production, seen as essentially outside the domestic sphere. It is also located in the family—the home of unpaid domestic work and food production. Thus attention needs to be paid also to unequal power relations in the household, to the patriarchal system that influences all socialising institutions—that lead to women's subordinate position in the paid labour market—to the sphere of reproduction and to the articulation between production and reproduction. The struggle against women's oppression thus needs not only equality of access to the sphere of non-domestic production (paid and unpaid) but also transformations of unequal power relations and of the unequal division of reproductive activities in the household.

Groundbreaking research on gender equality issues took place at the ILO in the 1980s and brought with it solid, innovative feminist labour economics contributions. The ILO established a Gender Equality Policy in 1999. Following the 1995 Beijing Plan of Action and the dissemination of gender mainstreaming policies, the number of staff working on gender issues significantly increased, gender was integrated into the ILO's technical co-operation programmes, gender guidelines were elaborated and gender training was given—much targeted specifically at women—and the systematic inclusion of women in all projects was encouraged. In that respect, the ILO is one of the UN organisations that has integrated gender equality issues most significantly.

As in most international agencies, gender has become a priority but is often still not adequately budgeted for. Gender experts lack power and legitimacy and strategies to deploy gender in the institution are subject to political changes. The ILO Bureau for Gender Equality (now called the Gender, Equality and Diversity Branch) has not always benefitted from the same well-placed

institutional position and resources with which to influence policy. It lacks the power to influence some departments and sectorial approaches. Through its Gender Network, the Gender, Equality and Diversity Branch at the ILO recently highlighted a number of areas in which stronger efforts need to be made to support constituents. These include recognising domestic work as work, violence and sexual harassment in the workplace, improving equal pay for work of equal value, and ensuring that the Decent Work Agenda and gender equality maintain their relevance on international and national agendas during times of crisis, and continue to influence the high-level policy forums of intergovernmental organisations and the UN (ILO, 2012, 3).

While gender mainstreaming has grown appreciably at the ILO and gender is supposedly at the top of the Organization's list of priorities, the theoretical feminist contributions made by the ILO in the 1980s, which deconstructed what work is and in particular what female peasants' work is, have remained difficult to introduce into programmes and policies. Whereas rural employment and the rural economy have once again returned as one of the priorities of the ILO, after a marked decline, gender, rural issues and the Decent Work Agenda combined could benefit more from the previous research and theoretical contributions of the ILO, and from the burgeoning, organised social movements of peasant women, who contest the dominant agricultural model, trade unions and lobbies. Recognising, reducing and redistributing care (Fraser, 2004) as one of the levers with which to reduce gender inequalities is now part of the ILO's and the Sustainable Development Goals (SDGs) agenda. While this is a big achievement, there is a need for a broader vision on rural women and social reproduction in the Decent Work Agenda.

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The title of this chapter is inspired by a book by bell hooks (1984) *Feminist Theory: From Margin to Center* (Cambridge, MA: South End Press).

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Social Suffering and Structural Violence: Nepali Workers in Qatar

Antonio Donini

Abstract

Some 400,000 unskilled and prevalently male Nepali labourers work in Qatar as per an agreement between the governments of the two countries. They are the lowest level of the genetically engineered pyramid of some two million migrant workers that represent some 90 per cent of the resident population in Qatar. The pyramid and the myriad forms of exploitation and discrimination that go with it are functional to Qatar's development agenda and in particular preparations for the 2022 football World Cup. Based on ethnographic fieldwork in Nepal and Qatar, this chapter analyses social transformations in rural Nepal, the exploitative regulation of migration and the human condition of Nepali migrants in Qatar as well as the meanings ascribed to it. We look at the pressure exerted by international organisations, namely the International Labour Organization (ILO) and international trade unions, that led to reforms recently introduced by Qatar and reflect on the longer-term implications, if and when the 'brave new world' of Qatar no longer requires an extensive migrant presence.

In a run-down area of downtown Doha—a neighbourhood that will be demolished to make place for the gleaming new city that will host the FIFA World Cup in 2022—we visited three young boys from the Langtang area who were camping on the roof of a derelict hostel for migrant workers. They had arrived in Qatar two months earlier and found that their working conditions, salary, and accommodation were not what they had been promised. They had protested, and their sponsor had thrown them out on the street with no salary, no exit permit and no passport. They were surviving thanks to canned food and other items provided by an unofficial Nepali self-help group and some foreign benefactors. They had no money (and had taken out large loans from moneylenders in their village) and no way of leaving Qatar. The Nepali embassy had been approached but seemed ineffective in addressing the case. They were stuck. Getting exit papers was going to take time. They were dirty, tired, depressed and hopeless. When asked what would happen when, eventually, they would

make their way back to Nepal, they said that in addition to the loss of face of having been unsuccessful in their migration attempt, they would somehow have to pay back NPR 120,000 to NPR 160,000 (USD 1,070 to USD 1,425) each. The only solution would be for their family to sell whatever land they still had.

Fieldnotes, DONINI, Doha, December 2012; see Figure 9.1

1 Introduction

Over the past 20 years Nepal has undergone many transformations: from war to relative peace, from monarchy to a putative democratic system, from the rigidities of a mainly rural, caste-based social structure to more rural-urban or 'rurban' world views based on social and geographical mobility, from marginalisation to gradual integration into the regional processes of globalisation. This process of change has been particularly significant in rural Nepal. The political economy, especially in the Middle Hills, has undergone a significant transformation that has resulted in the gradual weakening of traditional forms of



FIGURE 9.1 Nepali boys who left their jobs camping on rooftop, Doha, December 2012

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bonded and caste-based division of labour. The vectors of change that Polanyi applied to his analysis of the 'Great Transformation' that accompanied the industrial revolution in Europe provide a useful lens with which to understand social change in Nepal (Donini et al., 2013; Polanyi, 2001). These vectors involve the commodification of land, labour and money, which previously were embedded in social relationships rather than functions of the market. In rural Nepal, land used to be where people worked, and labour was what they did. Bonded or exchange-based forms of labour rather than cash transactions were how one eked out a livelihood. Now, even remote areas of rural Nepal have witnessed a change from a relatively static situation of social reproduction to one where land and labour are increasingly bought and sold and where the market economy and globalised economic and social processes (communications, migration, remittances) have rapidly taken hold.

A consequence of this transformation is the transition of rural livelihoods from exclusively agricultural and land-based to more fluid systems that involve mobility and cash. These systems include, for example, day-labour on someone else's farm, building or road construction work in the same valley, internal migration to work in brick kilns in the Kathmandu valley or as domestic workers, seasonal migration to India, sponsored and somewhat regulated migration to the Gulf countries, Malaysia, South Korea and sometimes beyond. The common characteristic of these forms of livelihoods is that they are 'modern' in the sense that they are cash-based and often exploitative but also because of the aspiration of young people, who no longer feel straight-jacketed in the caste system, to escape the village in order to lead a more 'modern life'. For many young people, both men and women, staying in the village is tantamount to being labelled as *faltu* (useless) and leaving is a kind of rite of passage (Donini et al., 2013, 41; Sharma, 2013; Monsutti, 2007). These aspirations are often sorely dashed, as we shall see in the case of Nepali migrants in Qatar.

Although the shift from *fields* to *cities* constitutes a shift from *subjects* to *citizens*, the movement away from the rural and agrarian sectors has not been free of structural violence and social suffering. This movement has not been one of *unfreedom* to *freedom* (Sharma & Donini, 2012). Poorer migrants have very little social or legal protection, and are often the victims of various forms of exploitation. Although experiences and working conditions vary, most work in the domestic informal sector remains under-monitored, under-regulated, casualised and without access to any official social protection whatsoever. Officially sanctioned migration to Qatar or other Gulf countries is highly organised but equally exploitative. Both types of migration rely initially on informal networks of agents and brokers at the village level that are often based on family or kinship relationships. 'Regulated' external migration relies on sophisticated

and highly exploitative chains of intermediaries that link the village to the destination.

One of the paradoxes of migration, whether internal or international, is that it offers both freedom and unfreedom. Embarking on a journey to paid employment has certainly offered income opportunities to Nepali women who otherwise would be largely excluded from the labour market. This has challenged the stereotypical representation of women as unproductive and contributed to financial gains and some empowerment. However, the nature of domestic work as maids or carers reinforces gendered ideas of work. The status of domestic workers moving to Kathmandu or other cities, and even more so in the Gulf, makes women vulnerable to downward social mobility, discrimination, and abuse including sexual exploitation. For men, in destinations such as Qatar, while there are opportunities for increased income, these are erratic and do not necessarily lead to upward mobility. Debt entrapment looms large as does loss of face vis-à-vis family and community if the migration is not, or is not perceived as, successful. In addition, masculinity issues arise in the all-male environment of the labour camp where sexuality is highly constrained and there are little or no opportunities to meet young Nepali women (migration of Nepalis to Qatar is over 90 per cent male). As in other migration situations the lure of a better life is high and while the risks are well known, they are played down or ignored.

Moreover, migrant labourers are subjected to both visible and invisible forms of violence, punishment, whimsical treatment, including discrimination and humiliation and, of course, exploitative contractual arrangements. These are often accompanied by forced compliance with arbitrary norms if not stripping the migrant of his or her identity (the confiscation of the migrant worker's passport on arrival in the Gulf is highly symbolic of the status of unfreedom). What we have here is another paradox: the persistence of a kind of postmodern feudalism, in a highly globalised context among populations that—wittingly or not—are aspiring to escape the rigours of the caste system. Bonded labour is alive and well in Qatar, the country with the world's highest gross domestic product (GDP) per capita... but only for Qataris. Behind Qatar's glistening facade, modernity, segregation and forced labour coexist and support each other (Qatar ranks fifth on the world slavery index¹). As we shall

1 According to the 2016 World Slavery Index: 'Forced labour in the construction sector is one of the dominant forms of modern slavery in Qatar, reflecting the demand for cheap labour to build extensive infrastructure for the 2022 FIFA World Cup. The ongoing construction of football stadiums, and the huge infrastructure projects required to access and service these locations, continues to see massive influxes of migrant labourers who are vulnerable to abuse. The vast majority of construction workers are low, semi and unskilled. Almost exclusively

see below, in the hyper-globalised, genetically re-engineered society of Qatar, these unfreedoms are functional to the economic strategies of the state.

A third paradox is that migration, in addition to being *gendered* is also *classed*. Migration and wage labour have led to contradictory class mobility—that is to say, while migration has certainly opened up opportunities for cash income, the nature of work and working conditions have often resulted in dislocation, humiliation, debt entrapment, social suffering and structural violence. While increasing numbers of men seek to assert their masculinity through labour mobility, both in the form of earnings and wider experience beyond village life, this does not automatically translate into an affirmation of identity. Many migrants struggle to save money to reimburse their debt and, especially when the migration experience fails because the conditions in Qatar or in other destination countries turn out to be more exploitative than expected, psychological trauma compounds the economic trauma. As mentioned above, migration is consubstantial with the weakening of the caste system and the penetration, into the remotest areas, of ‘modernity’ in the form of the capitalist system and its corollary wage-based labour relations, which are ‘dis-attached’ from the old production, property and social relations regime (Mishra, 2007, 23). Some have argued that a class lens would be more adequate to capture the situation of marginal migrants than the caste-ethnicity-rural-urban lens that is more frequently applied (Bruslé, 2010; Mishra, 2007; Sharma, 2016).

Caste is hardly a factor in migration. Trans-caste or class factors such as youth and the ability to raise the necessary resources are better predictors of migration. At the point of destination, caste is further diluted; Nepalis tend to self-identify as a group rather than by caste or ethnicity. Bruslé (2010) makes a convincing case that the spatial segregation found in places like Qatar—‘a land of control and separation’—where migrants’ lives are strongly conditioned by the multiple hierarchies and divisions they encounter, is more about class than nationality or occupation. In fact, it could be said that the waves of young Nepalis who accept the risks inherent in recurrent labour migration constitute an emerging class, albeit one without class-consciousness.

Our ethnographic work (and that of others, including Bruslé (2010 and 2012)) confirms that this class is caught in a kind of vice: it is still mentally attached to the village, and most migrants identify as rural from a particular area when asked. But at the same time it is part of a global exploitative system that rarely

male (99.4 percent in 2012), they are predominately from South and South East Asian nations—India, Nepal, the Philippines, Sri Lanka and Bangladesh.’ See: <https://cdn.globallslaveryindex.org/2018-content/uploads/2018/07/19123316/GSI-2016-Full-Report.pdf> (accessed on 1 September 2018).

allows individual migrants to 'break into' modernity. The absence of the state compounds the exploitation. The Nepali state simultaneously benefits from migration—remittances represent 20 to 25 per cent of GDP (Mishra, 2007)—and migration also functions as a safety valve that reduces social tension. But at the same time, the state takes little responsibility for the well-being of its migrants. While the Nepal–Qatar migration corridor is formally regulated by an interstate agreement that defines the numbers and duration of migration, the Nepali government is unable or unwilling to intervene other than in the most extreme cases of exploitation. The web of manpower agencies that are the obligatory entry point for aspiring migrants are essentially exploitation-promoting, money-making business that easily evade control and accountability. Family, kinship and the presence of small Nepali migrant non-governmental organisations (NGOs) operating more or less under the radar in Qatar provide limited protection and some sense of belonging. Until recently, pressure by the International Labour Organization (ILO), the International Trade Union Confederation (ITUC) and NGOs has been equally ineffective in ensuring compliance with international regulatory mechanisms although this seems to be changing at the time of writing (see end of this chapter). Thus, the gap between the aspiration towards personal freedom and *bikas* (development) and the reality of the structural violence that accompanies the migrant at all steps along the journey from the village to the unfreedoms of Qatar is at the heart of the human condition of 400,000 or so Nepalis, to which we now turn.

2 Nepalis in the 'Brave New World' of Qatar²

After traveling thousands of miles, [migrants] said they had little choice but to accept work they had not agreed to perform, and unsatisfactory conditions and practices that included employers withholding wages (typically as security to prevent them from quitting), illegal wage deductions,

2 This section is based on ethnographic work conducted in Nepal (Middle Hills, Terai and Kathmandu Valley), Northern India and Qatar in 2010–12 as part of a research project on perceptions of social transformation and migration. The findings are summarised in Donini et al. (2013). For this chapter, additional materials collected at the time and some updates have been incorporated. The research was conducted at the Feinstein International Center, Tufts University, under a grant from the Humanity United Foundation, by a team comprising Jeevan Raj Sharma, Sanjay Aryal and the author. The fieldwork in Qatar was conducted by Sanjay Aryal and the author. All studies are available at fic.tufts.edu. The author expresses his gratitude to the Feinstein Center and to his co-researchers for allowing him to reproduce some of the material here.

or salaries far below those promised. Some said they signed contracts under coercive circumstances, while others never saw an employment contract at all.

HRW, 2012

The exploitative conditions under which approximately two million migrant workers live and work in Qatar have been well described both in the academic literature and in the work of human rights organisations, the international trade union movement and the ILO (see for example HRW, 2012; Amnesty International, 2016a and b; Harroff-Tavel and Nasri, 2013; ITUC, 2015). While some Gulf States—Kuwait for example—have abolished the *kafala* (sponsorship) system, Qatar has only recently responded to international pressure. Legal and other measures were announced at the end of 2017 by the Qatar authorities to address the most glaring issues of exploitation but falling short of the abolition of the *kafala* system (HRW, 2017). Pressure from international human rights groups, the international trade union movement and the ILO has been somewhat successful in bringing about these changes. The potential reputational damage resulting from exposure in the context of the preparations for the 2022 World Cup has probably had a more important role in these changes. Whether and how the fundamentals of an organised forced labour system will change is too early to tell. The following paragraphs provide a snapshot of the human condition of Nepali migrants in Qatar in late 2012. Our findings resonate with those of similar studies, whether ethnographic (Bruslé, 2010 and 2012) or advocacy related such as reports by Human Rights Watch (2012 and 2017) and Amnesty International (2016a and 2016b).

Qatar has a population of close to 2.6 million of which some 90 per cent are migrants.³ Nepali migrants total about 400,000 and constitute the largest single contingent of foreign workers.⁴ The majority of migrants work in construction: hundreds of thousands of workers are needed to fulfil Qatar's ambitious objectives, both economic and linked to the projection of its visibility and power. These two objectives come together in the enormous construction projects that are remodelling the city of Doha in view of the 2022 World Cup.

By negotiating state-to-state agreements with Nepal, Bangladesh, India and other South Asian countries, as well as the Philippines, for the provision of

3 2018 estimate. UN population data: <https://esa.un.org/unpd/wpp/DataQuery/> (accessed on 22 August 2018).

4 There are actually some 650,000 Indian nationals living in Qatar but these include families and not just workers.

large contingents of unskilled or semi-skilled labour, Qatar has created a kind of genetically engineered society in which migrants constitute the expendable labour force that is functional to the production of the wealth and power of those—the small minority of Qatari families and the small elite of foreign managers—who rule from the top of the pyramid. As in Huxley's dystopia, the pyramid is stratified, and because the various layers have different interests, there is little opportunity for solidarity or the expression of grievances *across* layers. Moreover, because all migration is temporary—a maximum of 2–3 years for Nepalis, after which a 2-year break is mandatory, except for a small layer of managers (south Indians, Palestinians, nationals of other Gulf countries) who are allowed to stay longer—the Qatari state has little concern for the long-term stability of the pyramid. The migration tap can be turned on or off at will and layers or groups that are no longer required can be easily phased out with minimal risk to stability. The Nepali contingent, mostly young, unskilled and over 90 per cent male is at the bottom of the pyramid and is the most disadvantaged, exploited, and discriminated against.

2.1 *Complexity of Labour Arrangements*

Migration to Qatar is based on the *kafala* system, which reflects the practices of control and exclusion of migrants. There are two main types of sponsorship arrangements:

(a) The regulated system based on an agreement between the governments of Qatar and Nepal allows for a certain quota of Nepalis to migrate to Qatar each year. This involves a multilayered set of intermediaries that start with family or kinship at the village level. Agents, who are sometimes family members, identify potential migrants. These agents work for manpower agencies in Kathmandu, which provide a number of services: basic induction, health check, required paperwork, and the identification of a *kapil* (sponsor, a Qatari national) and a *mudir* (manager, usually a migrant from one of the higher layers of the pyramid) in Qatar. A contract is drawn up specifying work conditions and salary; a passport and ticket as well as an exit permit from Nepal and a visa for Qatar are also provided by the agency. Contracts are normally in English and are only handed over to the migrant at the last moment, for example at Kathmandu international airport on the day of departure. All this comes at a cost for the migrant and his family. Typically, aspiring migrants are required to pay approximately NPR 150,000 (or approx. USD 1,400) for these services and spend a variable amount of time—from a few days to several weeks—in guest-houses or small hotels in Kathmandu before receiving their marching orders. Repeated visits to Kathmandu may be required before the documents are

finalised. In some cases the process is aborted by the manpower agency or the sponsor. In theory, manpower agencies are obliged to protect the migrant from excessive costs and if contractual arrangements are not respected or are overly exploitative, to arrange for the return of the migrant, at their cost, to his or her village. In practice, the manpower agency is reluctant to do so or does so only as a last resort. Most migrants need to take out loans to cover the agency fees and other expenses. Loan rates are extortionate and seem to be usually around 36 per cent/year, sometimes up to 50 per cent/year. Debt can quickly become an unsustainable burden, especially if things do not go as planned. Migrants suffer from extreme pressure to succeed so that the debts to family or money-lenders can be repaid.⁵

(b) The so-called 'free visa' system whereby a migrant already working in Qatar identifies a potential *mudir* and a work opportunity and contacts an interested potential migrant—usually a family member or someone from the same village. This bypasses the manpower agency and is therefore much cheaper for the sponsor. However, the aspiring migrants often have to pay for their own ticket. If the migrant leaves via India, the process also bypasses the quota system and can be faster. The risks for the migrant are greater, as the agreement is not recorded, and even the minimal protection afforded by the manpower agency is absent. There are many instances of migrants who are 'invited' by a family member or friend, only to find that they have been tricked into a predicament that bears no relation to the conditions that were promised. Because the *mudir* typically pays a fee to the migrant who 'invites' a family member, there is an in-built incentive to trick a newcomer into coming.

There is also a third way: (c) Illegal entry into Qatar with a tourist visa. This is sometimes the route chosen by female migrants who go there to work as maids or carers (Nepal no longer allows female migrants under 30 years of age to go to Qatar legally) and by young men who go on the off chance that they will be allowed entry. The risks are high because entering on a tourist visa requires evidence of a return ticket, sufficient cash, as well as a contact address in Qatar. Those who enter illegally tend to lead a precarious existence, may be subjected to physical violence by their employers and face immediate deportation if caught by the police.

Few skilled Nepali labourers make it to Qatar; the vast majority of Nepalis who work there are unskilled and work in construction or, to a lesser extent, in agriculture. The few semi-skilled labourers work as taxi drivers or hotel workers.

5 For a detailed analysis of the functions performed by brokers and agencies, see Kern and Müller-Böcker (2015).

2.2 *Exploitation*

Push and pull factors combine in the decision to migrate: poverty, the semi-feudal labour arrangements in the agricultural sector, the fact that the caste system has weakened and that feudal arrangements have collapsed because landowners have brought farm machinery and require less manual labour. Family pressure (real or presumed) and the aspiration for change and a better life, on one side, and the role of agents who scour the countryside looking for potential migrants, on the other, also play an important role. Many aspiring migrants have heard both positive and negative stories of 'what happens'. They have seen migrants return and build a *pakka* (brick and concrete) house; but they have also heard of bad experiences where families have been unable to repay their debts and have been forced to sell their land. Some claim that they were genuinely ignorant of the exploitative conditions they would find. Overall, the lure is strong, and aspiring migrants tend to brush aside the risks or block them from their minds and hope for the best.

Whether the overall experience is a positive one or not, there is a widespread sense among migrants of 'being owned'. Once they step out of Doha International Airport, migrants become totally dependent on their employer for their survival and well-being. Their interface is the *mudir*, usually a migrant himself, who manages labourers on behalf of the employer (usually a Qatari national). Migrants are dependent on their *mudir* for everything: working and living conditions, payment of salary, ensuring their legal status (proper ID and visa), access to healthcare, as well as permission to change jobs and the financing of their return ticket home. This set-up creates the basis for exploitation, which starts with the confiscation of the migrant's passport upon arrival. Though illegal as per Qatari law, this is the norm for unskilled and semi-skilled workers. As one migrant put it, 'The first thing that happens is that your identity is taken away from you'. The sense of bondage becomes apparent when, in many cases, migrants realise that their working conditions and salary are much inferior to what was promised (and their contract states), that they cannot change employer or job unless the employer agrees to sign a release waiver, and that they cannot leave the country without an exit permit, the withholding of which is used to pressure migrants to accept under-par conditions.

Effectively, many migrants become caught in a vice: they are forced to accept these living conditions (see Figure 9.2) because challenging the system is difficult, costly, time-consuming, and of uncertain outcome. Debt entrapment, family pressure, and the potential loss of face of being considered '*faltu*' (useless) upon return to the village conspire to force migrants to comply. When conditions become abusive or unbearable, the only available option is to run



FIGURE 9.2 Migrant living conditions at labour camp, outskirts of Doha

CREDITS: ANTONIO DONINI

away (which is illegal) and seek employment directly with another *mudir* (which is doubly illegal). The boundaries between illegal and licit fluctuate: for the *mudir* the advantage of recruiting a runaway migrant is that he does not need to pay for healthcare, the renewal of the visa, and the cost of the return ticket if the migrant is caught by the police. Moreover, the risks incurred by the *mudir* are minimal, as labour laws protect employers and are seldom enforced in favour of migrants. Such illegal arrangements are sought after by employers



FIGURE 9.3 Nepali workers on a farm north of Doha, December 2012

CREDITS: ANTONIO DONINI

in need of greater numbers of workers than the 'official' system can provide. Sometimes, despite the obvious risks of deportation and lack of access to services, such arrangements can work to the advantage of the migrant, as the relationship is more freely entered into than the sponsorship system and pay can be moderately higher. Less bondage, but more insecurity.

Generally speaking, larger employers—and especially the huge construction companies that are part-owned by reputable international companies—provide more predictable and decent working and living conditions than small employers. Some of the worst forms of exploitation occur for migrants who are recruited by service companies (i.e. companies that provide unskilled labour to larger companies), as the demand for workers fluctuates and the service company is often unwilling or unable to pay salaries on time or invest in proper living quarters for its workers.

A visit to a farm in the desert some 50 km NW of Doha provides a more nuanced picture than the urban big company and big camp situation.

The farm produces vegetables for 7–8 months per year when the weather is reasonably cool. In the hottest months agriculture is impossible but there are chickens and cows to tend. The owner of the farm is Qatari. He has invested in huge water pumps that drain the aquifer. The farm is modern. The living quarters are adequate (with 5–6 migrants per room). There are many shaded areas for outdoor activities. The owner is seldom seen but there is a Palestinian manager who lives on the farm with his family. It is a Friday, there is less work to do and the atmosphere is relaxed. The manager is chatty and offers us fresh slices of melon. Some of the migrants are playing cards, others are repainting their living quarters. Some are chatting via Skype, presumably to their families. After a visit to fields and animal pens, we speak to a couple of Nepali migrants. A 34-year-old man says: 'I have been working here for nine years. My initial salary was QAR 400/month (USD 110). Now I earn QAR 1,050 (USD 290) plus some overtime. We get free accommodation and food. We work eight hours per day and usually 1.5 h overtime. Less so in the extremely hot summer months. When there is more work to be done, the manager hires some 'illegals' who have usually run away from construction jobs. They come because conditions are better here. There is not much risk of being caught and the manager ensures they get healthcare. There are 21 Nepalis working on the farm, 3 Bangladeshis and 3 Indians. All have more or less the same pay. The Indians get a bit more (because of a better agreement negotiated between India and Qatar). I send all my salary back home—except for my mobile phone costs. I go home every 17 months. The manager pays for the trip but I get no salary when I am away. My family wants me to return home but I prefer it here'. A young man disagrees: 'I have been here six months. I am not too happy. I was expecting better. I had to take out an NPR 80,000 loan from the village money lender at a 50 per cent per annum rate. I am never going to be able to pay this back. My wife has just had a baby. I will have to surrender my land to the money lender.'

DONINI, fieldnotes, desert farm north of Doha, December 2012; see Figure 9.3

2.3 *Grievances*

Because of the weakness of the Nepali state's negotiating position compared to other more 'organised' states such as India or the Philippines, the 2005 Nepal–Qatar migration framework agreement results in low protection and significant exploitation of Nepali migrants.⁶ The resolution of disputes is

6 The text of the agreement can be found at <https://www.ceslam.org/index.php?pageName=content&contentId=148> (accessed on 18 March 2019).

particularly difficult because all claims need to be submitted to the Ministry of Labour and Social Affairs while the Nepali embassy in Doha can only communicate via Note Verbale to the Qatari Ministry of Foreign Affairs. As mentioned, sponsorship agreements are often arbitrary and constitute a modern version of bonded labour, if not slavery. In our interviews we were confronted with a catalogue of grievances and only very few instances of relatively acceptable conditions. The most common issues were:

- Working conditions and salary do not correspond to the written contract and late payment of salary (sometimes months in arrears). Just one example: a security guard was promised USD 330/month (QAR 1,200 /month) and a food allowance for eight hours work/day but received only USD 275 (QAR 1,000), no food, and was forced to work 12 hours/day.
- The withholding of the exit permit by the *mudir* as a way of putting pressure on the migrant to stay. Or the refusal of the *mudir* to process the annual visa extension that is essential in order to get an ID card, access to healthcare and the exit permit.

Other issues noted were a lack of dignity in the workplace, abusive treatment by the Qatari authorities and the state of the accommodation provided, which is often cramped with sometimes a dozen of migrants to a room.

The expression of grievances is met with threats to withdraw ID cards or even sponsorship itself (without the agreement of the sponsor, and the identification of a new one, it is not possible to change jobs). In theory, workers who are dissatisfied with their jobs have the option of asking the Nepali manpower agency to repatriate them within three months of their arrival but this is difficult for a number of reasons: the reluctance of the manpower agency to cover the costs, the withholding by the sponsor of those papers necessary for obtaining an exit permit, and the reluctance of individual migrants to return home and confront loss of face and onerous debt repayment. As a result, many migrants run away. According to one source, there may be up to 20,000 to 30,000 Nepali 'escapees' who lack legal documents and have either found alternative employment illegally or are living under the radar with meagre support from former co-workers or small Nepali charity associations.

One young man was particularly vocal in his animosity towards the manpower agency in Kathmandu that had recruited him: 'I am a former soldier. I have fought the insurgency and killed people. When I go back I will kill three more: the lady at the manpower agency and her two bosses'. He had taken out an NPR 60,000 (USD 535) loan that he was unable to pay back in full. The interest was 36 per cent per year. 'It would have been better for me to stay home and raise buffaloes.'

DONINI, fieldnotes, Doha, December 2012

2.4 *Recourse/Redress*

When migrants seek redress for exploitative conditions, the odds are stacked against them. The expression of grievances or complaints is ignored or met with hostility. Instances of workers simply being kicked out by their employer for protesting against working or living conditions abound. They find themselves in limbo—no job, no money, no exit permit. The vignette at the beginning of this chapter illustrates a typical case.

In theory, complaints can be addressed by migrants to the Qatar Labour Department, but the decisions of the department are often ignored by *mudirs*. Many do not bother to show up when summoned. Complainants can also go to the courts, but this is expensive, can take months, and is of uncertain outcome. Moreover, there is no guarantee that the *mudir* will comply with the decisions of the court.

The only other avenue of redress is via the Nepali embassy (see Figure 9.4), but it is understaffed if not under-committed, and its leverage with the authorities is minimal. Practically, the labour attaché can call the *mudir* informally and advocate on the migrant's behalf or invite the *mudir* to come to the embassy for a meeting. As the latter is under no obligation to comply, this often fails. In more serious cases, the embassy writes to the Ministry of Foreign Affairs, as by law it cannot contact the Labour Department directly, to request an interview with the department. This can take months to arrange, and the outcome is by no means certain. Eventually, problems get solved when the department releases an exit permit—or when a migrant without proper papers is caught by the police and deported. The embassy also deals with the repatriation of the remains of workers who die in industrial accidents or from heat exhaustion or unexplained 'heart failure', which can be a euphemism for stress, psychological exhaustion or suicide.⁷

A visit to the Nepali Embassy is instructive. It is in a hot and dusty suburb far from the centre of town. To get there takes a long walk and there is no public transport. Migrants in small groups are hanging around outside and in the courtyard. Shade is at a premium. They have come to bring their complaints to the overworked staff. The ambassador is busy but we speak to the number two. He explains that the role of the embassy is 'very limited'. Individual cases are sometimes easy to solve by speaking to the

7 Spot checks and interviews by Sanjay Aryal at Kathmandu airport indicate that 1–2 bodies are repatriated every day.

mudir, but when groups of workers are involved, it is more difficult, especially if there has been ‘agitation’. ‘We tell the boys that they must respect the rules of the country. Sometimes they do things that are not allowed’. One major company went bankrupt and some 80 Nepalis lost their jobs. Salaries were not paid for 4–5 months. The workers were kicked out of the camp with no cash. The embassy tried to collect food and donations from Nepalis. The embassy took the case to the Labour Department but the mudir did not show up. They had to pay QAR 500 (USD 137) per person to file the case. It has been dragging on for months. Now, the agreed ‘solution’ is that the company will repatriate 70 workers but will not pay the salaries they are owed. For the migrants that have nowhere to go, the embassy has a small dormitory—although this is illegal—but it is not big enough. ‘In the evening, when the staff leave, we move the furniture and roll out some bedding. Yesterday we had 21 people sleeping here.’

DONINI, fieldnotes, Doha, December 2012



FIGURE 9.4 Nepali migrants filling out complaint forms, Nepali Embassy, Doha, December 2012

CREDITS: SANJAY ARYAL

2.5 *Resistance*

In our findings, Nepali migrants in Qatar are neither passive victims facing abuse and exploitation nor successful migrants who have been able to take control of their lives. Experiences run the range from the relatively successful to the abominable. Not all *mudirs* are abusive or insensitive to the human condition of migrants. However, the collective identity of Nepalis in Qatar is one of exploitation, discrimination, and loss of dignity.

How do migrants cope with this situation? Membership of trade unions is not possible for migrants (though Qatari trade unions exist and participate in the ILO tripartite structures), but a variety of small self-help groups set up by migrants themselves or by the Non-resident Nepali Association (NRNA) provide some services, including cash subsidies in extreme cases and assistance regarding repatriation. Nevertheless, there are some everyday forms of resistance. Just as the forms of structural violence these migrants face are subtle although powerful, resistance occurs in the same discreet pattern on an everyday basis (for example, 'work to rule' or deliberate slowdown, absenteeism, unofficial work stoppages, etc.).

Strikes are illegal in Qatar, but this does not mean that they do not happen. A major multinational construction company was obliged to address workers' grievances after a series of unofficial strikes in 2006. Similarly, the main taxi company in Qatar, at which many Nepalis work, had to substantially improve salary and working conditions after a strike in 2011. Qatar needs foreign labour and is mindful of its image: strikes and the visible expulsion of workers do not play well. The fact remains, however, that the protection afforded by worker organisations is minimal. Actions to confront the system are risky, and, because of the layered structure of the migrants' pyramid, the disparate concerns and grievances of the various layers often do not add up. It is easy for employers to 'play' one group or nationality against another, and Nepalis are considered by employers, and by their co-workers of a different nationality, as the bottom level of the pyramid. This also explains why Nepalis are sought-after: they are paid less, complain less, and are seen as hard-working and compliant.

2.6 *Masculinity*

Ninety per cent of Nepali migrants in Qatar are male. They are also relatively young, in their twenties, especially the new arrivals who are more subject to exploitation. Older migrants are usually returnee migrants who have achieved improved conditions and some respectability. Some successful migrants, who earn good money, have become *mudirs* and have been allowed to bring their families and have long-term visas. But by and large, migration to Qatar for Nepalis is a young and male affair. This entails considerable emotional suffering (and, presumably, repressed sexuality). Many have left young wives and

children back in their villages; others are facing debt entrapment, which precludes them from getting married.

Avenues for socialising between the sexes are extraordinarily limited. Female Nepali migrants work either as maids or as carers; some others are salespeople. Usually their mobility is constrained by tight controls from employers. Male migrants are freer to move around town and tend to congregate on Fridays in a couple of squares, under an underpass to stay away from the scorching heat, or in Nepali restaurants. Moreover, on Fridays access to parks and beaches is reserved for families and women. Men without an accompanying spouse or children/family members are chased away (as the author of this article can attest). This further limits potential interactions between the sexes.

Language and perceived discrimination preclude contact with female migrants of other nationalities (the female Filipino contingent is of quite considerable size) and of course with Qatari women. We did not look into how these frustrations are managed, but we did hear several references to substance abuse: as liquor is not available publicly, some migrants consume pesticides or low-quality black market liquor, and many do so regularly.

3 Will the Human Condition Improve?

A casual visitor travelling by taxi from the airport to the gleaming new skyscrapers of downtown Doha, rushing by the fake 'Souk' and the brand-new Museum of Islamic Art designed by I.M. Pei, would certainly notice the massive construction projects—stadiums, conference centres, 5-star hotels—dotting the skyline. But he or she would have no clue as to the social engineering behind the glitzy facade. The 'camps' where migrant workers live are conveniently out of sight. Workers are transported by bus to the spatially segregated areas where they live and where they become invisible. As mentioned above, even on their days off they are not allowed to mingle in the parks with the Qatari locals. They meet to chat, smoke, drink and exchange stories of aspiration and exploitation under dusty underpasses, in run-down squares where the sheer number of migrants forces their toleration by the authorities or in small restaurants that cook the food from back home. But in this land of control and separation, segregation is segmented and runs deeper: in addition to being geographical, it is social, cultural and language- and class-based. All aspects of migrants' daily lives are determined by the multiple divisions they encounter.

Many studies by the international trade union federations, human rights organisations and academics (for example Bruslé, 2010 and 2012; Harroff-Tavel and Nasri, 2013; and ITUC, 2015) have concluded that what Nepali migrants

experience in Qatar is forced labour, if not a modern form of slavery.⁸ This has prompted a number of complaints including at the ILO.⁹ But it is worse than that. In one sense, this condition of unfreedom is, at least formally, freely accepted and constitutes a form of self-exploitation. In another sense, structure and agency combine to trap the migrant in a situation from which it is practically impossible to escape. Debt, family pressure to succeed, fear of the shame of failure, exploitation, discrimination and humiliation, make for a descending spiral. The twin metaphors of the 'camp' as a site of what Agamben calls the 'state of exception' and the 'bare life'—the biopolitical condition of those who can be 'expended'—seem apt reminders of what it means to be a migrant today (Agamben, 1998; Bruslé, 2012). The camp has no fence and migrants are 'free' to leave their place of work, but in practice the structures of domination make such choices very difficult if not impossible. The spaces where migrants live and work are simultaneously sites of inclusion and exclusion. Nepali migrants are included in, and functional to, the global capitalist system and to Qatar's role in it. At the same time they are physically excluded from mainstream society and segregated in 'spaces of exception' where their lives are considered worthless or expendable.

On paper, the labour reforms announced in late 2017 are significant. The Secretary General of the ITUC calls them 'pathbreaking': 'I am confident the kafala system is on its way out in Qatar and that will free two million migrant workers. By the end of March we will have seen the worst of kafala off the agenda and the beginnings of a mature industrial relations structure' (Harwood, 2018). Besides abolishing the *kafala* system, Qatar also announced other major reforms, including:

- The opening of an ILO office (which had long been refused) to oversee reform implementation.
- A labour tribunal to resolve disputes within three weeks.
- Contracts to be lodged with the government to prevent substitution.

8 At the 2012 ILO Labour Conference, the Secretary General of the ITUC noted that: 'Working and living conditions for migrant workers in Qatar are modern-day slavery. As it undertakes a massive construction job for the 2022 World Cup, Qatar is putting at risk the lives of thousands of workers. Without genuine legal protection and union rights, more workers will die building the World Cup stadiums than players will play in the World Cup itself.' (Harroff-Tavel and Nasri, 2013, p. 116).

9 See the 2014 ILO complaint concerning non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81) at https://www.ilo.org/gb/GBSessions/GB329/ins/WCMS_546605/lang-en/index.htm (accessed on 30 August 2018).

- A minimum wage covering all workers, ending the nationality-based system of wages.
- Residency permits and the elimination of exit visas.
- Workers free to leave the country, either for home leave or at the end of their contract.
- A support fund from the government to pay for employees' journey home, after which the authorities would sue employers to get money back.
- Domestic workers' hours regulated and these workers given a day off each week.

Whether these commitments made by Qatar to the ILO and ITUC will be implemented, and if so at what speed, remains to be seen. Some details are still sketchy. For example, a minimum wage is 'prescribed' without stipulating when, at what levels and by whom it will be enforced. A labour inspection policy relying on independent experts is foreseen but no details are provided. As a result of the Qatar announcements, the ILO has withdrawn its complaint against Qatar for non-observance of the Forced Labour Convention. Human Rights organisations have also been generally supportive of the measures announced. Implementation remains key. It is as yet unclear if the reforms are purely cosmetic and aimed at assuaging public opinion in the run-up to the 2022 World Cup or if they will cut deep into the systemic discrimination and structural violence under which migrants in Qatar still labour today. Moreover, it may be that after 2022, the need for migrant labour will peak or even decrease. Dismantling a system predicated on a layered pyramid of workers with different origins and interests will, at best, be a long-haul project.

A larger issue should perhaps be flagged. What does the Nepali experience in Qatar tell us about the future of work and the future of migration? Very unequal power dynamics are at play here. For individual Nepali migrants, the unfreedoms embedded in the current arrangements are both a form of self-exploitation and an aspiration to a better life. For the government of Nepal, there are two obvious benefits: substantial remittances and providing some form of occupation to a possibly restless class of unemployed youth that are still semi-rural but with a rapidly globalising view of the world. Qatar, of course, calls the shots and benefits the most economically, if not in terms of its reputation. But in the longer term? Qatar and the other Gulf States may no longer need large amounts of unskilled labour and might turn the tap off. The problems described in this article may thus wither away as Qatar's globalised economy evolves rather than because of any international pressure or domestic desire to reduce levels of class exploitation in Qatar. This, coupled with processes of tertiarisation, robotisation and uberisation, on the one hand, and demographic pressure in Nepal and elsewhere in South Asia, on the other, could

provide a toxic and explosive mix for which migration producing countries in the region are unprepared. The urgent development of a research and policy agenda on how best to accompany and reduce the harmful consequences—for migrants and aspiring migrants—of this transition would seem to be a top priority for Nepal and other South Asian countries. It remains to be seen if the ILO, the ITUC and other international organisations are fit and equipped to provide the necessary gale warnings and advice to navigators on the choppy seas ahead.

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PART 3

The Future of Work



Digitisation and the Disappearing Job Theory: A Role for the ILO in Africa?

Stefano Bellucci and Eric E. Otenyo

Abstract

For a coherent framework for understanding the future of work, there is a need to unify theories on the role of digitisation in any potential job losses. Is it possible that digitisation not only achieves efficiencies but also retains or creates jobs in selected sectors of African economies? With Africa's population expected to reach 2 billion by 2050, can we be content with the fact that the impact of digitisation has been mostly discussed in the context of advanced economies? This chapter explores possible effects of digitisation in three economic sectors of African economies. Based on reviews of library, security, and entertainment sectors in selected countries, we interrogate the validity of the disappearing job theory, which is reinforced by the global digital revolution. This chapter is intended to fuel the ongoing discussions about the future of jobs in Africa and the role the International Labour Organization (ILO) might play in sustaining African jobs. Since digitisation in Africa has not yet reached the same level as the developed world, its impact is mostly positive in the selected sectors. However, there is a need to manage any unintended consequences of the emerging digitised workplace. Possible interventions by the ILO and support for Africa's ability to cope with emerging changes are recommended.

1 Introduction: Digitisation and the Changing Workplace

Digitisation is continuing to change the workplace in major ways. In Africa, the accelerating pace of digitisation has been boosted by the increased affordability of computers and mobile telephones, and by improved skills capacities, especially among youths. Although much progress has been made in various sectors—including vehicle maintenance, aircraft and flight operations, human resource management, supplies management and procurement, education (online learning, e.g. through e-readers, online libraries, etc.), media services and finance (e.g. M-Pesa, a mobile finance app popular in Kenya and ATMs)—the applicability level, in Africa, is relatively low.

To further explore the concept of digitisation, let us first operationalise our key concept. According to Gartner, Inc. (2017), digitisation is the 'use of digital technologies to change a business model and provide new revenue and value-producing opportunities; it is the process of moving to a digital business'. This perspective suggests African nations will benefit from the process. Yet, as we know, African countries are far from being fully digitised. Dutta and Bilbao-Osorio (2012) describe the continent as consisting of 'constrained economies', which means digitisation has yet to mature and is applicable in only limited services and industries.

Although scholars use the terms 'digitisation' and 'digitalisation' interchangeably, J. Scott Brennen and Daniel Kreiss (2016) and Beatrice Fabunmi et al. (2009, 28) offer conceptual clarity to emphasise that digitisation is a technical process of data conversion from analogue to digital bits. The subsequent introduction of digital technologies also leads to socio-economic changes (Hess, 2016). Digitalisation, on the other hand, refers to increased use of digital and computer technologies in organisations, countries, and workplaces in general. Casual observations would suggest that the impact of digitisation would be disruptive and lead to job losses in some sectors, and worsen unemployment in some economies.

1.1 *Youth Unemployment and Population Outlook*

The accelerated pace of digitisation in the workplace produces an increase in the productivity of labour, which results in the reduction of labour demand in a situation of weak capital investment. This conjuncture fuels the growing concerns over Africa's rising population. The *African Economic Outlook* reports that 'Africa's population will rise to almost 1.7 billion in 2030 and almost 2.5 billion in 2050' (AfDB et al., 2016, 41). Africa has the world's fastest growing labour force and among the highest rates of youth unemployment. For instance, in 2015 the North Africa region had the highest youth unemployment rate in the world at about 30 per cent (ILO, 2016). Africa is the most youthful continent. In all, 20 per cent of the continent's total population is comprised of people aged 15–24 and those under 30 make up around 65 per cent of the continent's over 1 billion people (AfDB, 2012, 98; ILO, 2015; UN, 2013 and 2017). Sub-Saharan Africa does not fare any better and the situation there is objectively worse when it comes to job quality. The vast majority of jobs are informal and of poor quality, with few benefits for employees (ILO, 2016; Page and Shimeles, 2014). The ILO reports that 'over 70 per cent of workers are in vulnerable employment against the global average of 46.3 per cent' (ILO, 2016). The ILO adds that employment prospects in sub-Saharan African

countries are stagnating due to low productivity attributed to a lack of diversification in the economies (Sow, 2017).

1.2 *Job Displacement and Its Theoretical Assumptions*

The literature on the digitisation of economies is broad and expansive. An early version of the job displacement theory was found in Jeremy Rifkin's (1996) work. Rifkin argued that unemployment would increase in most parts of the world as a result of the proliferation of information and communication technologies (ICTs) in work environments. For him, the digital revolution would adversely affect jobs in sectors such as manufacturing, retail, marketing and many service areas. According to Rifkin, by 2010 12 per cent of the global population would work in manufacturing and that figure would decrease to 2 per cent by 2020. Most recently, Carl Frey and Michael Osborne (2013) triggered much interest in the notion that automation and digitisation would lead to future job losses in advanced economies. They looked at jobs that were at risk as a consequence of automated technologies and estimated that over 47 per cent of jobs across all sectors were at risk of being displaced by computers. Melanie Arntz, Terry Gregory and Ulrich Zierahn (2016), Erik Brynjolfsson and Andrew McAfee (2011), and Steve Denning (2015) have discussed concerns that digitalisation might result in displacements, disruptions and jobless futures in several economies. Derek Thompson (2015) adds that job losses in certain sectors will continue to be witnessed as a result of digitisation, leading to the reduction of human labour demands with associated wage stagnation. By focusing on tasks that are easily automated and digitalised, scholars estimate that on average 9 per cent of jobs are automatable in the Organisation for Economic Co-operation and Development (OECD) countries, but they also recognise sufficient heterogeneities based on workplace organisation. However, these estimates are frequently disputed or challenged by new research insights. And in many instances there are contradictory conclusions concerning job displacement, especially because digitisation has known benefits. The opposite view is that digitisation adds jobs and value, but that the future of work will change through innovation (Eichhorst, 2014).

Building on work carried out in conjunction with Booz & Company, Karim Sabbagh et al. (2012) consider digitisation to be ICTs' next evolution and less harmful than generally believed to many economies in the developing world. They enhance our understanding of digitisation by classifying its stages. In their formulation, most of Africa falls within the constrained economies category, which means that realisation of the full benefits of digitisation is hampered and constrained. On their scale of digitisation, African countries score

below 25, while the best performers—the advanced countries of Europe, Australia and North America—score greater than 40 and are considered as mature in digitisation terms.

Although the studies mentioned above are generalisable, there is insufficient discussion to clarify the impacts of digitisation in labour-rich systems. For the most part, the seminal studies lack diversity in scope and range. African economies also have large informal sectors. This analysis recognises the need to develop a nuanced understanding of different sectors of the African economy in which the youth are impacted. In addition, these countries offer evidence of Tiziana Terranova's (2013, 39) thesis of the misappropriation of the 'fruits of cultural labor' by those who produce. We suggest theories on job displacement will be refined if data on especially informal sectors of African economies are included in the analysis. With a few exceptions, previous research has not seriously taken into consideration the impact of digitisation in African settings. For example, Bahjat El-Darwiche et al. (2013, 7) reported in 2011 that 600,000 jobs had been created as a result of digitisation.

Our work focuses on sectors that are sufficiently diverse to test existing theories of displacement emanating from digitisation, which are widely noted in, for instance, multinational corporation-operated banking and insurance sectors. Furthermore, David Autor (2010) has observed that displacements have occurred mainly in lower-middle-class jobs that are repetitive in nature. According to the World Bank, in African countries examples of these jobs include clerical work, the preparation of registries, bookkeeping, banking and jobs in manufacturing (The Nation, 2016; Ngunjiri, 2017; Nwachukwu, 2017; Omulo, 2017; Reuters, 2017). The sector-level approach seems to be a reasonable way by which to test the applicability of the job disappearance theory. Economists Daron Acemoglu and Pascual Restrepo (2016), among others, identify sectors, such as manufacturing, where automation eliminates job tasks more heavily than in most other job sectors. Where reductions in manufacturing have occurred, digitisation is associated with a growth in call centres, as witnessed in South Africa (Webster, 2006, 21–22).

Hopefully, the cases below provide perspectives on the cultural dynamics of digitisation, which may aid the process of finding solutions for massive unemployment on the African continent. Using documentary and other qualitative methods, we interrogate the ambiguity in claims of job displacement, focusing mainly on three instrumental sectors—libraries, security, and entertainment. Bruce Berg (1998, 216) observes that instrumental cases may not be viewed as typical but are helpful for refining a theoretical explanation. These cases are essential for description, which helps strengthen our explanatory abilities and implications of theoretical positions (King et al., 1994, 44). The sectors are

examined because they offer a breeding ground for new insights, where digitisation plays a large part in tasks and jobs. In addition, the consumption of entertainment artefacts cuts across all nations and is a useful starting point from which to refine the assumptions in the disappearing job narrative.

In the remainder of this chapter we explain how digitisation has been manifest in the three sectors. We then discuss the qualitative limitations of the disappearing job theory and develop an alternative perspective on the unfolding changes in African work arenas. Finally, we discuss the implications of our perspectives for strategies by the International Labour Organization (ILO) and future outcomes.

2 Digitisation in Information Libraries: Cases in Kenya

Since 2000, libraries in universities have experienced greater digitisation than the underfunded public libraries in several African cities, where these exist. The driving force for digitisation is the expected return on investment (ROI), especially tangible benefits such as lower staff time, higher productivity, faster time to delivery, reduced paper costs, reduced manually-handled information queries, increased volume or traffic, faster and more reliable inventory, reduced travel costs and a reduction in redundant records (Garson, 2006, 334–335, 419). Digital libraries and archives reduce the costs associated with the maintenance of physical spaces for storing books. At Kenyatta University, for example, the implementation of 'Digital Library Technologies' came in response to the need to provide patrons 'instant access to information sources, from any location, at any time and from any device' (Fabunmi et al., 2009; Wangila, 2014, 533–534).

In most cases, university libraries have the largest collections and most digitisation efforts have received external funding (Amollo, 2011). However, due to a weaker resource base, libraries in Kenya are at an early stage of digitisation and full assessment of the effect of digitisation on labour would be premature (Mutula, 2012, 295). Additionally, scholar Beatrice Amollo's initial assessment concluded that Kenya's digitisation process was patchy and its pace not impressive by global standards (Amollo, 2011). In Kenya, the University of Iowa's eGranary Digital Library was among the first to open its doors to African scholars, giving them access to its vast online resources.¹ Further support to universities in Africa was received from partners such as Michigan State University. Because of limited government support, the digital libraries established

1 For further information, see the website <https://now.uiowa.edu/2012/09/widernet-projects-500th-library-goes-historic-kenyan-town> (accessed on 6 August 2018).

by African institutions remain relatively disorganised. Stephen Mutula (2012, 291) notes that although there had been 'staff anxiety about losing jobs, learning new skills and added responsibilities' due to the digitisation of library services in Botswana University library, transformations were successful because of policy support. In the case of the University of Nairobi, Kenya, new jobs were created in units such as ICT infrastructure management, e-Resources, the newly constituted Digital Content Unit and Multimedia Resource Centers in other universities. In addition, digital libraries expanded jobs in e-learning enterprises. As Fernando Wangila explains, digitisation at Kenyatta University 'facilitates the development and use of virtual learning environments' (Wangila, 2014, 534).

Qualitative assessment establishes that at the University of Nairobi and Kenyatta University, digitisation resulted in the retraining of employees and also created opportunities rather than displacing workers. A noted consequence of digitisation is the reskilling of library employees to facilitate navigation in the new media. No observed job displacements reported for clerical staff manually handling card catalogues were wholly attributed to digitisation.

However, should such concerns regarding potential job losses due to digitisation prove founded, then the legal framework for collective bargaining would require some rethinking. One reason for this is that matters of digitisation were not included in collective bargaining agreements (CBAs) between the fragmented unions and the government, or employer. For instance, at the University of Nairobi, the Universities Academic Staff Union (UASU) represents the academic staff and senior librarians while mid-level library staff, catering and administrative staff are represented by the Kenya Universities Staff Union (KUSU). A separate union, the Kenya Union of Domestic Hotels and Educational Institutions, Hospitals, and Allied Union (KUDHEIHA) is concerned with terms and conditions of service for members of staff grades 1–5. These unions are also ill-equipped to navigate the changing nature of work in the digital age and require collaboration to advance common interests (Otenyo, 2017, 207). And these unions have to move away from silo mentalities and unions have to encourage training in the ICTs skills necessary in the knowledge economy (Otenyo, 2017, 154).

3 Security and Public Safety Sector in Selected East African Cities

Modernisation of the security sector has much to do with the increased digitisation associated with the proliferation of closed-circuit television (CCTV) in Africa. Due to a generalised perception of deteriorating public safety and

insecurity, CCTV has become a common feature of cities on the continent. Older analogue systems are being replaced with digital and hybrid systems. Although South Africa remains the largest market for CCTV in Africa, usage is on the rise on the continent as a whole. Most large African cities have installed IP-based CCTV in various locations. For South Africa, a combination of post-apartheid insecurity and its hosting of the FIFA soccer World Cup during the summer of 2010 provided an additional motivation for heavy investments in CCTV (Minaar, 2012). What is notable is the reskilling of existing public safety employees, especially those working in Africa's large urban centres and business districts.

And there have been opportunities to create new units to oversee the CCTV management portfolio. In Kenya, for example, recruitment into the police force has increased (National Police Service Commission, 2017). Additional re-tailing vendor jobs have been created in the private sector as well. In Nairobi, for instance, the National Surveillance, Communication and Control System was presented as a collaboration between central government, police, and private sector vendors including Internet provider Safaricom and Huawei. Similar private–public managerial partnerships exist elsewhere such as for example in Kampala's CCTVs where Sekanyolya Systems Ltd. was the contracted private partner. It is noteworthy that the cities of Kampala and Entebbe installed CCTV to improve policing during the 2007 Commonwealth Heads of Government Meeting (CHOGM) but retained the equipment afterwards.

Similarly, the business district in Dar es Salaam had CCTV installed through contracts with the private sector. By 2014, the national parliament had urged the government to expedite the process to install CCTV in major cities (Mugarula, 2014).

Evidently, CCTV generates data and requires extremely extensive hours of viewing when crimes are being investigated. As more data is generated, new tasks are created, especially in analytics. Also, the digitalised components of the data require stable power and connectivity, which also translates into technician positions. This means more training and job creation in areas such as Big Data analytics and skills for facial recognition, among others. In addition, manpower training in analysis presents opportunities for manpower development. Because of growing needs for public safety, digitisation in the security sector does not fit into the pattern of technologies that lead to job losses or displacements. However, the evidence suggests increases in the numbers of jobs in sales and in security consultants, CCTV technicians, operators, and controllers across the continent.

Therefore, our general initial appraisal of the digitisation of CCTV is that, on balance, it has helped modernise the public safety sector and, as of now, has

generated new types of tasks. This finding is consistent with Professor Richard Baldwin's expert observation of the security sector in advanced economies. Here, Robot Security cops, which report data in digitised forms, are an excellent example of how blending Artificial Intelligence (AI), robots and automation defines the modern workplace (Baldwin, 2017). The main challenge for African governments is to establish legal frameworks for managing the digitised security sector, such as data storage, safety, and reliability (Otenyo, 2015).

4 Digitisation in the Entertainment Sector

The economic significance of the entertainment industry cannot be minimised in the discourse on income generation and job displacement. According to *The Economist* (2017), music is 'Congo's [DRC] most influential export' after lucrative minerals like copper and gold. However, job displacements and disruptions have been extensively documented in the entertainment sector. Data from PricewaterhouseCoopers' (2016) research reveals the impressive job creation potential of Africa's entertainment sector. For example, Nigeria has one of the world's fastest growing entertainment sectors and its music industry will almost double in value from USD 47 million in 2015 to USD 86 million in 2020. Revenues from streaming music in Kenya are projected to rise from USD 19 million in 2016 to USD 29 million in 2020 (PricewaterhouseCoopers, 2016).

For comparative purposes, although the exact impact remains inconclusive and ambiguous, for European artists digitisation cannot be ignored in the discourses on job displacements and profitability (Bourreau et al., 2013). As Robert Klotz (2004, 171–172) explains, works in digital forms are easily copied and distributed on the Internet, which is the world's largest 'copy machine'. With the advent of 'remix culture', new forms of copyrighted works are being formed. There is also outright copycat infringement in which music and film is dubbed and shared illegally on social media platforms such as Facebook, Twitter, Soundcloud and YouTube. Two opposing views emerge: on the one hand, the emerging free culture and digitisation have, to some extent, affected the ability of creative artists to reap the full benefits of their trades and changed the game for communications businesses (Felten, 2004; Lessig, 2005; Jenkins, 2006). At the opposite end of this scale is the claim that the benefits of digitisation are recognisable and include sustainable livelihoods for artists.

In *A&M Records vs. Napster* (United States Court of Appeals, 2001), evidence was provided to show that the illegal downloading of music and film is disruptive and prohibited. In addition, the Digital Millennium Copyright Act (DMCA) of 1998 tasked Internet service providers (ISPs) with reporting those infringing

on copyrights. In Africa, attempts at formulating relevant legislation have been made. For example, the Copyright Amendment Bill (2017),² formulated in line with the DMCA principles, is designed to punish Internet service providers for failure to expunge copyrighted content from their networks. Bloggers and websites that publish copyrighted literary content have also been sanctioned. With regard to music, in Congo musicians no longer rely on record sales but resort to other means of livelihood because of digitally enabled piracy and copyright infringements (Congo Vibes, 2014, 85; Trapido, 2016, 95; White 2008, 170–173). In Congo, piracy-related losses were exacerbated due to the government's own inability to regulate the industry. The *société nationale des éditeurs, compositeurs, et auteurs* (SONECA), a government entity responsible for protecting cultural products, is notoriously incompetent (White, 2008, 85). Also, for Congo, laws that prohibit copyright infringement have existed since 1982 (Ngombe, 2016). However, these laws are weak and not strictly enforced due to bureaucratic incompetence (Ngombe, 2016; WIPO, 2010).

Before the emergence of the MP3 format, in the 1970s the unauthorised recording of music on cassette tapes had negatively impacted record sales. Brian Shimkovitz (2012) of WIRE magazine observed that the 'tape culture' was widespread in other parts of Africa. According to Shimkovitz, cassette technology became a huge movement within the music distribution industry. The popularity of tapes coincided with the explosion of piracy on the continent. Tapes also contributed to a decline in the manufacture of vinyl LPs, thereby reducing jobs at recording labels such as Decca and Philips.

Similar accounts can be offered for Tanzania, which ironically boasts of one of the oldest union bands—NUTA Jazz (the National Union of Tanzanian Trade Union Workers) (Finke, 2003, 754). Formed in 1964, NUTA, now OTTU Jazz Band (Organization of Tanzanian Trade Unions), had vested interests in the welfare of musicians but lacked the capacity to protect musicians from piracy. A successor oversight body, the Tanzania Musicians Network (TMN), did not fare any better. This pattern of weak legal and bureaucratic institutions is rampant in most African countries and has attracted attention from the United Nations Educational, Scientific and Cultural Organization (UNESCO).

UNESCO, which wants artists to be meaningfully employed, plays a huge part in efforts to improve the organisational capacities of musicians. And in furtherance of its broad objectives, UNESCO developed a series of policies to

2 For further information see the Republic of South Africa (2017) Copyright Amendment Bill, <http://infojustice.org/wp-content/uploads/2017/05/South-Africa-Copyright-Amendment-Bill-2017.pdf> (accessed on 6 August 2018).

combat piracy in the wake of the increased use of digital technologies.³ UNESCO, through training, especially the Anti-Piracy Training for Trainers (APTT) project and piracy awareness initiatives, has been able to make a contribution toward reducing rates of piracy. In the East Africa region, UNESCO has cooperated with law enforcement agencies and lawmakers to provide policy implementation support.

4.1 *An Alternative Perspective on the Impact of Digitisation on Entertainment Companies*

Although digitisation has been abused by unscrupulous traders, there is also an opposite view that digitisation offered benefits for entertainers and producers. The central thesis of this perspective is that ‘information and communication technologies (ICTs) facilitated contacts for artists and music producers’ (Brandellero and Kloosterman, 2016, 182). This perception is a dominant argument among many of the emerging musicians and artists who had been left behind in the ICT-driven era of globalisation. Through exposure on social media, especially YouTube and Facebook, digitisation is said to have liberated literally millions of African artists from the narrow confines of the village and pushed them to the global stage (Shimkovitz, 2012).

The positive perspective on the role of digitisation suggests economic gains, and similar arguments can be extended to the film industry. To some degree, Nigeria’s film industry is the most consequential expression of being a modern African (Bright, 2015; Haynes, 2016; Hugo, 2009). Nollywood’s (Nigeria’s equivalent of Hollywood in the US or Bollywood in India) rapid rise to become one of the three largest film industries in the world is evidence that the electronic age and globalisation have made an impact on Africa’s entertainment sector. The industry produced at least 1,844 movies in 2015 alone (Bright, 2015). About 7,000 new titles were produced between 1992 and 2005 (Barrot, 2009). Nollywood is now a USD 3.3 billion industry making it the most lucrative of its kind in Africa (Bright, 2015).

Observers agree that Nollywood generates much revenue but that it is scattered. A great number of videos and DVDs are sold in Africa’s informal streets markets. More significant is that Nigerian movies are reproduced and resold by unauthorised vendors through various digital media. This complicates the proper management of the industry. Nigeria’s National Bureau of Statistics

3 Of particular importance is the establishment of the World Anti-Piracy Observatory. The various policies adopted by UNESCO in this domain can be found on the website <http://www.unesco.org/new/en/culture/themes/creativity/creative-industries/world-anti-piracy-observatory/> (accessed on 14 August 2018).

data can only be an estimate of the industry's actual share of gross domestic product (GDP).

Many industry specialists now believe that current efforts to work with video streaming companies—such as US-based Netflix (which is seeking to enter international markets), Africa Magic (a Naspers-owned South African Satellite TV affiliate) and Kenya's Buni.tv—to offer movie streaming services at a fee, will expand the industry. In 2012, Nigeria's iROKOTv, the country's first major online movie streaming platform, acquired exclusive rights to distribute Nollywood films. At the time of its launch, iROKOTv was referred to as the 'Netflix of Africa'. In its first year, it reported over 152 million viewers and now has a library of over 4,800 movies, accessible from anywhere on the planet (Mulupi, 2012). A United Nation's (UN) study has declared digitisation a blessing to Kenyan movie audiences, who now pay lower rates to watch films on digital TV platforms, including Zuku and Digital Satellite Television (DStv) (UN, 2016, 27).

Thus, it is plausible that emerging digital video-on-demand (VOD) platforms are creating new job opportunities in Africa. As Kevin Zhu (2001, 273) writes, the motion picture was not previously in tune with high-tech business practices. It is only recently that advances in digital technologies changed the way we view movies. The Internet, especially broadband connection, has profoundly changed the movie distribution industry, so much so that producers and studios deliver movies directly to consumers, bypassing distribution companies. The streaming business is a fairly recent phenomenon and is poised to expand. As Dinfin Mulupi (2012) observes: 'The whole African tech scene is very exciting, dynamic, bold and ready to burst onto the global scene. Africa is just starting to come online and there is so much potential in this market, not just in Nigeria'.

Although concrete data is not available, our qualitative indicators suggest digitisation is adding jobs to the music and film industries. Consistent with Zhu (2001, 276), the impact of the digitisation of the film industry in the short-term reduces costs in the various production and distribution sectors. However, the long-term prognosis may change depending on individual sectors. Therefore, as the 'internet becomes a viable distribution channel, several types of businesses along the traditional value chain may be seriously impacted or even eliminated' (Zhu, 2001, 276). Depending on the intensity of digitisation, among the types of jobs to face reduction or elimination (or more technically, disintermediation) will be those at the previously popular video kiosks and those of hawkers common on streets of Africa's largest cities. In addition, film manufacturers, processors, and duplicators, distributors and video rental stores will be negatively affected, whether in Africa or in developed economies. The ILO

can and should indeed play a role when it comes to supporting labour policies in this regard.

5 A Way Forward for the ILO

As Erik Brynjolfsson and Andrew McAfee (2011) posit, producing labour skills that cope with the fast pace of advances in technology is necessary in all economies. Perhaps the starting point is to call for additional support for Africa's weak labour governance systems and institutions and their efforts to educate workers on the global future of work concepts, especially those associated with digitisation in the workplace. Existing training institutions seem to be ill-equipped to provide the skills required for navigating through the changes brought about through digitisation as broadly defined. For example, the African Advanced Level Telecommunications Institute (AFRALTI) has an outdated curriculum (Kariuki, 2016). And even though private–public sector partnerships with corporations such as Oracle, Huawei, Microsoft and IBM exist, skills development is far behind compared to all other continents. Going forward, African countries will need more support from organisations such as the ILO. Otenyo (2017, 206) asserts that since unions in Africa are affiliated with the ILO, it will continue to offer development programmes for union leaders, especially with regard to navigating the interconnected world of ICTs.

Already the ILO and other units of the UN have made great efforts to support Africa's capacity to streamline its labour policies and improve the technical capacity of its workers. Additional policy changes are necessary to strengthen employment creation capacities in the near future, especially in sectors that do not receive much government support. Notwithstanding digitisation's potential to change the nature of work in the formal sector, there is room for reorganisation of informal sectors, which had previously not been able to exploit global market opportunities.

Since the 1990s, in recognition of the need for modernisation, UNESCO has supported the digitisation of library services in Kenya by offering forums and training events (Amollo, 2011). The ILO can join UNESCO and other organisations to frame jobs in the informal entertainment sector as being 'quality' or 'decent' jobs. Perhaps providing information on technological changes should be an aspect of the ILO's next agenda in the coming years. Since the two organisations have extensive collaborative experience, templates for Memorandums of Understandings (MoUs) between the ILO and UNESCO already exist and can be updated, especially in the area of addressing job security in emerging

sectors. Areas such as film production and studio management, among others, could be provided with platforms to energise existing efforts.

Over the years, the ILO has put great efforts into the provision of decent work and social protection for vulnerable groups in Africa, which include millions in informal job sectors. For example, the ILO announced in 2012 that more than 70 per cent of workers worldwide had no statutory access to unemployment insurance, which is typical of those working in the music industry. During its 100th Session, the International Labour Conference adopted Recommendation 22, establishing the Social Protection Floors. These are not widely debated in African parliaments but ought to be. The absence of unemployment assistance is a huge problem for African artists and many also lack business skills.

Perhaps the weak capacity within the labour movement has contributed to the failure of African governments to establish meaningful, corruption-free social protection systems. The ILO's periodic advisory warning to countries without labour rights is an important step towards building accountability structures within the African, and perhaps even global, context. The ILO continues to single out certain African countries that create conditions under which it is difficult for unions to flourish. This pressure from the ILO helps the capacity building of the key stakeholders required to put together a sustainable plan to address any future externalities arising from the digitisation of jobs, as Africa's digitisation index moves closer to the 'emerging' and 'transitional' stages of digitisation.

In Africa, the ILO could play a major role in supporting research and publications to enhance legally based policymaking processes. It can do this for the benefit of workers, especially in order to address work-related uncertainties provoked by aspects of digitisation. Although proposals to encourage workers to buy shares in companies that manufacture and develop digital products have been made in advanced countries, the landscape in Africa is different. The critical mass of workers necessary to start conversations around earning 'robot dividends' remains a mirage. The vast majority of African union leaders and policy makers will, however, need to understand the implications of digitisation and automation. Karim Sabbagh et al. (2012) emphasise that policy makers need knowledge of the benefits of digitisation. The case for this is, in fact, stronger because Africans are already major consumers of ICT products, including mobile money and social media.

Because the pace of change and level of labour displacements vary by country and industry, solutions have to be designed according to specific situations. Cooperation in areas such as ICT training can be addressed through cooperative ventures to enhance 'brain-gain' strategies. Different organisations have to

cooperate rather than compete for human capital, especially in science, technology, engineering and math (STEM) areas, where talent is very scarce (Cann, 2016; WEF, 2017, iii). The ILO has already made policy responses to the 'brain drain' one of its action areas (ILO, 2003, 50). It may be necessary to periodically review this issue.

Various ILO reports on priorities for Africa include the creation of greater employment and income opportunities, social protection, rights at work and social dialogue. The ILO's ability to offer forums for dialogue, especially its collaboration over policies associated with the African Union and the New Partnership for Africa's Development (NEPAD), are much welcome. These initiatives recognise that any programmes for development must be Africa-led. We believe these objectives have to be maintained and must especially include the restoration and maintenance of viable governance structures that will provide structures for building the capacity of states to leverage ICTs for sustainable job creation (ILO, 2003, 5). This support for governance structures should include assistance in the shape of country-level initiatives to guide union participation in protecting workers' rights to decent work and incomes.

6 Final Remarks

The pace of digitisation in African economies is accelerating in sectors such as security, library services and entertainment. The entertainment sector may have been a major beneficiary of the changing nature of work and leisure, thanks to digitisation. Our conclusion is that the process of embracing digitisation entails careful planning and policy management. Digital transformation is more than promoting efficiencies and upgrading software and it works best when planned and carefully executed (Andriole, 2017). This means governments should fully understand the consequences of digital transformations and be able to manage any disruptions that might occur. In the case of libraries, for example, the transformations in question need greater resource support, particularly because the economic and cultural benefits for society are enormous.

Current evidence suggests that the maturation of a digitised economy remains a work in progress. Technically, the data does not support the job displacement or disappearing theory in Africa. This is true at least for some sectors, including libraries, security and entertainment. But considering that these sectors are among the most affected by digitisation, it seems that our hypothesis is validated. The argument we are making here is that digitisation does not lead to massive job losses and could be a springboard for the creation

of new jobs. We are aware that this chapter is a first step in understanding the effects of digitisation on job security in selected African sectors. While we have not been able to ascertain in quantitative terms the number of jobs created through digitisation efforts, the descriptive findings are generalisable in the context of the sectors selected. Still, further work is welcome.

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Working Futures: The ILO, Automation and Digital Work in India

Filipe Calvão and Kaveri Thara

Abstract

With access to data communication networks and the prevalence of informal work, workers in the global South are rapidly inching closer to confronting the impact of automated or digitally enabled non-standard employment. What are the social and political responses required to face this shifting engagement with the means of automated production and the experience of digital work mediated through privately owned global technology platforms? By examining India's job market, with a focus on the country's information technology (IT) industry, this chapter assesses whether the International Labour Organization's (ILO) focus on labour rights and social protection is suited to addressing the potential for capital-labour substitution and the new ecosystem of software-mediated work. The chapter suggests a new engagement with digital labour, closer scrutiny of unregulated working conditions, and democratic control over tech-enabled digital platforms.

1 What Working Future?

The world faces today a new challenge posed by the combination of jobless economic growth, rising human productivity, and an increase of the available labour pool. In developing economies in particular, the future may not even hold enough jobs for everyone.¹ It is estimated that by 2030, the global labour

¹ This much was intimated by the World Bank's president in a 2016 speech: 'The traditional economic path from productive agriculture to light manufacturing and then to large scale industrialisation may not be possible for all developing countries. In large parts of Africa it is likely that technology could fundamentally disrupt this pattern.' Research based on World Bank data has predicted that the proportion of jobs threatened by automation in India is 69 per cent, 77 per cent in China and as high as 85 per cent in Ethiopia.' 'If this is true,' Jim Yong Kim continued, 'we need to understand the paths to economic growth that will be available for these countries and then adapt our approach to infrastructure accordingly.'

force will increase by 428 million workers, the majority of whom will be in low- and middle-income countries (LMCs) in Africa and South-East Asia (ILO, 2017). India's population, for example, is expected to surpass China's within a decade, reaching 1.66 billion by 2050, and ten countries alone are expected to contribute collectively to more than half of the world's expected population increase from 2017 to 2050.² The demographic pressure of a growing labour force, particularly for youth in vulnerable employment in low-income countries, may exacerbate the mismatch between workers' skills and those sought by employers (ILO, 2017, 34), and encourage the competition for the least valuable skills, i.e. skill sets available will become less valuable. If the benefits of this demographic transition depend largely on the ability to employ productively its working-age population, the prospect of a growing labour force outpacing job creation and productivity gains foreshadows a future of widespread joblessness. This challenge is further exacerbated by the job replacement potential of recent developments in artificial intelligence (AI).

Previous waves of mechanisation and automation have led to the creation of redundant or surplus human labour in agricultural and manufacturing jobs. Despite a recent decline in global unemployment rates, often attributed to shrinking labour force participation, few jobs are now immune to computerisation or automation. With AI, in fact, bots, drones, and other intelligent machines are learning to perform autonomous work, identify patterns and predict behaviour, and solve non-routine and cognitive tasks, rendering most human labour potentially automatable at the point when humans are more productive than ever. If developments in robotisation have been mostly confined to developed economies, falling technology costs and the sweeping effects of intelligent software development for non-routine tasks are already impacting low-skilled and low-waged labour as well as high-skilled workers across LMCs.³

Speech by World Bank President Jim Yong Kim—*The World Bank Group's Mission: To End Extreme Poverty*, 3 October, 2016, available online at <http://www.worldbank.org/en/news/speech/2016/10/03/speech-by-world-bank-president-jim-yong-kim-the-world-bank-groups-mission-to-end-extreme-poverty> (accessed on 22 June 2018).

2 Aside from India, Pakistan, Indonesia and the US, the remaining six countries are located in Africa: Nigeria, the Democratic Republic of Congo, Ethiopia, Tanzania, Uganda and Egypt. As of 2017, 60 per cent of the African population was under 24 years of age, and about four out of ten Africans was under 14 years of age. While population growth rates are expected to slow down by mid-century, Africa's population will continue to rise, from a forecast 1.7 billion in 2030 to an estimated 4.4 billion people by 2100 (UN 2017, 23). If the main challenge faced today in sub-Saharan Africa is the poor quality of employment, the prospect of massive unemployment looms on the horizon with an additional 12 million youths joining the workforce by 2020.

3 As will become apparent in the case of India's IT industry, the skill-biased technological change (SBTC) hypothesis suggesting a shift towards educated workers as a response to

In India, for example, a survey of young people aged 16 to 25 found that 52 per cent of those polled believed that AI machines or computer programmes would replace human jobs within a decade.⁴

Academic studies concerned with this shift to automated labour and impending robotised or computerised work, commonly glossed as the Fourth Industrial Revolution, tend to vary between the alarming prospect of a jobless future and the optimistic vision of a society free from taxing work. For some, the declining costs of automation and a move to capital-intensive technology will exacerbate the scope and impact of this transformation, with estimates ranging from 9 per cent of job 'automatability' across OECD countries (Arntz et al., 2016) to 40 to 60 per cent of US jobs potentially lost within the next twenty years (Frey and Osborne, 2017; Hicks and Devaraj, 2015).⁵ For others, humans should embrace the freedom of a fully automated economy (Srnicsek and Williams, 2015; Livingston, 2016) or devise new mechanisms to either slow down the effects of automation or compensate for lost income in the form of robot taxes (Guerreiro et al., 2017) or Basic Income programmes (Barchiesi, 2007; Davala et al., 2015; Standing, 2017; Seekings and Matisonn, 2010). Aside from an emergent critique in the digital studies literature concerned with relations of exploitation and marginalisation in the digital economy (Casilli, 2017; Fuchs, 2016; Graham et al., 2014), the exposure of the global South's workers to automation has been largely overlooked, as have the lessons it may offer with regard to addressing changing conceptions of production in an internet-enabled and increasingly interconnected economy. Rather than reducing technological unemployment to the Schumpeterian 'gale of creative destruction' and the gloomy prospect of a Luddite fallacy, or embracing futuristic visions of an automated post-work scenario and the 'post-wage' realities of an on-demand 'gig economy', the fundamental question we seek to address hinges on the institutional division of labour and the social and political conditions enabling the adoption of technology: what working future awaits the next generation of workers? And if robots are replacing human labour, is a new social

technological change may no longer hold sway with the advent of increasingly autonomous machines capable of non-routine and cognitive tasks. See Goos et al. (2014) for a review of SBTC.

4 See the research presented on the website *Infosys, Amplifying Human Potential: Education and Skills for the Fourth Industrial Revolution*, <http://www.experienceinfosys.com/humanpotential> (accessed on 21 June 2018).

5 Aside from the creation of new jobs fostered by technological change, this occupation-based approach to the potential for automation and computerisation may underestimate the need for tasks performed by humans. For an alternative tasks-based approach to computerisation, see Arntz et al. (2016).

contract needed to compensate for the loss of taxable (human) income, rising income inequality, and the unprecedented power of large multinational corporations?

According to estimates of the International Labour Organization (ILO), irregular or underemployment—informal, casual, or temporary work—affects up to 75 per cent of the workforce, particularly in LMCs. By sheer demographic pressure and the prevalence of informal work, shored up by cheap access to robust data communication networks, workers in these countries are rapidly inching closer to experiencing the impact of automated or digitally enabled non-standard employment.⁶ Important as it may be to estimate what jobs will be available and to prepare workers accordingly, it may not be enough to tackle inadequate training in ‘marketable’ skills or create new entrepreneurship opportunities for those dispossessed of work. There are also considerable political consequences induced by the unfettered adoption of technological innovations in the world of labour. These would include added surveillance of and scrutiny over personal and working lives, from cashless transactions to remote desktop and keystroke monitoring, as well as the unregulated, corporate-owned troves of information amassed by data mining and predictive algorithms. While these are important issues, our main goal in this chapter is to examine the actual and potential exposure of temporary, contracted, and freelance work to computerisation and automation, on the one hand, and the opportunities and limitations afforded by access to digital labour platforms to mitigate, rather than exacerbate, the precarity prevalent in LMCs, on the other.

The remainder of this chapter assesses sector-specific trends and ongoing transformations in India's job market with a specific focus on the information technology (IT) industry. The IT industry and IT-enabled services in India face high labour costs, global competition, and the rapid adoption of technological advancements, making them particularly vulnerable to job loss and replacement. Moreover, most studies of automation have been largely confined to low-wage, low-skilled jobs, and the three decades of IT transformations in India offer an important case study through which to assess the adoption of technology in high-skilled industries. The chapter concludes by suggesting that a new international convention on digital labour is necessary to face the challenges of work and social protection in the twenty-first century. We now turn to an overview of India's job market.

6 The ILO (2016) defines non-standard employment (NSE) as work that falls outside the realm of standard employment, understood as a full-time, indefinite bilateral employment relationship.

2 India's Job Market

This section examines the challenge posed by a burgeoning working-age population with a decrease in agriculture and public sector jobs. India's modest job growth is exacerbated by technological advances and automation, and with a shift of stable employment away from manufacturing and construction to services, present and future generations are already experiencing the risks of heightened working precarity in the country.

2.1 *Jobless Growth in Manufacturing*

In the few decades since India's economic liberalisation and despite changes in the overall make-up of public and private sector employment, the fundamental structure of employment and self-employment in India has not been altered significantly (see Figure 11.1).⁷

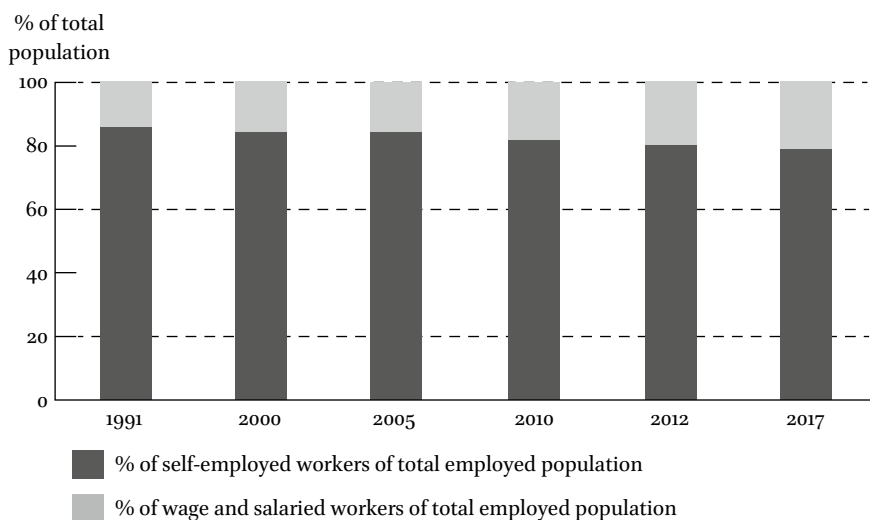


FIGURE 11.1 Self-employed workers and salaried workers in India
SOURCE: WORLD BANK (NO DATE), *WORLD DEVELOPMENT INDICATORS: INDIA*.

⁷ Public sector employment decreased from 19.466 million jobs in 1995 to 17.548 million in 2011, with corresponding gains in private sector employment. Data from the *Open Government Data Platform*, India, <https://data.gov.in/catalog/employment-public-sector-and-private-sector> (accessed on 10 September 2018) and the *Quarterly Reports on Employment Surveys, 2012–2017* (Government of India, 2017b).

However, labour-shedding transformations and a move towards capital-intensive industries have largely offset post-1990s employment gains.⁸ While the loss of public sector jobs represents a steady march towards less secure or stable jobs, only 17 per cent of the workforce earns a regular wage or salary, and almost half of the working population is either self-employed or casually employed. Between 2000 and 2017, rural worker numbers declined from 59.9 per cent to 44.2 per cent of the total workforce, with manufacturing, construction and service jobs compensating for losses in rural jobs (See Figure 11.2).⁹

Yet, India's economic growth has spurred only modest or 'sluggish' job creation—if any at all (Tejani, 2016).¹⁰ While the employment-to-population ratio for the population above 15 years of age has been steadily declining in India, the working-age population in the age group 15–64 years has risen (see Figure 11.3).¹¹ Considering the expected increase in the working-age population over the next decade, this jobless growth may spell trouble for the future.

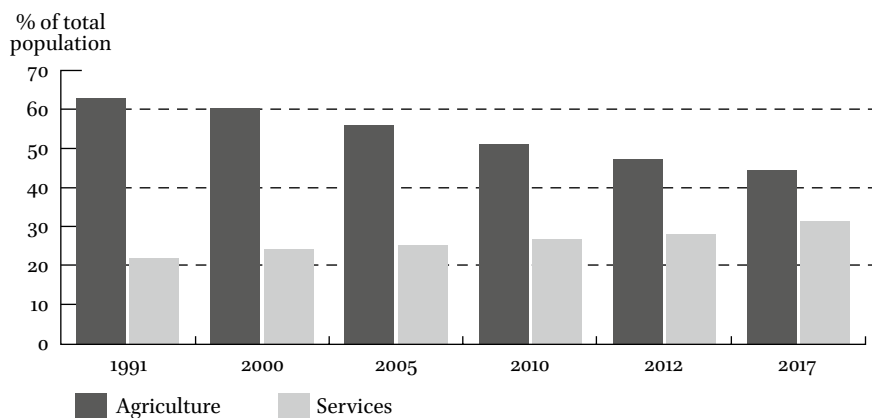


FIGURE 11.2 Indian population employed in agricultural and services sectors
SOURCE: WORLD BANK (NO DATE), *WORLD DEVELOPMENT INDICATORS: INDIA*.

- 8 See Kannan and Raveendran (2009) for the manufacturing sector and Tejani (2016) for a broader account of increased productivity without labour-intensive production.
- 9 Service jobs increased (from 23.7 per cent in 1999–2000 to 26.9 per cent in 2011–12) as did construction jobs (from 4.5 per cent to 10.6 per cent in 2011–12). Figures are from the National Sample Survey Office data, in Misra and Suresh (2014).
- 10 The Economic Survey published by India's Ministry of Finance acknowledges that 'employment growth has been sluggish' for the years preceding 2016–17 (Government of India, 2017, 61).
- 11 We use the employment-to-population ratio as a more accurate indicator of employment generated. Employment is defined as persons of working age who, during a reference period, were engaged in any activity to produce goods or provide services for pay or profit.



FIGURE 11.3 Employed working-age population and total working-age population in India
 SOURCE: WORLD BANK (NO DATE), *WORLD DEVELOPMENT INDICATORS: INDIA*.

In this context of jobless growth, the ILO observes that India's strong economic growth of 7.6 per cent (2015–16) has not translated into improved employment, but is rather accompanied by fewer jobs and rising inequalities.¹² With the informalisation of the organised sector, a significant number of workers are without access to employment benefits and social security.¹³ Along with decreases in the overall employment rate, labour force participation in India's job market has declined steadily since the 1990s. In official statistics, unemployment has remained at low levels of 4 to 5 per cent for 2017, which can be attributed to the sharp decline in labour force participation amongst women and to sampling bias.¹⁴ Finally, the distinction between temporary and permanent employees is increasingly blurred and is often identified as the primary cause of labour unrest in many industries, leading the government of India

12 India's GDP growth was 5.6 per cent for 2012–13, 6.6 per cent for 2013–14 and 7.6 per cent for 2015–16. Per capita income also increased, from 5.8 per cent for 2014–15 to 6.2 per cent for 2015–16. Despite a declining poverty rate (from 37.2 per cent for 2004–05 to 21.9 per cent for 2011–12), inequality has risen particularly in urban India, where the Gini index—used as a measure of inequality—has increased from 34.3 for 1993–94 to 39.3 for 2009–10 (see ILO, 2018 and World Bank, 2018).

13 The organised sector consists of 'incorporated' or legally registered and regulated establishments consisting of ten or more workers. The ILO notes that the share of workers in the unorganised sector fell only marginally, from 86.3 per cent for 2004–05 to 84.3 per cent for 2009–10 and to 82.2 per cent for 2011–12 (ILO, 2018).

14 For example, female labour force participation in rural areas dropped from 52.5 per cent for 2004–05 to 39.9 per cent for 2009–10, and in urban areas from 26 per cent to 21 per cent during the same period. India has the lowest labour force participation rates amongst women (ILO, 2018).

to consider enforcing salary parity to mitigate differences between stable and short-term contracts.¹⁵

Manufacturing jobs are the most significant source of regular employment and until recent years contributed the lion's share of new jobs created in the private sector.¹⁶ Out of the 10 million new manufacturing jobs, the automobile industry accounted for the largest number (7.6 million), mostly in auto component manufacturing but also in auto sales, services, transportation and logistics, for a total of 25 million jobs in the automobile industry in 2016.¹⁷ This figure is poised to increase over the next few years, with an ambitious governmental Automotive Mission Plan (2016–26) estimating 65 million new direct and indirect jobs in the automobile industry (SIAM, no date). There is no detailed survey information on the impact of automation on jobs in the manufacturing sector, but frequent newspaper reports stress the snowballing adoption of robotic devices in manufacturing processes.¹⁸ More broadly, these estimates minimise the number of jobs needed to match the increase in the working-age population or the skills necessary to tackle technological unemployment. A careful assessment of sector-specific susceptibility to automation and trends in employment would seem to recommend a shift away from manufacturing-intensive sectors, to sectors less susceptible to automation, such as the education sector, which already accounts for 24.35 per cent of all service jobs.

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- 15 The government of India has initiated changes in the Contract Labour (Regulation & Abolition) Act of 1970. At the time of writing, the draft bill was announced and pending the consultative process. See the Ministry of Labour and Employment, 'Amendment in the Contract Labour (Regulation and Abolition) Act, 1970', available at https://labour.gov.in/sites/default/files/Amendment_Contract_Labour.pdf (accessed on 7 September 2018).
 - 16 Notwithstanding the consistent growth in community, social and personal services (16.03 million in 1995 to 23.50 million in 2011) along with finance, real estate and insurance jobs (2.93 million in 1995 to 17.18 million in 2011). Open Government Data Platform, India, <https://data.gov.in/catalog/employment-public-sector-and-private-sector> (accessed on 10 September 2018).
 - 17 Government of India (2011), 'Human resource and skill requirements in the auto and auto components sector', the Ministry of Skill Development and Entrepreneurship and National Skill Development Corporation. According to this report, an additional 2.7 million jobs are to be added to the existing 12.81 million jobs generated in the sector by 2022, largely in auto component manufacturing.
 - 18 Automation is increasingly used by automobile companies such as Maruti Suzuki, with 5,000 robots in its plants in India. Ford's latest plant in Gujarat has more than 500 robots, most of which operate in the body shop area, whereas its older plant in Chennai has only 100 robots.

2.2 *Retail Jobs and the Risk of Automation*

The retail sector in India, at first glance, offers a hopeful avenue for the majority of Indians having completed either primary or secondary school.¹⁹ With a large Internet user base, cash on delivery and electronic payment systems have become increasingly commonplace in India. However, the service sector has not generated as many jobs as expected due to high productivity and minimal labour input (Gordon and Gupta, 2004). In fact, despite a strong growth of online retailers and Internet penetration, in 2016 e-commerce and related services accounted for only about one million jobs in India.²⁰ The biggest employers in the e-commerce business in India are Amazon and Flipkart, which have pushed to expand automated warehouses and fulfilment centres.²¹ Following a global trend, large online retailers such as Amazon have begun moving from e-commerce operations to online marketplaces for work in India.²²

The bulk of employment opportunities in the sector are presently generated in automation-prone jobs in logistics, warehousing and delivery services. Conveying, organising and loading tasks are now increasingly performed by robots and though automation is presently limited, it is set to increase in warehousing and storage operations in the near future. For example, e-commerce market leaders (including Flipkart, Jabong, Myntra, and PepperFry) and logistics companies (Aramex, DTDC, Delhivery, and Gojavas) are serviced by GreyOrange, a multinational firm that designs, manufactures and deploys advanced robotics systems for automation at warehouses and distribution and fulfilment centres. GreyOrange has entered into an exclusive partnership with the Indian

19 Some estimates suggest that 12 million jobs will be created in e-commerce and related services by 2025 (Bhandari and Srinivas, 2016).

20 A 2016 joint KPMG and Snapdeal report suggested that e-commerce can create 1.45 million direct jobs by 2021, with one million of these jobs in logistics and warehousing. The online seller base is projected to grow to 1.3 million by 2020 with the creation of an additional 10 million new jobs. These expectations are based on estimates of market growth and of an increase in the numbers of online shoppers (KPMG and Snapdeal, 2016).

21 In 2017, Amazon reported a total of 50,000 people on its payrolls in India, making it the company's second largest workforce centre after the US. In 2016, Flipkart had a total of 30,000 employees, despite plans to lay off between 700 and 1,000.

22 Amazon's Mechanical Turk, a marketplace for the 'on-demand' workforce, is perhaps the most popular of these labour or 'crowd-work' platforms, despite recent restrictions with regard to international workers (De Stefano, 2016; Bergvall-Kåreborn and Howcroft, 2014; Irani, 2015). Although most of the direct jobs created by Amazon will be in fulfilment centres or in customer service, Amazon announced in early 2017 plans to create 5,000 remote customer service jobs. Increasingly, these positions are being framed as 'employee friendly' as they enable flexible work. One example of the latter strategy emerged in August 2017, when Amazon India launched a cost-efficient virtual customer service platform for skilled workers seeking to work from home.

company Godrej & Boyce Mfg. Co. to market and distribute in India its proprietary warehouse automation solutions, the Pick-Put-To-Light (PPTL) system, responding to the growing demand for entry-level warehouse automation solutions. The remaining one-third of jobs created by online retailers and service providers are in customer care, IT and top management, which require higher education, and less significantly in research and development, data analytics, AI and machine learning.²³

Overall, the liberalisation years of the 1980s and 1990s in India were met with contradictory calls for more stringent laws or further deregulation. Enterprises adopted a strategy of capital deepening—modernising, automating and substituting labour with capital (Ghose, 1994)—and resorted to contract labour, which increased from 12 per cent of total manufacturing work in 1990 to 23 per cent in 2002. This has been possible in part because of a state that appears to favour an agenda of decent and secure work, while enabling an environment that normalises contraventions. New strategies with regard to outsourcing have also negatively affected trade unions, with a concomitant loss of bargaining power with which to negotiate wages, allowances, benefits or social protection (Sharma, 2006). More broadly, the future of work critically hovers over the move towards e-commerce, online labour and service platforms in India, specifically in transportation, hospitality, and food services.

We now turn to a discussion of the specific challenges and opportunities posed by the emerging digital economy in India, from tech-work platforms to the IT sector.

3 India's Digital Labour Economy

Work today relies on an interconnected division of computerised and human labour, with on-demand workers for hire in platform services, outsourced customer support or human resources, and automated processes to facilitate payroll and accountancy. With increased and increasingly inexpensive mobile internet access, app-based service platforms ensure easy coordination and a seamless customer experience, inasmuch as they allow workers to overcome the geographic constraints of local labour markets. This section examines digitally mediated work in India to understand the challenges of a digital labour

23 In August 2017, as widely reported in the media, Amazon announced plans to hire 1,000 workers in India, including research scientists and data analysts as well as natural language processing, artificial intelligence, machine learning, and Android developers. See, for example, Anand, J. and Shilpa Phadnis (2017).

marketplace. Despite the possibilities for labour arbitrage in global platforms, studies have shown that there is an imbalance in data and value transfer, skewed towards the global North (Casilli, 2017) in relations of digital production that rest upon a 'vast and complex network of interconnected, global processes of exploitation' (Fuchs, 2016, 21). Workers in the global South are more prone to economic exclusion, sub-contracting, and loss of bargaining power, and contrary to the idea that a worker's location is rendered irrelevant, it is the imbalanced nature of relations between places that foster the development of these digital work networks (Graham et al., 2017, 142).

3.1 *Freedom and Flexibility, On-demand*

For the first generation of software developers and digital workers, coding and software programming rested upon free use, at once open source and shared with no restrictions (Coleman, 2013). The crowd-sourced nature of the 'sharing economy' (Sundararajan, 2016) is frequently portrayed as a community-based, liberating experience unbound by the shackles of formal employment. For work platforms specifically, a vision of freedom is espoused in the figure of the freelancer: the worker is free to work without constraints, though also free from regulation and protection. For a growing number of critics, sharing labour platforms (on-demand and micro-work platforms) are unregulated, profit-seeking, data-generating infrastructures that rest upon opaque labour supply chains and asymmetrical algorithmic operations (Shapiro, 2017; Graham et al., 2017; Rosenblat and Stark, 2016). Be it under the guise of computation services (Irani, 2015) or short-term, task-oriented work, on-demand work is 'labour without overhead' (Shapiro, 2017, 14).

With dwindling employment opportunities, a large number of Indians are turning to temporary employment or tech-enabled freelance work. India has an estimated 2.1 million temporary workers in the organised sector and hosts the third largest flexible staffing workforce in the world after China and the United States. India has also become the largest supplier of digital labour, providing data-processing work, software and technology services (Kässi, O., M. Hadley, and V. Lehdonvirta, 2018).²⁴ In the absence of stable work, online piecework has become a prominent means of securing a livelihood. Corporations also increasingly favour and enable unprotected, freelance work, moving

24 In the online labour platform *Truelancer*, which offers freelancers for hire, India has the largest workforce contingent after the US, with about 15 million users (Jesee, 2015). A survey by Payoneer, a payment platform for freelancing, reveals that 78 per cent of these workers are men, and about half earn an hourly rate of USD 10 or less on average (Strok, 2015).

towards project-based work and short- or medium-term employment.²⁵ Without enough jobs to go around and leaner technology firms, this 'gig economy' is expected to become more widespread in the future in what we could call a 'global digital factory'. Unlike the 'global factory' of the 1990s and dawn of the new millennium's sweatshops and maquiladoras (Fuentes and Ehrenreich, 1983; Louie, 2001), these online marketplaces and the new kind of labour therein performed are not spatially bound but represent instead an infrastructure of digital labour (Scholz, 2013). A common example would be Amazon's Mechanical Turk, which allows recruiters to 'tinker' with human workers by allowing 'employers to experiment with the uses of human labour, exploring new business areas with little accountability or obligation to those employed in the experiments' (Irani, 2015, 230).

The emergence of this disposable and flexible workforce is not a new phenomenon in India. At least since the 1990s, Indian-run recruitment agencies ('body shops') have supplied skilled Indian IT professionals for foreign companies and institutions' temporary, on-site projects, without incurring the financial burden of layoffs for the destination country. These body shop operators and agencies would recruit and make available a highly mobile and flexible labour pool, effectively selling workers abroad while selling jobs to Indian workers (Xiang, 2007). With growing visa restrictions and the possibility of delivering IT services off-site, the need for international body shopping slowed down in the mid-2000s. Hyderabad, the capital of the State of Telangana in Southern India, was formerly a 'capital node in global body-shopping networks' (Xiang, 2007, 48). Today, it rivals Bengaluru for the title of IT hub of India. During visits to these technological hubs, news that jobs were to be outsourced or rendered redundant was received with uneasy silence by IT workers who were reluctant to discuss this newfound predicament on the record. The reported rise in tech workers' suicides, however, was a sombre reminder of the current job crisis.²⁶ In informal conversations held with IT and software developers employed by US multinational corporations in both Hyderabad and Bengaluru, there was noticeable apprehension regarding the prospect of redundancy. As described to the authors by an Amazon employee in Hyderabad, there is a sense that the

25 For example, PwC and Ernst and Young organise online marketplaces and labour pools from which to tap freelancers for internal projects and occasional hires. For smaller companies, core work is increasingly allocated to freelancers online.

26 As massive layoffs were taking place in technology companies in India, in July 2017, the suicides of two technology workers were reported in newspapers in Bengaluru and Pune. Based on notes left by these workers, their deaths were attributed to the lack of job security in the tech industry (See Shinde, 2017).

current workforce is paving the way for a future of automated processes and diminished employment.

3.2 *Autonomy and Control*

Given the prevalence of on-demand transportation services, research on Uber and other ride-sharing tech platforms has demonstrated information asymmetries generated by algorithmic operations (Rosenblat and Stark, 2016) and the importance of reputational capital among workers largely devoid of any other form of protection. Though responsible for their own equipment, workers depend on the technological brokerage of these platforms to access the labour market (Surie and Koduganti, 2016; Shapiro, 2017). These companies' push for disintermediation carries two important consequences for the current analysis: first, employment is defined as an autonomous monetisation of the self, contingent upon a certain threshold of acceptance or reputation; second, the worker's apparent freedom is undermined by the control and surveillance exerted by these companies.

Ethnographic studies of Uber and Ola²⁷ drivers in India have shown how workers value the freedom from the obligations inherent in conventional employment and the flexibility that comes from deciding for how long, when, and where to work (Surie, 2017). Working for Uber or Ola can be equally liberating for the worker in terms of caste and communal identities, and a sense of autonomy is reinforced by the perception of rising incomes and the social mobility that comes from an entrepreneurial profession. Yet this rhetoric of autonomy plays into the hands of the technology companies operating sharing platforms. In early 2017, Uber and Ola drivers noticed a dip in their earnings. After amassing a large number of drivers, most of whom accessed bank credit to pay off their car loans, the companies brought down their fares and incentives resulting in a 60 per cent drop in incomes and in 24 per cent of the drivers renouncing these platforms a month after the changes (*Business Standard*, 2017). Initially lured by the promise of autonomy and higher incomes, the reported 250,000 Uber drivers and 350,000 Ola drivers are not legally considered employees of these technology companies, and the drivers' grievances are not dealt with by the state labour department. Notwithstanding this predicament of autonomy, Uber conducts interviews and recruits drivers, and exerts mechanisms of control through complaint mechanisms and rating systems with impacts on remuneration, giving credence to an actual employment relationship.

27 Ola is an Indian online transportation network company. See Ola's website <https://www.olacabs.com> (accessed on 18 August 2018).

The inability to decide fares or incentives or the broader terms of the working relationship between worker and employer raises significant questions about the nature of such employment and its future. This condition of work is not just a fragile and insecure experience; it is one that is wrapped in invasive control mechanisms.²⁸ Drivers earning less than the minimum wage have their every move subjected to technologically enabled forms of surveillance as they grant an inordinate level of access to personal information (location, driving routes, and acceptance rate) in order to power the algorithmic operations of the platform. They are not unlike factory workers under constant surveillance and supervision, albeit without regular wages and health or social security benefits.

3.3 *India's IT Industry*

India's IT and software industry accounts for an estimated 3 million jobs (Upadhyaya, 2016, 2). Along with business process outsourcing (BPO) jobs for third-party providers, a growing share of new jobs created each year in India are generated by the IT sector (see Figure 11.4). In 2017, however, the sector underwent its first jobs crisis since 2008. If the sector is often hailed as representing the future of work in India, the number of jobs for IT workers and programmers in Bengaluru and Hyderabad is diminishing, with 56,000 employees slated to be laid off in 2017 according to widespread media reports (see for example Siddiqui and Sharma, 2017). This doubles the number laid off in 2016 and represents the largest retrenchment in the technology sector thus far.

If the IT work of the late 1990s and the start of the new millennium entailed labour-intensive and fragmented tasks that resulted in the deskilling of its workers (Upadhyaya and Vasavi, 2008), the tech world now embraces a trimmed down, highly skilled workforce that can creatively develop whole products. Foreign companies that relied on body shops have reduced their workforces in India and look towards future technology developments in cloud computing, AI and machine learning technologies, with Google and other tech giants buying up small Indian start-ups working with AI and deep learning systems. For the first time in India, companies are returning to the United States for political, economic and technological reasons. Infosys, one of the earliest and largest technology companies in the country, has announced its plans to hire

28 First denounced by *The New York Times* (see Isaac, 2017). Uber's use of the 'greyball' tool to gather detailed personal and work-related information on its drivers and evade the control of authorities is one example of deploying surveillance technologies through software applications.

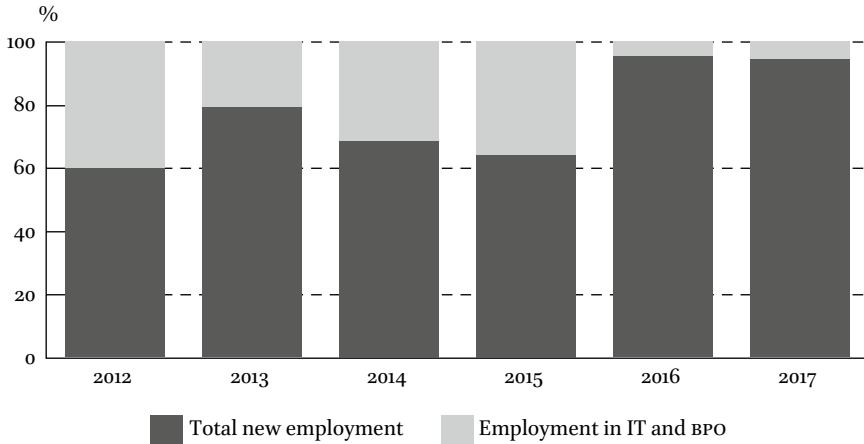


FIGURE 11.4 New Employment and Employment in IT and BPO in India
 SOURCE: GOVERNMENT OF INDIA (2017b), *QUARTERLY REPORTS ON EMPLOYMENT SURVEYS, 2012–2017*.

Note: Between 2009 and 2015, the *Quarterly Employment Survey* data was sourced from 2,000–3,000 establishments. In 2016, the survey was revamped to include more than 10,000 establishments, which accounts for the significant correction in employment numbers for that year and the year that follows.

more American workers at an estimated loss of four trained Indian positions for each new US-based job, with other companies following suit. Whether this move should be attributed to the improving skills of American graduates, the rising wages of Indian programmers, a corporate realignment towards the US-based customer base for political expediency, or a combination of these factors, such analyses disregard the fact that automation already accounts for much of the routine coding, testing jobs, and mining of call centre data (Pallotta and Delmonte, 2013).

The realities of IT-enabled industries or the global outsourcing of flexible workers have been documented ethnographically (Amrute, 2016; Ho, 2009; Lane, 2011; Patel, 2010; Upadhya, 2016) but the recent talk of outsourcing and dismissals stunned our interlocutors in the IT industry and threw into question the promises of social mobility personified by its nouveau riche middle class of IT professionals (Fuller and Narasimhan, 2007). In fact, many routine programming jobs are becoming defunct as automation increases efficiency and enhances productivity, scrapping a few additional workers from the payrolls. More broadly, these developments bespeak the first effects of AI-led software production: first, when AI is largely enabling and preparing the manufacturing

process of the future through autonomous decision-making, algorithm learning, and software coding, humans are seemingly left with being the creative complement to AI or responsible for carving out exceptions in automated processes. Second, as this surplus of high-skilled labour in the Indian IT sector enters global labour markets, the responsibility of ensuring the necessary means of production shifts onto the workers themselves.

4 The ILO and Social Protection in a Digital Economy

In the experiences of flexibility and autonomy examined here and with the distinction between formal and informal, standard and non-standard becoming increasingly thin, it is not surprising that demands for job security have been replaced by demands for income security (Sharma, 2006). Presented as the magic bullet that will remedy the lack of jobs, Basic Income initiatives and new redistributive policies should be part of the ILO's agenda to reinforce initiatives geared towards decent work and social protection, much like the call for 'serious consideration' to be given to Universal Basic Income programmes in India's Economic Survey of 2017.²⁹ Beyond redistributive policies, however, the ILO should be able to respond to the challenges of automation and the effects of a growing workforce of digital workers accessing the labour market through global platforms.

The ILO has sparked a discussion about the impact of automation on the global division of labour by binding its centennial initiative to the future of work. The ILO is not a stranger to the pitfalls and analytic limitations of thinking about the future of work through the prism of decent or standard employment, and has made important strides in assessing work in gig economies (De Stefano, 2016) and non-standard contract work in India (Srivastava, 2015). However, in these and other fora, work is often reduced to an antithetical condition of freedom and dependence, joblessness or actively choosing not to work (Denning, 2010; Calvão, 2016). In every other respect, the ILO has been reluctant to address the paradigm of post-wage or post-human labour. This is not to say that humans will ultimately be deemed redundant, or that all jobs will vanish. Rather, we propose that the shared global yearning for autonomy

29 Universal Basic Income is being considered as a policy to address issues of weakly implemented welfare schemes with misallocation, leakages and exclusion of the poor. The objective is not to substitute for state capacity or replace existing welfare provisions and access to public goods but to ensure that welfare transfers are more efficient and to supplement work income (Government of India, 2017a).

and flexibility signals an aspiration for meaningful dependency as a mode of productive action, which is to say the capacity to create and maintain relations of interdependence (Ferguson, 2015; Graeber, 2001). Seen as labouring activity, the digital work of the future will necessarily entail meaningful human action. But if a measure of success for technology companies entails the concealment of the human element behind automated data-processing and digitally enabled work (Irani, 2015), how can the ILO valorise digital work in-between dehumanising experiences and the desire for human autonomy and flexibility?

First, the ILO holds a particular responsibility in addressing the need to valorise workers across labour platforms, including the added burden that accrues from owning the resources needed for production. Internationally, companies such as Airbnb and Uber have come under increasing legal scrutiny for corporate practices that drive down wages, shift risk to their workers, or evade social and fiscal responsibilities. In the United States, Uber was forced to settle two separate class action suits, but has retained the ability to run an operation of 'independent contractors'.³⁰ A London court, on the other hand, recently rejected Uber's argument of providing a common 'platform' of partners, in a decision with far-reaching implications.³¹ This move towards virtual human clouds, digital products and flexible contractors should be recognised by a convention on digital work that addresses the social value of work and the diminished role of human labour in economic productivity, and how to best ensure ILO standards and protections for those embracing piecemeal work in this new, global digital factory. As proposed here, this means taking seriously the freedom ascribed to these jobs by many workers while scrutinising the unregulated data-gathering power and control exerted by large corporations.

Second, we suggest, the ILO should further engage with forms of digitally mediated work and network governance, and develop a new understanding

30 The California Labor Commission ruled in favour of considering Uber drivers as company employees in 2015, but only in regard to one individual worker. Similar legal and political challenges to Uber and other corporations that emerged on the heels of the sharing economy have cropped up. Uber's driverless pilot project in Pittsburgh was shut down in 2017 by city orders. In addition, Airbnb's operations have been restricted in different countries due to the impact of its commercial operations on local residents.

31 The London tribunal held that drivers were in fact company employees, and thus were entitled to a living wage and holiday pay as per the country's labour laws. However, the ruling remarked that the only route for promotion meant spending more hours at the wheel, and that drivers were unable to determine business terms including the right to negotiate, except to agree to a lower fare than that set by Uber. It further observed that Uber amends contracts unilaterally. As of September 2017, Uber has been stripped of its commercial licence in London while the decision is under appeal. See Mr. Y. Aslan & Others vs. Uber B.V. and Others, case no: 2202550/2015.

of digitised labour relations no longer tied to conventional working arrangements but to ways of monetising the self in a digital ecosystem. Beyond the terms of employment or independent contract work, a modicum of workers' control and autonomy over digital labour platforms should further include ownership or transferability of ratings and reputational capital (De Stefano, 2016, 22). This brave new world of the sharing economy, specifically that mediated by autonomous work facilitated by technology platforms, signals the need for policy and legislation to regulate such working environments and the forms of digital surveillance and control exerted by private companies. In re-imagining work, however, it is important not to rush any policy decisions in that the flexible workforce characteristic of digital economies shares a number of features with standard employment and assumes an integral role in the functioning of global supply chains (Tsing, 2009; De Stefano, 2016). Given the lack of social protection in these sectors, more rigorous tax mechanisms and social protection benefits should be devised for contract, self-employed and temporary workers.

Third, attention to the new ecosystem of digital work opens up an important reflection on the digital commons and platform 'cooperativism' (Scholz and Schneider, 2016). If efforts to promote fair cooperatives and collective bargaining have been far more successful and widespread in countries such as India, this experience could conceivably be replicated across the automated and on-demand economy.³² As more and more seek the autonomy of working in these platforms, this effort should not be aimed at facilitating or curtailing the adoption of automated labour; rather, it should consider what it means to rely on privately owned technology platforms to access the labour market, the nature of providing services to multiple employers under the guise of recruiters and commissioners, and what constitutes the work product of digitally mediated, semi-automated labour. A push towards the collective co-ownership of digital platforms would be an important step in that direction.

Finally, by the same token, the ILO should consider in concert with national governments the effect of technological transfers to developing economies as well as the exposure of developed economies to a competitive and abundant global workforce in a new international division of labour. Concretely, this means devising national strategies to compensate for the unequal economic geographies of global digital work networks (Graham et al., 2014). In India, studies that highlight the risk of a jobless future have largely fallen on deaf

32 The Self Employed Women's Association is a noteworthy example of strengthened bargaining power through associative action in India (Rose, 1992; Agarwal, 1997).

ears. Instead of adequately preparing for a loss of jobs to automation in India, technological advances and rising productivity have not been factored in when designing recent policy. Despite signs of expanding automation and growing job losses, India is intent on generating low-skilled contract work in the manufacturing sector (Srivastava, 2015). The recently adopted 'Make in India' policy, which focuses primarily on industrial production, is proof of this continued commitment to manufacturing, ignoring the new technologies that are replacing human labour. In this regard, future strategies by the ILO should be attentive to the dynamics of 'cunning states' that selectively implement certain neo-liberal policies and that 'capitalize on their perceived weakness in order to render themselves unaccountable both to their citizens and to international institutions' (Randeria, 2003, 1). This holds true of India's alignment of its latest five-year plan for job creation with the ILO's decent work programme. Moreover, the purview of laws ensuring basic working conditions or the safety and health of workers concerns the formal sector alone and should be expanded to include work falling outside the realm of 'standard employment' as a bilateral employment relationship.³³

5 Conclusion

Historically, the ILO has been instrumental in enforcing international standards for the protection of labour rights. Despite the challenges of organising labour in the digital economy, this long-standing mission should ensure that future work will be realised as a social, meaningful activity and to its full potential with regard to equality and justice. Workers and small employers play a pivotal role in moderating corporate-fostered competition for lower pay and in fostering more transparent and ethical working arrangements. However, the new global technological brokers of piecemeal digital work should not be able to unilaterally set the rules of engagement between worker and customer, or single-handedly determine the relationship between employer and employee. In the absence of conventional jobs or standard employment, the terms of

33 See Lerche (2012). In a survey of factories employing more than one thousand workers, only 20 per cent were shown to pay minimum wage (Sharma, 2006), and adherence to a minimum wage is rarely followed in government-sponsored programmes. The national rural employment scheme launched to tackle unemployment in rural areas, for example, provides a minimum wage of INR 100 per day, or a fraction of the pay for comparable work determined by each state in India (Sankaran, 2011).

access, use, and transaction in tech-enabled digital and virtual work should be placed squarely under democratic control.

This is not to suggest a return to the shared authority and autonomy of collective guilds, although there are lessons to retain from practices of shared control over production and equality among members as those emanating from the Social and Solidarity Economy (SSE). The United Nations Inter-Agency Task Force on Social and Solidarity Economy (TFSSE, 2014) defines these practices as pursuing some combination of economic, social, environmental and emancipatory objectives that include job creation, access to markets, provision of financial intermediation, and economies of scale. Based on principles of mutuality, solidarity and reciprocity, SSE practices would enable better social protection and hold the potential to tackle vulnerable employment by bridging the transition from the informal to the formal economy. In a context of expanding digital precariousness, the ILO should openly advocate for the collective organisation of freelance platform work and the use of publicly owned, open software to mediate transactions between clients and service providers. This would encourage, in turn, an investment in human capital in a new commons of the digital economy.

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Promoting Green Jobs: Decent Work in the Transition to Low-carbon, Green Economies

Kees van der Ree

Abstract

This chapter explores the nexus between climate change and jobs. For the International Labour Organization (ILO), the relevance of climate change and low carbon development has not always been evident. Member states and social partners have long been reluctant to include the transition to low carbon economies in the programme of work and commit resources to it. But in recent years, environmental issues have become a policy priority among ILO member states and social partners. Why, then, is climate change now more relevant than ever for the world of work? What are the current and forecasted employment and social implications of climate change and the policies for adaptation and mitigation? How can the distributional impact of the move to a low-carbon society be better understood and managed? In this respect, how relevant is the concept of 'green jobs'? What policy approach has emerged within the ILO despite initial resistance and disagreement among constituents? Finally, what role could the ILO play in the future to promote social justice in the transition?

1 Introduction

The International Labour Organization (ILO) has addressed the relationship between the environment and employment on several occasions in its past, with peaks of attention occurring at the rhythm of subsequent international environmental conferences (1992, 2002 and 2012). Its contributions argued for a better reflection of the social dimension in the agenda for sustainable development. Still, for many years these efforts remained peripheral relative to the attention on standard setting and social dialogue—the core functions of the Organization.

Over the last decade, in parallel to the growing international concern over climate change and resource scarcity, the issue has gained importance within the Organization—albeit not without initial resistance. This chapter first explores the relevance of the employment and social dimension of climate

change. It introduces the concept of 'green jobs' and argues how it can be used to improve the understanding of the potential losses and gains resulting from dedicated policies to address the effects of climate change. It then discusses the need for and features of policies to ensure a just transition and examines how the ILO has recently shaped its support to the design and implementation of such policies.

The chapter then offers a more introspective view on how the ILO as a tripartite institution has incorporated environmental sustainability as a policy priority in all its areas of work. It argues that the initial resistance among some member states and the benign ignorance among others have been overcome thanks to the growing international concern about climate change and the persistent advocacy of one of the social partners. Finally, it concludes that the Organization's mandate to promote social justice compels it to provide global leadership for a just transition towards environmental sustainability as an indispensable element in its future policy agenda.

2 The Relationship between Climate Change and Employment

Rising temperatures and erratic weather patterns are directly affecting the lives and income sources of many people. The number of people displaced by floods and environmental degradation is rising year after year. It is generally believed that as many as 200 million people could be compelled to migrate permanently by 2050 due to the physical effects of climate change (Brown, 2007). Higher seasonal temperatures are posing a health risk to more and more workers in outdoor occupations, such as in agriculture, construction, infrastructure development and those engaged in informal street trading and food vending. According to the issue paper 'Climate Change and Labour: Impacts of heat in the workplace' (UNDP, 2016), peak temperatures could reduce working hours during the day by up to 5 per cent in countries such as Bangladesh, India and Pakistan, even if the global temperature rise can be limited to 1.5°C. This, added to rising air pollution in densely populated cities, has far-reaching implications for job quality and productivity.

Clearly, climate change and environmental degradation have repercussions on employment. If, on the one hand, there are negative effects on working conditions and job security in exposed areas, adaptation measures, on the other hand, can in themselves be a source of job creation, notably in building sustainable infrastructure, or through adding planting and harvesting cycles.

Mitigation policies also have significant effects on jobs, both in negative and positive ways. Energy policies that aim to reduce dependence on coal and the current wave of disinvestment in coal mining by large financial institutions, for example, have led to job losses in particular geographical areas and among specific parts of the work force. But mitigation can also drive job creation, for example through investment in renewable energy, eco- and energy-efficient ('green') construction, or improved waste management.

Realising the economic and social linkages between climate change and employment, national policymakers and international organisations have begun to recognise this nexus and have adopted policies to address it. As the ILO Director General wrote in his report to the 106th International Labour Conference, there is ample 'evidence that the transition to an inclusive green economy can indeed act as a new engine for growth and a strong driver of decent work creation in developing, emerging and advanced economies' (ILO, 2017a, 8). However, he also acknowledged that this outcome is not guaranteed. Indeed, the jobs in a greener future will not be decent by default, but by design (ILO, 2017a). Such an outcome requires economic and social policies that help workers to adjust, including large-scale investment in education and training systems at the secondary and tertiary levels.

This reflection of the importance of climate change for the ILO's future agenda is fundamentally different from the place environmental sustainability had in the Organization in the past. The Brundtland Report in 1987 and the United Nations Conference on Environment and Development (UNCED), or Earth Summit, in Rio de Janeiro in 1992 triggered more interest among the ILO's constituents and within the Secretariat for addressing the implications of environmental challenges for the world of work (ILO, 2017a). As a result, the ILO began contributing to the adoption of global conventions on occupational safety and health issues directly related to environmental hazards and risks.¹

However, it took a good 20 more years before the ILO embraced the need to address climate change as relevant for its own work. After the adoption of full employment and decent work as a global goal by the World Summit on Social Development in 2005, a set of indicators on employment were brought into the Millennium Development Goals (MDGs) framework. The Director General proposed, in his report to the 2007 International Labour Conference, 'Decent Work for Sustainable Development', to set up a programme of work for 'promoting a socially just transition to green jobs' (ILO, 2007, 2). In subsequent years the climate change agenda began to gain ground across constituents and ILO programmes, albeit with initial reservations from a number of constituents.

1 See, for a summary, http://www.ilo.org/safework/areasofwork/chemical-safety-and-the-environment/WCMS_118357/lang-en/index.htm (accessed on 11 June 2018).

2.1 *Defining and Contextualising 'Green Jobs'*²

Over the past decade there has been a continuous flow of studies, reports and articles about the nature, quantity and quality of green jobs; a useful overview is provided by Bowen and Kuralbayeva (2015), concluding that despite a myriad of empirical reviews there remain considerable methodological flaws.

Green jobs can be viewed from two perspectives: through the lens of final output or through production processes. From an output perspective green jobs generate goods or provide services that benefit the environment. Examples include green buildings, clean transportation or solar-powered water-heating systems. The jobs involved are viewed as green even though the outputs may not be based on 100 per cent environmentally friendly production processes and technologies.

On the other hand, jobs can be green when they contribute to more environmentally friendly processes—for example by reducing water consumption, controlling air pollution or improving recycling services. Again, green jobs defined in terms of production processes do not necessarily produce 100 per cent environmentally friendly final goods or services.

As shown in Figure 12.1, green jobs do not automatically constitute decent work. Many current recycling jobs, for instance, recover raw materials and thus help to alleviate pressure on natural resources. These jobs would be in Circle A. However, the jobs involve a working practice that is often dirty and dangerous, causing significant damage to human health. Employment in this industry tends to be precarious and unprotected and workers' earnings are low. To be truly classified as green jobs, labour conditions need to meet decent work criteria³ (i.e. overlapping with Circle C in Figure 12.1). Thus, in the case of waste management, jobs would be 'green' if social protection measures were accessible and safety and health at work were ensured, whilst some kind of labour agreement lent employment security to workers engaged by collection companies. In the same vein, jobs involved in ensuring resource efficiency in bottling companies, for example, or applying clean production methods (Circle B), should meet decent work criteria if they are to qualify as 'green jobs'.

² This section largely builds on van der Ree (2017).

³ The ILO's definition of decent work includes (i) opportunities for work that is productive and delivers a fair income, (ii) security in the workplace and social protection for families, (iii) prospects for personal development and social integration, (iv) freedom for people to express their concerns, organise and participate in the decisions that affect their lives, and (v) equality of opportunity and treatment for all women and men (see the website <https://www.ilo.org/global/topics/decent-work/lang-en/index.htm> (accessed on 16 August 2018)).

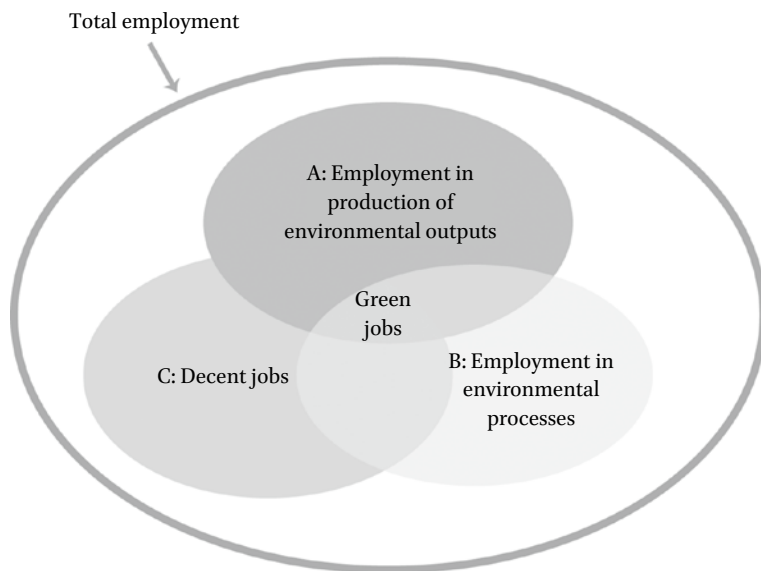


FIGURE 12.1 The Relationship between the environment and employment
SOURCE: ILO (2013a).

The inclusion of the decent work dimension in the concept of jobs linked to environmental sustainability is the defining element of the ILO interpretation of green jobs (Box 12.1).

The concept of green jobs relates to employment in economic activities in the 'green economy' (UNEP, 2011) that (i) are low in emissions of greenhouse

BOX 12.1 ILO definition of green jobs

Green jobs are decent jobs that contribute to preserve or restore the environment, be they in traditional sectors such as manufacturing and construction, or in new, emerging green sectors such as renewable energy and energy efficiency.

Green jobs contribute to:

- Improving energy and raw materials efficiency
- Limiting greenhouse gas emissions
- Minimizing waste and pollution
- Protecting and restoring ecosystems
- Adapting to the effects of climate change

SOURCE: ILO (2016).

gases, (ii) are efficient in resource use, (iii) maintain biodiversity and ecosystems and (iv) enhance social inclusion. Ultimately such activities should result in improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities.

In the context of the Agenda for Sustainable Development and the outcome of the Rio+20 Summit, the green economy is positioned as 'one of the important tools available for achieving sustainable development [...] that should contribute to eradicating poverty as well as to sustained economic growth, enhancing social inclusion, improving human welfare and creating opportunities for employment and decent work for all, while maintaining the healthy functioning of the Earth's ecosystems' (UN, 2012, para. 56). This signals that the green economy and green jobs are means of achieving the goal of sustainable development, rather than being ends in themselves.

In a similar fashion green jobs can be viewed as instrumental to achieving the targets of several of the Sustainable Development Goals (SDGs). Although SGD 8 is the most explicit about employment ('to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all'), jobs and improved working practices are key to achieving several other goals, notably SDG 12 on sustainable consumption and production, or SDG 7 on ensuring energy access for all.

The significance of social and employment factors that determine the successful achievement of sustainable development has been highlighted by a range of international agencies, notably the United Nations Research Institute for Social Development (UNRISD). In its contribution to the Rio+20 Conference (UNRISD, 2012), it argued for shifting the policy focus towards a 'social green economy'. This would require a more balanced policy approach between (i) providing compensatory measures for those negatively affected, (ii) maximising co-benefits in terms of green jobs, and (iii) fostering participation and ensuring rights. UNRISD also called for social policies that underpin environmental investments such as those in public transport systems or in retrofitting housing for energy efficiency, as well as for capacity building to access and use green economy technologies.

A more conscious effort to assess and correct the negative social impact of the green transition could also enable greater gender equality (ILO, 2017c). Green jobs are not by definition more or less accessible to women. However, environmental policies can have gender-balance repercussions due to the different sectoral impacts of low-emissions strategies. Men are more affected in shrinking extractive industries with predominantly male workers, and men are more likely too to become engaged in green construction. Women may benefit more from the growth of organic horticulture or waste management

in countries where the related workforce is female-biased. Investment in renewable energy in rural areas may ease the task for women to provide energy for the household. Dedicated, gender-sensitive labour market policies can play an important role in facilitating the adjustments and ensuring that environmentally sustainable jobs are decent and provide real opportunities for women.

The report by the Organisation for Economic Co-operation and Development (OECD) 'Investing in Climate, Investing in Growth' (OECD, 2017) acknowledges that the goal of reducing emissions can only be reached if governments take fully into account the social and economic factors that determine the success of ambitious climate policies. It argues for ensuring an 'inclusive transition' based on dialogue and consensus building among stakeholders, and stresses the importance of adopting active labour market policies to guide and facilitate the change. Similarly, the Global Green Growth Institute (GGGI) has included job creation as one of the six strategic outcomes of its refreshed mid-term strategy (GGGI, 2017). These are illustrations of the broad consensus that has emerged over the last six years or so from earlier negligence—at best—among international organisations regarding the key importance of the employment dimension of climate change action.

2.2 *The Employment Effects of Environmental Policies*

The visualisation of green jobs in Figure 12.1 also helps us understand the dynamic relationship between economic development and environmental sustainability. Recent sector studies using modelling techniques based on available statistics show how expanding sectors such as renewable energy provide for new job opportunities. In addition to the jobs directly created, employment will expand along supply chains and in service sectors. The incomes earned and consequently expanded consumer demand will induce yet more jobs. Together, the modelling suggests that this would add up to the aggregate job gain stemming from an investment in renewable energy (Montt et al., 2018). Long-term effects on employment can be even more positive if the productivity and growth of certain categories of enterprises increase, such as for small and medium-sized enterprises (SMEs) in rural areas, which would become connected to national electricity networks, or farmers adopting resource-saving technologies using local renewable energy sources.

Environmental regulation and new technologies regarding cleaner production, emissions reduction or nature conservation can in principle contribute to the creation of green jobs. However, they may also risk stifling economic activity or lead to the relocation of enterprises. In the latter case, the implications for workers and their families need to be anticipated and managed

through supportive labour market measures and social protection. This is particularly relevant in the energy and transport sectors.

Taken together, employment experiences multiple effects of climate change and the policies designed in response to it. Four types of changes in the labour market can be identified in Table 12.1 below.

TABLE 12.1 Current and expected effects on employment of climate change and green economy policies

| | Effects | Examples | Expected scale |
|---|--|--|----------------|
| 1 | New jobs will be created (in existing and new occupations) | Solar panel technicians, organic farmers, recycling managers, staff in eco-tourism resorts, workers in natural resource conservation and restoration, environmental advisers, workers in bicycle shops. | Modest |
| 2 | Certain jobs may be eliminated | Coal miners, worker in bottling industry adopting water and material-saving technology, staff of obsolete or prohibited packaging materials industry. | Small |
| 3 | Jobs will be substituted (occupations change) | Jobs in transport systems moving to rail, electric cars and shared vehicles, waste management jobs in landfilling/dumpsite moving to incineration and recycling, jobs in quarries for construction using new building materials and re-use of left-overs and waste. | Modest |
| 4 | Most jobs will be transformed (occupational profiles change) | Workers, operators and managers in greening sectors notable buildings, agriculture or transport: all learning to manage new technology and operating practices; workers in all sectors where energy and resource efficiency is introduced (cleaner production in manufacturing, retail services without packaging, bottle companies changing to new materials and products), staff in financial institutions adopting sustainable investment strategies. | Large |

SOURCE: ELABORATED FROM ILO (2011).

To guide policymakers and programme implementation, the ILO has undertaken a series of mapping studies to better understand and measure the impact on employment of climate change and policies for environmental sustainability.⁴ The ILO has published a Policy Brief (ILO, 2013b) and a Practitioners' Manual (ILO, 2017d) laying out the specifics and methodological steps involved.

The assessments—though similar in their objective—are unique, as they each follow a consultative approach with stakeholders to distinguish 'green' jobs from others in each key sector (see Box 12.2).

BOX 12.2 *Green jobs assessment, Mauritius*

In support of Mauritius's 'Ile Durable' initiative, the ILO supported an assessment of the prevalence and potential of green jobs in the country. It used the input–output table 2009 from the Statistics Office, disaggregated into sub-sectors defined as 'green', such as green agriculture, sustainable fishing, green textiles, recycling, green hotels, sustainable transport, or renewable energy. The analysis considered green jobs from three perspectives: (i) jobs that add value to green products and services, (ii) jobs in greening processes, and (iii) jobs contributing to natural resource conservation.

The study revealed that there are 35,000 green jobs in Mauritius, or 6.3 per cent of total employment. Most green jobs were found in electricity generation, with 23 per cent of jobs involving supplying bagasse from sugar cane production to electricity plants. In agriculture, 12 per cent of employment was considered green as well as decent. In textiles only around 5 per cent of employment was found to be green.

The potential for green jobs was modelled using output and employment multipliers for green sub-sectors in agriculture (sugar), manufacturing (textiles), tourism (hotels) and energy (renewable versus fossil fuel), thus evaluating the direct and indirect effect throughout the economy. Projecting an annual growth rate of 2.5 per cent of total output, 21,600 new green jobs would be created. This compares favourably to 15,250 jobs when assuming business-as-usual growth without increased green products and processes. In particular, the increase in employment in the renewable energy scenario would be twice as much as the effect of simulated output growth in the fossil fuel sector.

4 These include studies of China, Bangladesh, Mauritius, South Africa, Kenya, Senegal, Zambia, Tunisia, Namibia, India (State of Gujarat), Malaysia, the Philippines, Indonesia (forestry), Mexico, Uruguay, Peru and Argentina.

The differences between the green and the conventional growth scenario—as illustrated in the renewable energy sector—are due to the higher integration of green industries, and notably renewable energy-based activities, through linkages into the value chains of the Mauritian economy. Conversely, fossil fuels are imported and have much weaker linkages into the domestic economy, therefore generating less additional employment and value added in the country.

SOURCE: ILO (2015a).

The number of and trends regarding jobs related to environmental goods and services have been documented for a growing number of countries. For the US, the Bureau of Labor Statistics has concluded that, in 2010, the United States had 3.1 million green goods and services (GGS) jobs. GGS jobs accounted for 2.4 per cent of total US wage and salary employment (Bureau of Labor Statistics, 2010).

For the EU, a recent review asserts that the share of green jobs (defined as employment in the environmental goods and services sector) in total employment increased by around 37 per cent from 2002 to 2011 (Pociovălișteanu et al., 2015). In 2012, around 4.2 million people across the European Union (EU) were employed full-time in the environmental goods and services sector, with a large share of these jobs found in natural resource management. A panel review with data for EU countries from 2005 to 2013 shows that the growth rate has been positive in almost all countries, with the share in overall employment reaching 2 per cent. A particularly rapidly growing sector is waste recycling, with an increase of 45 per cent in 2000–07 (Altenburg and Assmann, 2017).

Other international organisations have become more active in monitoring trends and providing forecasts regarding employment in the green economy. One such example is the renewable energy sector, which is rapidly growing worldwide in terms of output. The International Renewable Energy Agency (IRENA, 2018) reports annually on global employment trends in renewable energy and asserts that global employment has grown substantially in recent years reaching an estimated 10.3 million jobs⁵ in 2017 (see Figure 12.2).

5 The estimates reflect annual data collection efforts based on a wide range of sources, including government agencies, industry and NGO studies, academic reports, and interviews with experts. Inevitably however, the underlying methodologies vary and data gaps remain.

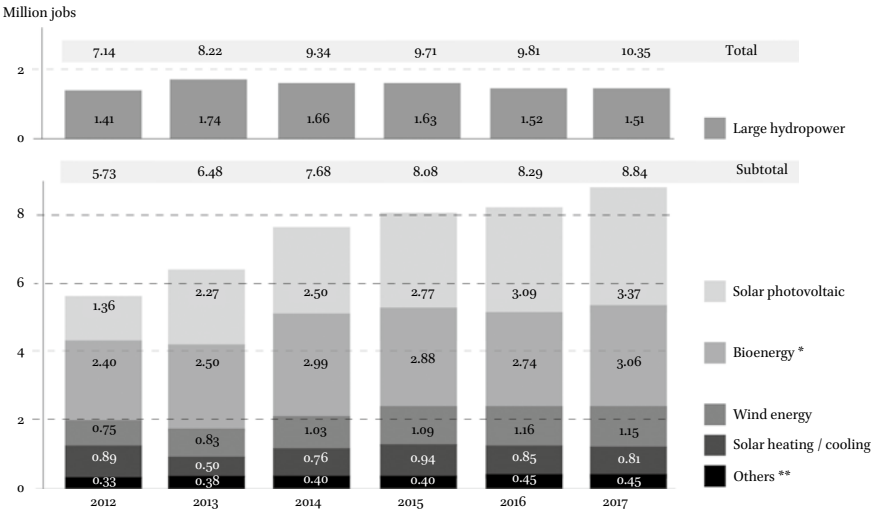


FIGURE 12.2 Global renewable energy employment by technology, 2012–17
SOURCE: IRENA (2018).

* includes liquid biofuels, solid biomass and biogas
** other technologies include geothermal energy, hydropower (small), concentrated solar power (CSP), heat pumps (ground-based), municipal and industrial waste, and ocean energy.

2.3 The Skills Needed for Green Jobs

The anticipated shifts in the labour markets of economies with carbon-intensive or high-emitting sectors will have a significant impact on skills needs. A global review of 21 countries, published by the ILO and the European Centre for the Development of Vocational Training (CEDEFOP) in 2011, found a frequent and significant gap between the skills levels required for jobs in green sectors—in particular renewable energy, green buildings, and manufacturing—and the training and competency standards provided by national vocational and tertiary institutions (ILO, 2011). This mismatch has effectively slowed down the advancement of green investment and enterprise development, as illustrated in countries such as Kenya, where 80 per cent of the technicians needed to build and operate a new wind farm—the largest in Africa—were recruited on the international market (PAGHC, 2017). Skills shortages, including those necessary for the creation and management of small enterprises, hinder the proliferation of investment in renewable energy in Africa in general, with only 30 per cent of the population having access to conventionally-generated electricity. In addition, skills training significantly enhances the employability and productivity of workers engaged in large-scale public employment programmes for environmental protection, such as evidenced by South Africa’s

Expanded Public Works programme ('Working For') and Brazil's Bolsa Verde initiative (UNFCCC, 2016).

An increasing number of countries are adopting environmental legislation that makes reference to skills development. Recent national employment policies too include provisions for adapting skills systems, with more technical and vocational training for green jobs (van der Ree, 2017). An ILO survey of 2016 among 27 countries worldwide found that 19 had set up stakeholder platforms to anticipate skills needs and the provision of adequate training. But these efforts are hampered by a lack of consensus regarding the definition of skills for green jobs and by limited capacities for assessing the changing need for skills (ILO, 2018). Consequently, skills development policies in support of transition still have a short-term horizon and are implemented on a limited scale.

Countries with well-established labour market policies and effective Technical and Vocational Education and Training (TVET) institutions that are engaged with the private sector have adapted much quicker to the changing need for skills. In Germany and France, for example, the greening of the building sector has been much facilitated by a responsive training system adjusting curricula and introducing new green certification courses at an early stage.

3 Managing the Transition for Enterprises, Workers and Communities

The analysis of employment trends over the last decade undertaken by the ILO, the EU, the International Renewable Energy Agency (IRENA), the OECD and others consistently shows that employment in environmentally related sectors and industries is significant and, in many countries, growing. It also suggests that commitments to targets for emissions reductions consistent with the 2015 Paris Agreement and related policies and investments for green growth do not necessarily hurt jobs at the aggregate level. But the effects on labour markets will often be sector-specific and spatially concentrated in areas with resource-intensive industries. Many of these effects can be anticipated, but others may come as a relative shock when environmental policies change due to abrupt political changes.

Some policies will lead to the reduction of economic activity and value added in high-emitting sectors, hence leading to a loss of jobs. Whether the reallocation of workers towards alternative jobs in expanding industries, for example renewable energy, will offset this loss is dependent on factors such as the flexibility of labour markets, the alignment of incentives for investing and engaging workers in low-carbon sectors, and supportive measures by

governments that seek to ease the transition. These challenges may be more important in emerging economies with a greater share of carbon-intensive industry, which also employ mostly low-skilled workers (OECD, 2017).

The ILO and OECD reviewed 24 available studies and the employment effect of environmental policies. They found that, in general, the net employment effects were positive, albeit modest. In countries where environmental policies were combined with well-designed supportive measures such as subsidies, fiscal incentives and sector promotion, as well as with active labour market measures, job outcomes were better (ILO and OECD, 2012).

The review also found that potential losses of employment were largely confined to high-emission, polluting industries, which often employ only a small portion of the total workforce. The top ten polluting industries, which are also responsible for the lion's share of emissions in the EU-25 countries, were only responsible for around 15 per cent of total employment (Figure 12.3).

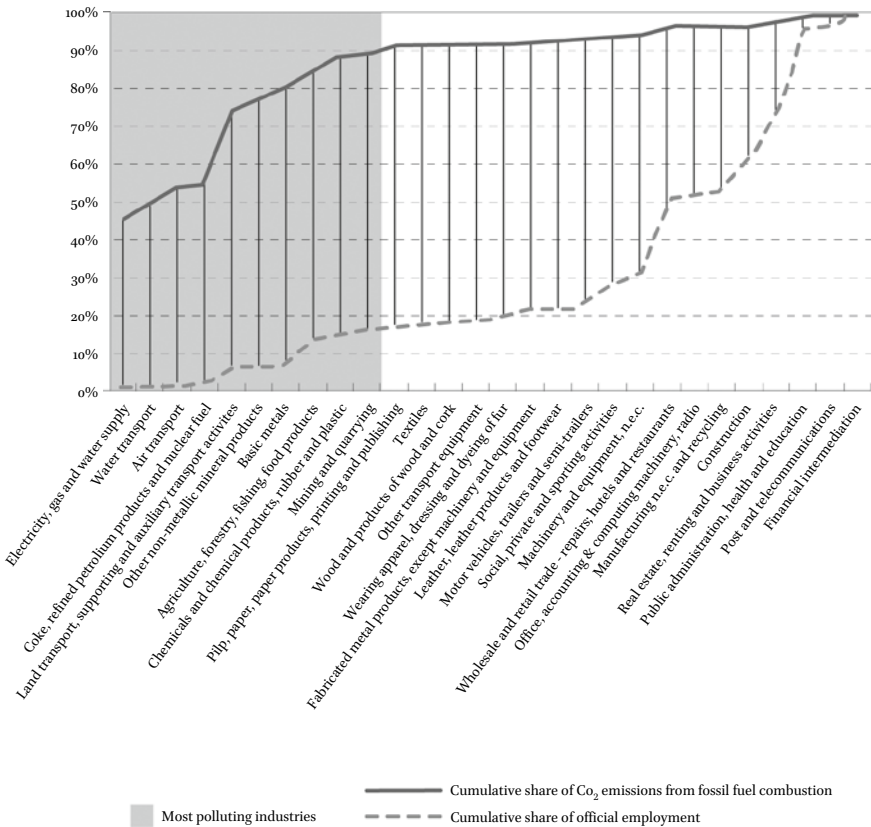


FIGURE 12.3 CO₂ emissions and employment, EU-25, 2005
SOURCE: ILO AND OECD (2012).

Further analysis of the educational profile and professional experience of workers in high-emitting industries shows that their skills level is generally lower. This implies that, for those workers, the transition to other jobs may be more difficult and possibly more costly in terms of unemployment payments, relocation and retraining (see Box 12.3).

BOX 12.3 *China's employment transition*

To address industrial overcapacity and achieve CO₂ emission targets, the Chinese government ordered the closure of a series of coalmines, metallurgic industries and electricity companies in 2016 and 2017. As a result, at least 1.8 million workers employed in those industries would lose their jobs, with further negative effects on surrounding local economies due to the reduction in consumer demand.

At the national level, the government designed a package of measures. These included:

- A re-employment training subsidy, a start-your-business subsidy, enhanced public employment services, including job fairs.
- Early 'internal' retirement for workers less than five years away from retirement age, with enterprises remaining responsible for workers' 'subsistence' during these bridging years.
- Social protection and medical and pension benefits for employees of closing enterprises.
- Public Employment Projects to help individuals find re-employment, in which the government provides a subsidy for salaries and subsidies for social services.

In addition, the government induced enterprises to take on their own responsibilities by obliging them to absorb laid off workers, using new technologies and focusing on the enterprise-internal service sector. In return for these efforts, enterprises received preferential treatment and tax incentives. Enterprise-based HRD departments should undertake active labour market mediation, including helping individuals to start their own enterprises whilst keeping their formal labour relationship with the firm. These firms received subsidies for these start-ups.

The national government budget for these efforts stood at Yuan 10 billion (or US\$ 1.5 billion) in June 2017, to which funding from provincial governments was added. A total of 726,000 workers in 28 provinces and 2,000 enterprises have been re-employed or assisted in other ways since the measures came into force in 2016. Good examples, where a re-employment plan had been discussed and agreed before employees' contracts were terminated,

include the iron and steel industries in the city of Wuhan, Hebei province, and the steel industry the city of Hangzhou, Zhejiang province.

China, having adopted green, clean development as one of the key priorities of its 2017–22 Development Plan, has begun addressing the particular challenge of the green transition.

SOURCE: VAN DER REE (2017).

For the US, the Political Economy Research Institute (Pollin and Callaci, 2016) has estimated the scope and costs of supporting the transition of workers and communities that are currently dependent on domestic fossil fuel production. Essentially, it calculated the budget required for (i) income, retraining and relocation support for workers facing retrenchments from fossil fuel based industries, (ii) guaranteeing the pensions of workers in the affected industries, and (iii) setting up effective transition programmes in affected communities.

Forecasting a downsizing of the US fossil fuel industry coherent with the CO₂ emissions reduction targets set by the Intergovernmental Panel on Climate Change (IPCC), the impact on the supply chain and downstream energy production was calculated. Coal, gas and ancillary industries are, together, estimated to employ around 750,000 people. In the adopted emissions reduction scenarios around 450,000 jobs would be at stake. Of these, by far the greatest part—83 per cent of jobs—are held by workers who could retire in the projected period. The remaining 17 per cent would have to be redeployed in renewable energies or other sectors. Together with funding for the pension provisions of retired workers over the long term and transitional support for affected local economies and communities, the total cost would be USD 600 million per year.

The International Trade Union Congress (ITUC) has long advocated for a just transition. In 2016, it established the Just Transition Centre with the intention of being a clearing house and proponent of strategies and tools for national governments and local actors, with a focus on workers' organisations (ITUC, 2016). It intends to bring together workers, employers, communities and governments to undertake social dialogue in order to shape the pathway to a just transition, understood as 'an economy-wide process that produces the plans, policies and investments that lead to a future where all jobs are green and decent, emissions are at net zero, poverty is eradicated, and communities are thriving and resilient' (ITUC, 2017, 6).

Indeed, there is a strong case for learning from earlier transitions, such as those related to coal mining. The Institute for Sustainable Development and International Relations (IDDRI) and Climate Strategies are leading a research and dialogue project on the future of coal. Their review includes cases from Spain, the UK, the Netherlands, the US, and the Czech Republic and Poland, and has included the drawing up of detailed policy recommendations to plan and manage the closure of mines (Caldecott et al., 2017). The ILO's Green Jobs programme is actively supporting the piloting of just transition approaches in a learning-by-doing approach in the Philippines, Ghana and Uruguay.

3.1 *ILO Support for a Just Transition*

Throughout its history, the ILO has promoted social justice in all major economic transitions. This mandate has shaped the role of the Organization in helping to ensure that economic growth policies generate opportunities for decent work and social protection for all—in other words are just and inclusive. In the current context of climate change, social justice underpins the imperative of a 'just transition' of the workforce and the creation of decent work and quality jobs, which are also reflected in the 2015 Paris Agreement.

The Green Jobs Initiative⁶ was launched in 2007 to promote opportunity, equity and a just transition to sustainable economies, using social dialogue to shape coherent policies for a green economy with green jobs and decent work for all. It led to the creation of a dedicated, resourced programme of work on Green Jobs in 2008, with a mandate to work across the ILO to raise awareness and rally support for the promotion of green jobs.

3.2 *Diverging Political Positions*

Even though the Green Jobs Initiative was conceived and driven by a tripartite ILO partnership together with the United Nations Environment Programme, the policy consensus with regard to the full integration of climate change in the work of the Organization still had to be forged. The differences among certain member states and the diverging positions of employers' and workers' organisations became visible in the debates at the Governing Body leading up to the Rio+20 Conference. A number of representatives of the G77 group, opposed to the terms 'green economy' and green jobs, suggested adopting the concept

6 A partnership between the International Trade Union Confederation (ITUC), the International Organisation of Employers (IOE), the ILO and the United Nations Environment Programme (UNEP).

of sustainable development instead.⁷ The Employers' representatives also expressed a fear that separating 'green' from other forms of enterprises would lead to the stigmatisation of the latter as undesirable firms in terms of their environmental impact. They argued that the aim should not be to promote green enterprises and green jobs per se, but to work with the entire private sector towards more resilience and higher resource efficiency. This position reflected the concern in the private sector regarding strong environmental regulation from governments, particular in industrialised countries. In parallel, member states with emerging economies called for an enabling global policy environment (for trade openness and transfer of and access to technology and finance) without making the degree of 'greening' a condition of or obstacle to trade and their own economic growth.

Meanwhile, the workers' representatives argued consistently for a proactive role from the ILO, following the trade unions' own resolution on 'Combating Climate Change through Sustainable Development and Just Transition', at their second Congress, in Vancouver, 2010 (Rosemberg, 2013).

Despite these differences, the policy discussions on the ILO's Governing Board did not, in essence, reveal a fundamental disagreement at the level of the Organization with regard to the rationale for addressing the impact of climate change on the world of work. Rather, the debate was focused on how links to the decent work agenda could be made, what the unique value added by the ILO would be, and whether this would eventually lead to a new international labour standard regarding social justice in the context of the transition. A compromise was found, with the agreement to hold a General Discussion at the International Labour Conference in 2013, which would shape the policy agenda and review the available ILO instruments that might support a just transition.

At the same time, the parties to the United Nations Framework Convention on Climate Change (UNFCCC) included a specific reference to decent work in the 'shared vision' for a future global climate agreement, in Cancun, 2011. The year after, the Rio+20 outcome document—'The Future We Want'—established the key role of decent work for sustainable development in a dedicated chapter and through numerous cross references (UN, 2012). It identifies the concept of a green economy as one of the pathways to sustainable development and stresses that such an approach must lead to social inclusion and the creation of employment and decent work for all. It also acknowledges

7 This is consistent with the deliberations that led to the final Rio+20 outcome document—'The Future We Want' (UN, 2012).

'the importance of efforts to promote the exchange of information and knowledge on decent work for all and job creation, including green jobs initiatives and related skills, and to facilitate the integration of relevant data into national economic and employment policies' (UN, 2012, 29).

3.3 *ILO Follow-up to Rio+20 and Anticipation of the Paris Climate Agreement*

In the wake of Rio+20, the International Labour Conference of June 2013 adopted a landmark resolution with a set of conclusions on the relationship between sustainable development, decent work and green jobs (ILO, 2013a). The conclusions set out a common vision for achieving decent work, green jobs and sustainable development and provide guiding principles for the greening of economies, enterprises and jobs. Although not an international labour standard or convention that requires ratification by member states, the outcome signified the agreed normative guidance to constituents on how to effectively deal with the implications of climate change and environmental degradation for the labour market and for social protection.

The adoption and follow up to the 2013 conclusions also accelerated the mainstreaming of environmental concerns across all policy outcomes and country programmes within the ILO, leading to the inclusion of environmental sustainability as one of the four cross-cutting policy drivers in the Organization's Programme and Budget 2018–19 (ILO, 2017b).

The 2013 conclusions also define a basic policy framework to ensure a just transition for all. As a follow up, the ILO issued guidelines for a just transition towards environmentally sustainable economies and societies for all, formulated by a tripartite meeting of 24 experts, held in October 2015 in Geneva (ILO, 2015b). The Guidelines provide detailed suggestions in eight distinct policy areas to support national capacities for the design and implementation of transition measures, with the creation of decent work, poverty eradication and social inclusion.

The notion of just transition for the workforce was included in the preamble of the 2015 Paris Agreement. In turn, this led to the creation of an ad hoc UNFCCC Technical Expert Group on the impact of the implementation of response measures (UNFCCC, 2016).

In preparation for the ILO's centenary celebrations in 2019, seven Centenary Initiatives were launched, including the Green Initiative. The Director General devoted his personal report to the International Labour Conference of 2017 to 'Work in a Changing Climate' (ILO, 2017a). As part of the Green Initiative, the 2018 edition of the annual ILO World Employment and Social Outlook report

(ILO, 2018), ‘Greening with Jobs’, was entirely devoted to the employment dimensions of the evolving green transformation, in both quantitative and qualitative terms. The report brought together fresh analysis at global, national and sectoral levels with regard to job gains, losses and transformations—where possible, disaggregated by gender. It was a timely contribution, in particular for countries turning their nationally determined commitments (NDCs)—made under the 2015 Paris Agreement to reduce emissions—into feasible national strategies and sectoral action plans.

3.4 *Drivers of the Green Policy Agenda*

There have been few comparable issues that have risen so rapidly on the ILO’s policy agenda. In a span of ten years environmental sustainability has become a central policy concern, among others, and a structuring element for a growing number of operational programmes with dedicated staff.

The changing international context around climate change and the adoption of the SDGs has certainly helped catalyse this process. ILO constituents too are more conscious of the increasing threats of climate change, pollution and natural resource depletion. The proactive role of the International Trade Unions Congress has had a particularly dynamic effect in promoting climate change to its place high on the ILO’s policy agenda. Despite different interests and sometimes opposing views, workers’ and employers’ delegates have been able, with the support of member states, to find a political compromise in the form of a Resolution with Conclusions and non-binding guidelines on a just transition, rather than developing a new international labour standard.

The changing landscape of international development assistance towards climate-related finance, especially the creation of the Green Climate Fund, has catalysed efforts to make the ILO eligible and ‘fit for purpose’ for obtaining climate finance.

Other, more internal factors have also contributed to the matter’s rise in organisational priority—and popularity. Two successive ILO Directors General over 15 years with a deep concern for environmental sustainability showed strong political commitment to articulate the link with decent work at the highest organisational level. The Secretariat pursued a pragmatic approach combining high external visibility through flagship reports with strong internal advocacy and expanded staff capacity building. A strong emphasis on team work for knowledge sharing and the creation of synergies for the promotion of green jobs—as opposed to building up a stand-alone programme—has enabled a rapid proliferation across key departments and Field Offices. Finally, a consistent capacity building programme for increasing relevant

competencies among staff has facilitated the intended mainstreaming of the green jobs agenda.

4 Conclusion

The success of achieving the goals of the 2015 Paris Agreement is predicated on the societal agreement to adopt deep changes in patterns of consumption and production. The required structural changes in economies will entail sectoral shifts and new business models. The effects on the volume and structure of employment will be unequally distributed across segments of labour markets. Supportive policies can cushion and facilitate the adjustment. At the same time, policies that stimulate innovation and entrepreneurship whilst generating well-educated workers can in themselves help trigger a faster transformation.

But the question of whether the loss of jobs will be offset by gains in emerging sectors and through improved business practices is not simply a mathematical equation. Those who stand to lose their jobs do not necessarily have the necessary access and capabilities to seize new employment opportunities. From a social equity perspective, the real issue to address is the distributional implications, across and within countries, of the transition to a low-carbon, climate resilient society. The factors that set this transition apart from other structural changes in society are its global scale and its urgency. The achievement of the emissions reduction target for a climate change scenario not exceeding 2 degrees Celsius will depend on the speed of a successful transition. As Schmitz puts it: 'this is the first transition in history that has to be achieved purposely and with a deadline' (Schmitz, 2015, 170).

From an initial ad hoc engagement on environmental sustainability at the time of major global conferences and events, the ILO has shown a more consistent and increasingly strategic focus over the last decade. Its work has helped improve global recognition of the significance of employment and the critical role of the actors of the world of work. This is perhaps most convincingly reflected in the adoption of the 'imperative of a just transition of the workforce' in the 2015 Paris Agreement and the incorporation of environmental sustainability as a cross-cutting policy driver in the entire spectrum of the Organization's work. As national governments become more engaged in setting the policy framework and designing sector reform in order to attain the emissions reductions each of them has signed up to in the 2015 Paris Agreement, they come to realise the intricacies of labour markets and the

need to buffer shocks and facilitate the adjustment of enterprises, workers and communities.

Internally, the ILO has been successful in creating consensus, building operational capacity and rallying policy support for considering climate change and the greening of the economy throughout its departments and Field Offices. Progressively, the concept of 'green jobs' has been adapted and integrated into work programmes, in particular those related to employment promotion, skills upgrading and enterprise development. Most importantly, the concept has helped overcome the false dilemma of promoting jobs versus saving the planet.

The task ahead, however, goes far beyond assessing the number and quality of jobs affected or created by climate change and the related policies. Given the expected sectoral shifts in the economy there is a growing demand for anticipating and managing the distributional implications for employment and the equity of environmental policies. Incidentally, these changes will also reinforce domestic and international migration trends, bringing with them yet other policy challenges in terms of national security, resettlement and social inclusion.

A more systemic approach must embed environmental aspects in all areas of work in order to further enhance the ILO's relevance to the future world of work and its appeal to constituents and funding partners. This would certainly apply to employment promotion, sustainable enterprise development, entrepreneurship promotion and skills upgrading, etc. But new boundaries will need to be crossed to shape social protection policies and mechanisms in the context of vulnerabilities to climate change, for example, and enlarge the scope and outreach of safety and health in existing hazardous work—such as waste management—and new green economy occupations. The renewed attention to improving the productivity of firms and workers should incorporate a drive to enhance resource productivity, seeking to maximise synergies through employer–worker cooperation, among other approaches. In a broader context, work on promoting and enforcing labour standards through factory-level compliance along global supply chains could be reinforced by joining similar initiatives on environmental standards—such as Better Cotton.⁸

Averting the worst impacts of climate change and keeping the use of resources within planetary boundaries compels all international organisations to undertake a fundamental reflection regarding their role. For the ILO, this challenge is essentially a call for ensuring social justice in the evolving

8 See the website <http://bettercotton.org/> (accessed on 11 June 2018).

transition and chartering the course towards a sustainable future that is decent and green for all.

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Redefining Working Conditions in Europe

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Abstract

By the standards of the International Labour Organization (ILO), working conditions in Europe are relatively enviable. This chapter, however, highlights a number of trends that are both counterproductive for companies and harmful for employees and the community. Over the past twenty years, the conditions and forms of work organisation have been changing in ways that no longer meet the evolution of the working population. In particular, they no longer match the high and 'expressive' expectations of ever more qualified employees, the increasing number of women in the labour market, changing lifestyles and an ageing workforce. During this time, the notion of 'quality of work' has sometimes been high on the political agenda. It is now being taken into consideration at the European level thanks to the new European Pillar of Social Rights and the concept of sustainable work. This chapter explores academic and political discourses on the quality of work and provides a review of working conditions in Europe and current challenges in this area. It is based on successive waves of the European Working Conditions Survey (EWCS) conducted by the European Foundation for the Improvement of Living and Working Conditions (Eurofound). In conclusion, we ask whether the notion of sustainable work can be incorporated into the ILO's forward-looking approach and become a decisive factor in the future of the world of work.

1 Introduction

By the standards of the International Labour Organization (ILO), working conditions in Europe are far from problematic. Admittedly, seen from a long historical perspective, they have steadily improved and are even extremely enviable in comparison with those prevailing in other regions of the world. Nevertheless, the record of the world of work in Europe is far from unblemished and active players in that world, whether associated with the state or not, need to be attentive to the trends of the past twenty years. Working conditions seem to be evolving in a way that seems to fly in the face of workers' expectations: job insecurity has increased, loss of meaning and lack of recognition prevail in many professional environments, and psychosocial and musculoskeletal

problems have become alarmingly widespread. These developments are not favourable to workers or to companies, which are now obliged to struggle with absenteeism, the lack of commitment of their employees, and difficulties in retaining staff. Virtuous practices cannot be prescribed by law. They are driven by environments conducive to their development. At the societal level, working conditions must also remain compatible with the ageing of the working population and the lengthening of careers. In addition, the transformation of lifestyles and the full participation of women in the labour market require a new balance. To reflect current working conditions in Europe, this chapter traces the fluctuations of the political commitment to the quality of work, analyses a series of indicators representative of the state and evolution of these conditions and, by way of conclusion, raises a number of contemporary issues in this area at the level of Europe and the ILO.

2 From the Quality of Work to Sustainable Work

For twenty years, questions and debates about working conditions in Europe have successively focused on three concepts: quality of work, flexicurity and sustainable work. As a major focus of the European Union's (EU's) economic and development policy between 2000 and 2010, the Lisbon Strategy set itself the goal of creating 'more and better jobs'. But following the failure of its implementation, and the global financial crisis of 2008, another approach to work emerged: flexicurity. Recently, the notion of sustainable work seems to have prevailed. It offers a more convincing response to an ageing population, to the desire to increase the proportion of older workers in the labour force, and also to the marked increase in musculoskeletal and psychosocial problems among workers of all ages.

2.1 *Interest in the Quality of Work is Gradually Overshadowed by Flexicurity*

Since the 1980s, the world of work has undergone profound changes. New forms of work organisation (NFWO) have gradually been put in place and have considerably modified both the way of working and the criteria for defining the quality of work. The industrial model, the Fordist company, and bureaucratic red tape have given way to new modes of organisation seen as better adapted to the challenges of an ever evolving globalised economy. These NFWO are based on flexibility, networks, technologies, just-in-time flows, customer strategy, quality, diversification and customisation.

In tandem with this, the profile of the workforce has changed: women are increasingly present in the labour market and the average level of workers'

qualifications has increased. Workers are now seeking to make sense of their professional activity; they need recognition and they aspire to personal growth and development. So-called 'expressive' expectations of work have gradually assumed considerable importance (Méda and Vendramin, 2016). But NFWO have provided only very partial answers and, as a result, generated new fractures in the world of work, most often related to job status and opportunities for self-fulfilment.

These changes have occurred in a context in which the economic position of certain social groups—including the young and the least qualified—has become chronically insecure. Their increasingly evident malaise is indicative both of their dissatisfaction and of some of the dysfunctions that prevail in organisations. When work no longer guarantees long-term economic security and leads to dissatisfaction, thus undermining the physical and mental health of workers—musculoskeletal and psychosocial disorders have become more widespread over this period—its 'quality' inevitably becomes a political issue. But this concept of quality of work is complex and reflects a specific way of considering reality and the compromise that binds all those involved together.

Since the beginning of the new millennium, many researchers have tried to define and measure the quality of work. They have proposed many indices and definitions that inevitably highlight the multidimensional nature of the notion of quality of work and employment. Eurofound (2002 and 2012), for example, suggested a model with four dimensions: wages, the quality of the working contract, working time, and the intrinsic quality of the work (skills development, physical environment, social environment, work intensity). For their part, Francis Green (2006), Andrew Brown et al. (2007) and Francis Green and Tarek Mostafa (2012) have highlighted the content of work, working conditions and conditions of employment (including wages). The Laeken indicators, introduced by the European Union in 2001, are based on a set of ten dimensions that cover the labour market, working conditions and social policies (Davoine et al., 2008). The concept of 'decent work'—developed by the ILO—focuses more on labour law, social protection and social justice, all themes consistent with the global reach of the ILO's work (Ghai, 2003). Many other studies have proposed definitions and indices relating to the quality of work, including Rafael Muñoz de Bustillo et al. (2009), Holman and McClelland (2011), and the European Trade Union Institute (Leschke and Watt, 2008) and its Job Quality Index (JQI). This academic effervescence has highlighted the multidimensional nature of the concept, but also the fact that it lies at the crossroads of research, public policies and ethics. Quality of work remains difficult to define because the different social players do not agree on any of its many components, and this definition involves a certain conception of work.

Thus, the fact that European politicians have chosen to favour the concept of job quality rather than that of decent work is not just a question of semantics. Prieto and Serrano Pascual (2014) saw this decision as a way of depoliticising the social question. Naming a social fact contributes to producing it as a political phenomenon. Therefore, treating work from the point of view of dignity or decency rather than of quality reflects, in the view of these authors, a shift from the notion of justice to that of efficiency. The political issues associated with this shift in perspective are important. The concept of decent work is based on a vision of social justice and involves a certain moral judgement. Born of the desire for social reformism that prevailed at the end of the nineteenth century—at the time of the invention of the welfare state and in the wake of the workers' movements—the idea of decent work comes with a normative ambition: to develop the social rights of work and workers. In contrast, the fuzzy, relative, and multidimensional concept of job quality is closely related to its economic effects on productivity and profitability. In the European strategy, improving the quantity and quality of jobs is the element needed to connect a competitive economy with greater social cohesion. The 'quality' promoted and recommended refers, in essence, to the application of good practices. For Prieto and Serrano Pascual, the notion of job quality—unlike that of decent work—tends to dissociate the issue of 'good work' from the social question and to favour a 'logic of recommendations of good practice' rather than the demanding of certain rights. The European Commission, in the authors' view, has tried to replace 'decent work' with job quality; 'decent work' is more expensive to set up and much less compatible with its economic policy and its ideological frame of reference.

In the first decade of the new millennium, the theme of job quality spread beyond academia to become a matter of international economic policy, notably through the ILO's 'decent work' agenda and the Lisbon Strategy of the EU. Between the end of the 1990s and 2003, the EU implemented a seemingly ambitious employment policy and social agenda through various directives and the European Employment Strategy (EES). In 2001, job quality became a goal of the EES in its own right. But the political initiatives for the quality of work and employment came up against the principles laid down by the Organisation for Economic and Co-operation and Development (OECD) and subsequently by the European Commission, with the aim of placing competition at the heart of the European project. After the mid-term review of the Lisbon Strategy carried out in 2004 by Wim Kok, former Prime Minister of the Netherlands, the notion of flexicurity finally overshadowed the notion of quality of work.

In 2007, the European Commission published a communication entitled 'Towards common principles of flexicurity: More and better jobs through

flexibility and security' (European Commission, 2007). It defined flexicurity as 'an integrated strategy to enhance, at the same time, flexibility and security in the labour market' (European Commission, 2007, 10). The concept was appealing (Barbier, 2007; Serrano Pascual, 2008) because it allowed for the reconciliation of opposites and could become an objective for all member states, regardless of the specificities and traditions of each one (the idea was that each country could follow its own 'flexicurity course' adapted to the particularities of its labour market). However, flexicurity has essentially remained a political slogan that has resulted in more flexibility but little security (Bevort et al., 2006; Serrano Pascual, 2012). After 2008, the EU, faced with economic recession, abandoned its social objectives, including the quality of work.

With its 'Europe 2020' strategy (a growth strategy for Europe in the 2010s), the Commission focused on poverty at the expense of job quality, at the risk of allowing the latter to be drowned out by the issue of impoverished workers (Bothfeld and Leschke, 2012) and thus reducing employment to its instrumental dimension of ensuring livelihood and security of existence. The growing inequalities in Europe relegated the concern for job quality to the background. In a Europe deprived of a social project, the Commission has recently decided to implement an ambitious project for a European Pillar of Social Rights aimed at ensuring the proper functioning of labour markets and social protection systems. The future will tell whether putting working conditions back at the top of European priorities will actually improve the lot of workers.

2.2 *A New Perspective: So-called Sustainable Work*

In a context of demographic ageing, longer working lives, and the development of contemporary work-related ills, including musculoskeletal and psychosocial disorders, a new approach to working conditions has gradually moved out of the scientific field and into the political realm: long-term or sustainable work. This concept, which seemingly replaces that of quality of work, originated in the notion of sustainable development, defined in the Brundtland Report as follows: it is development that 'meets the needs of the present without compromising the ability of future generations to meet their own needs' (S, 1987, 39, para. 49). This approach has been applied to the way companies operate, and in particular to the nature of work.

The concept of sustainable work was born within the Swedish research programme SALTSA,¹ more specifically in the framework of the international research project 'From intensive to sustainable work systems' coordinated, from

1 The SALTSA programme is a joint undertaking by the Swedish confederation of employees (LO, SACO and TCO) and Sweden's National Institute for Working Life (now closed),

1996 to 2007, by the National Institute for Working Life (NIWL) in collaboration with labour organisations. The first studies produced by the researchers involved—who came from thirteen countries and eight scientific disciplines (including management sciences, ergonomics, sociology, software design, psychology and educational sciences)—were synthesised in a reference work entitled ‘Creating Sustainable Work Systems’ (Docherty et al., 2002). In this document, the notion of a sustainable work system refers to a system that can ‘maintain and reproduce the given human and social resources or even extend them’ (Docherty et al., 2002, 101), a definition consistent with a logic similar to that of the Brundtland Report.

Thus, unlike the so-called intensive work system, the sustainable work system must be able to regenerate and develop the human and social resources that it mobilises. When that reference work was being written, the intensive system seemed inadequate, since the organisation of work and the way in which the companies associated with it operated were putting increasing pressure on an ageing workforce. The field of reflection and action on sustainable work arose from these contradictory pressures.

The concept of a sustainable work system was originally sociotechnical in nature (Barisi, 2011). It was part of a vision that from the outset posited human activities as a place where human, social and environmental factors could overlap and the technical and ecological resources of the system be integrated into questions of well-being at work and of human resources (physical, cognitive, emotional and social). Subsequently, ergonomists and sociologists—among others—took it up and reformulated it from the problem of ageing at work (Gollac et al., 2008), a process in the course of which it lost its sociotechnical component. Moving into the scientific field, the concept of a sustainable work system gave birth to a reflection on the notion of sustainable work, which resulted in a refocusing on the quality of work, in all its dimensions, and a strengthening of the notion of individuals’ trajectories. The approach to sustainable work therefore involves taking into account the effects of working conditions—cumulative over time—and their relationship with private life in the long term. It combines the analysis of work and the focus on individuals as a whole, with all their characteristics, their trajectories and the constraints that weigh on them. In particular, this approach guided the creation of the Eurofound Work Programme 2013–16 as well as the 2016–17 campaign of the European Agency for Safety and Health at Work (EU-OSHA) entitled ‘Healthy Workplaces for All Ages’.

a government agency for the conduct of research, development and educational work on work-life issues.

The proponents of this new perspective still faced two conceptual challenges: agreeing on a definition of the quality of work and integrating the dynamic dimension of individuals' trajectories. These issues are both conceptual and strategic. The definition of the quality of work is being discussed in different scientific disciplines and in debates between public decision makers. And while the need to take into account the dynamic dimension of individual trajectories seems to be unanimously recognised, the operationalisation of this perspective is a complex scientific challenge and its implementation will require new approaches. The fraught national debates on arduous work accounts² reflect the difficulties in realising this perspective.

The authors of a report entitled 'Sustainable work and the ageing workforce' (Vendramin et al., 2012) include in their analysis framework a set of variables aimed at a better understanding of the sustainability of work. To the traditional parameters defining the quality of work (Eurofound, 2002), they add health variables and more subjective components connected with the relation to work. Their analytical framework, shown in Figure 13.1 in the form of a daisy-shaped graph, includes five axes:

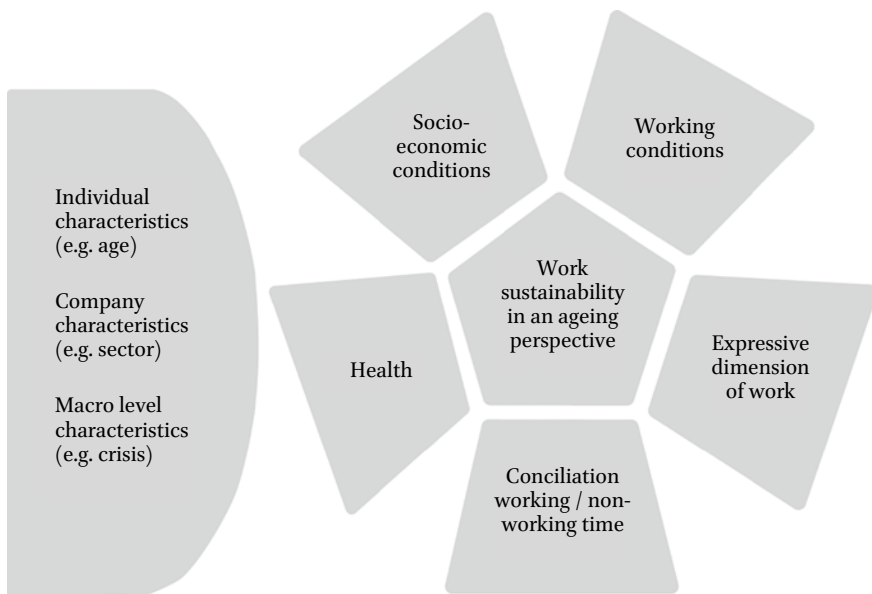


FIGURE 13.1 Work Sustainability from the Perspective of Ageing
SOURCE: VENDRAMIN ET AL. (2012).

2 For further information on arduous work accounts see the website <https://www.eurofound.europa.eu/publications/article/2017/france-occupational-personal-accounts-take-effect> (accessed on 31 July 2018).

- *socio-economic security*: job status and job security;
- *working conditions*: changes in work, exposure to risks, non-standard working time, flexibility, work pace and emotional pressure;
- *health*: physical health, psychological health and indicators of perceived health;
- *the expressive dimension of work*: autonomy, work content, job satisfaction, recognition, skills development and the social environment;
- *the balance between working/non-working time*: the balance between work and non-work commitments and arrangements relating to working time arrangements.

The following section provides an analysis of working conditions in Europe and their evolution along these five axes.

3 The Evolution of Working Conditions: A Halftone Portrait

The five-year Eurofound survey on working conditions is a valuable source of information on the evolution of working conditions in Europe, thanks to the richness of its questionnaire, the extent of its geographical coverage and the longevity of the arrangements that have underpinned it (since 1991). This section, structured along the five axes of sustainable work, includes some of its key indicators relating to the state of working conditions in Europe and their evolution over 25 years. It reports the data for the 28 EU countries (out of the 35 countries analysed in the survey)—that is to say, the result of 29,719 face-to-face interviews with employees and 5,491 with the self-employed (out of the 43,850 conducted for the entire survey). Unless otherwise indicated, all the data mentioned below relate exclusively to employees and come from the European Working Conditions Survey (EWCS) (Eurofound, 2016).

To account for the significant trends in Europe, we have deliberately favoured European averages, even though these may conceal significant disparities between countries, regions or groups of workers. This chapter is not intended to report systematically on these intra-European disparities.

3.1 *Diffuse Growth of Socio-Economic Insecurity*

Various indicators can testify to the socio-economic insecurity affecting the working population, including the four mentioned below.

The first is the form of the employment contract that binds employees to their employers. The fixed-term contract, the temping agency contract and those contracts that embody all the other statuses involve a finite period of work and, often, less access to the protection and social benefits to which the

standard full-time contract of indefinite length gives entitlement (coverage in case of sickness or invalidity, unemployment benefit, maternity leave, etc.).

According to the Eurostat Labour Force Survey (EUROSTAT 2016), temporary contracts accounted for 14 per cent of total employment in the EU-28 in 2016, but 32 per cent for the under-30s. A total of 62 per cent of the people concerned accepted these contracts because they could not find a permanent job. Part-time employment, which grew steadily, affected one in five European employees in the same year, but this figure concealed large disparities between countries and by sex. In addition, a large majority of young people entered the labour market through atypical employment. According to the 2015 EWCS survey, only 60 per cent of employees under 30 years of age were in permanent employment.

In 2015, 16 per cent of European employees lived in fear of losing their job during the next six months (11 per cent of employees on permanent contracts, but this figure was 43 per cent for employees on fixed-term contracts and 32 per cent for employees with other contractual arrangements). This indicator of socio-economic insecurity increased by three percentage points between 2005 and 2015. A number of prospective studies (Dickerson and Green, 2009; Green, 2015) have shown that, in most cases, it heralded significant job losses.

The second indicator is the number of employees who feel it would be difficult for them to find a job as well-paid as their current job, should they lose it. In 2015, almost half of employees expressed this feeling.

The third determinant of socio-economic insecurity, and arguably the most telling one, is the level of remuneration. The proportion of employees classified as in the lowest income quintile³ in 2015 was 13 per cent for permanent employees, but 31 per cent for fixed-term employees and 57 per cent for employees holding other types of contracts.

Finally, the fourth indicator is the proportion of workers' households that report having difficulties in 'making ends meet'—more than a third of the people at work in 2015⁴ (35 per cent, as against 38 per cent in 2010). These perceived economic difficulties were more common among employees with fixed-term contracts (48 per cent) or other contractual arrangements (52 per cent) than among permanent contract holders (31 per cent). According to the latest Benchmarking Europe report (ETUI, 2017), the number of poor workers⁵ in

3 In all, 20 per cent of those surveyed refused to answer this question: if we are to believe some of the multifarious analyses of these non-respondents, the incomes noted by the EWCS are too low.

4 The expression 'people at work' designates employees and the self-employed.

5 'Poor workers' are persons who have worked throughout most of the reference year but who live in a household whose income per unit of consumption falls under the threshold of the

Europe is growing (nearly one in ten workers in 2017), particularly among the self-employed, those with low qualifications (International Standard Classification of Education [ISCED] 0–2) and employees on temporary or part-time contracts. In addition, new forms of insecure employment will arise from the advent of the digital economy and the rapid proliferation of ‘small jobs’ available online (Valenduc and Vendramin, 2016), a phenomenon that Ursula Huws (2003) has described as the ‘cybertariat’.

Flexicurity thus seems not to have kept all its promises in the European Union. The employees most exposed to socio-economic insecurity are the holders of fixed-term contracts and, even more, the holders of so-called ‘atypical’ contracts, employees with low seniority, agricultural workers and those in ‘basic’ occupations, part-time employees, women—more than men—and older workers.

3.2 *Working Conditions*

The notion of working conditions has widened as certain aspects of working life have become more visible, were removed from the ‘naturalness of work’ and taken into consideration. Exposure to risk, non-standard working hours and work intensity will be covered here.

The health and safety policies of the member states of the European Union have long sought to eliminate—either totally or by substitution—the risks, in particular the physical risks, likely to harm workers’ health. But, as can be seen in Figure 13.2, technical progress and the spread of new technologies have not removed these physical risks from various work environments.

In 10 years, only exposure to tobacco smoke has changed significantly (11 per cent lower). Musculoskeletal disorders have spread. They now affect millions of workers and cost employers billions of euros (Eurofound, 2016). These disorders result from physical factors—such as repetitive movements, heavy loads, frequent bending and twisting, exposure to cold, and insufficient time for recovery—but also from certain psychosocial factors (da Costa and Viera, 2010).

The occupational groups most exposed to physical hazards are machine operators, manual workers and those in basic occupations. All other occupations are exposed to some of the most common physical hazards that, along with stress, can cause musculoskeletal disorders. For example, about half of managers, professionals and technicians (International Standard Classification of Occupations [ISCO] 1) say that they perform repetitive movements with their

risk of poverty, fixed at 60 per cent of the median income. See the website [http://ec.europa.eu/eurostat/statistics-explained/index.php/EU_statistics_on_income_and_living_conditions_\(EU-SILC\)_methodology_-_in-work_poverty](http://ec.europa.eu/eurostat/statistics-explained/index.php/EU_statistics_on_income_and_living_conditions_(EU-SILC)_methodology_-_in-work_poverty) (accessed on 31 July 2018).

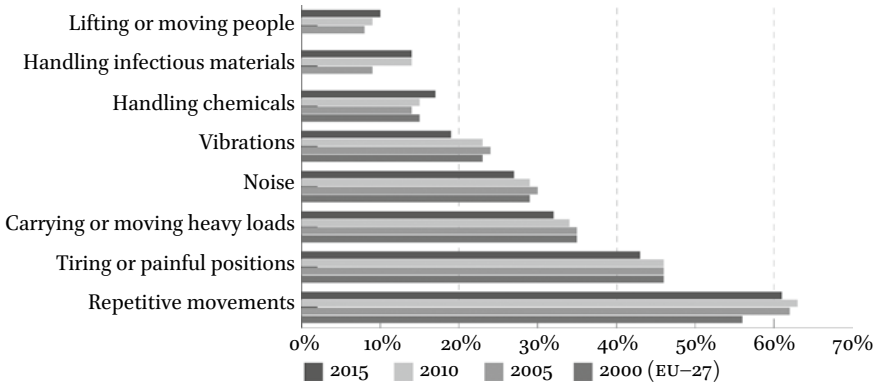


FIGURE 13.2 Exposure to Physical Risks
SOURCE: EUROFOUND (2016).

hands or arms for at least a quarter of their working time. In addition, more than 25 per cent of them say they have to adopt painful or tiring positions for more than a quarter of their working time. Workers in the services sector, meanwhile, have an exposure equal to or above the European average.

The fact that service and office activities also involve exposure to physical risks shows the need to continue to develop physical facilities in all work environments and to implement preventive programmes based on the actual activity of workers as a whole. In some work settings where activity is particularly intense, workers are not always able to adopt the safest behaviours. They may choose the quickest option, even if it is more ‘dangerous’.

In addition, some practices related to working time—long and irregular schedules and overtime, and schedules that are difficult to control or are unpredictable—may pose a health risk while others, such as flexibility when tailored to staff needs, provide real room for manoeuvre. These time factors can predict a poor balance between private and professional life. Atypical schedules may, however, be suitable for some people for personal reasons, and to others at certain stages of their lives.

Due to the increase in part-time work and the decrease in long hours, the average number of working hours has decreased. The number of people working long hours (more than 48 hours per week) decreased between 2005 and 2015, from 19 per cent to 16 per cent. Likewise, only 32 per cent of people at work said they had working days of at least 10 hours in 2015, compared to 36 per cent in 2005. But 23 per cent said they had, at least once during the previous month, worked two days in succession separated by a break of less than 11 hours.

Shift work is on the rise (four percentage points more in 10 years), as are working Sundays (two percentage points more, notably due to legislative

changes related to stores' opening hours). In addition, employees are working frequently on Saturdays—52 per cent had worked on a Saturday at least once in the month prior to the survey. Night work is practised at least once a month by 19 per cent of people at work.

In the majority of cases (56 per cent of people at work and 64 per cent of employees), the hours worked are determined by the employers—a figure unchanged for ten years. In all, 9 per cent of people at work (10 per cent of employees) can choose from several schedules and nearly 20 per cent of them can adapt their schedules. Only 7 per cent of employees (and 16 per cent of people at work) can choose their working hours freely. In seven out of ten cases, working hours do not change; 13 per cent of people at work have work schedules that change the same day or the day before; and 12 per cent of them can be called to work with very little prior notice.

Very regular schedules (i.e. working the same number of hours per day, the same number of hours per week and the same number of days per week with fixed times for the beginning and end of the day) involve just under half of employees (a little over a third of employees with atypical contracts). Work during one's free time is frequent: 19 per cent of European employees now work in their free time several times a month (and several times a week in 8 per cent of cases) to meet the requirements of their jobs. This figure conceals large disparities according to professional profiles: more than a third of the most highly-qualified white-collar workers see their free time encroached upon.

Finally, there is an increase in workload, and especially in the intensity of work. Employees have to work faster, carry out more demanding tasks, and have jobs that are richer in emotions: so they must reconcile a diverse set of factors regulating the pace of work, thus adding operational constraints and complicating their task. Especially over long periods, these new constraints have adverse consequences for the health and well-being of workers. According to the EWCS survey, 37 per cent of employees work 'to tight deadlines' and 34 per cent 'at high speed' for more than three quarters of their working time (figures that have not decreased since 2005). In addition, numerous epidemiological studies have shown that workers subjected to very intense activities have an increased risk of health problems (cardiovascular diseases, musculoskeletal disorders, depression, etc.), especially when they have to meet multiple demands while having limited autonomy and little support (Karasek, 1979; Karasek and Theorell, 1992; Siegrist, 1996).

3.3 *More Expressive Expectations, Not Necessarily Satisfied*

The instrumental component of work—security and income—remains essential, but professional activity has become a vector of social connection and the site of strong expressive expectations: to blossom in one's work, to develop

one's skills, to be recognised, to find meaning in one's work, to do useful work, etc. (Inglehart and Baker, 2000; Mercure and Vultur, 2010; Bigi et al., 2015; Méda and Vendramin, 2016). These expectations of development and personal fulfilment in work have become increasingly important since the 1950s. This relative effacement of the instrumental and painful dimension of work in favour of another dimension, more related to the activity itself and its consequences for the individual, took place in two stages. It was theorised in the nineteenth century (notably by Hegel and Marx) and came to fruition in the second half of the twentieth century, when the conditions for its implementation were met (Lalivé d'Epinay, 1994). According to Christian Lalivé d'Epinay, two essential events marked the history of the disappearance of the ethos of duty: on the one hand, the development of the welfare state and the idea that it is incumbent upon it to guarantee the well-being of its citizens, and, on the other hand—and above all—the explosion of economic growth that suddenly made accessible the utopia of work–pleasure; that is to say, the transformation of *tripalium* or work–duty into an instrument of self-realisation and self-expression. In this shift from an ethic of duty to an ethic of fulfilment, Lalivé d'Epinay sees a fundamental reversal: society is now at the service of the fulfilment of individuals who, before, found self-realisation in carrying out the mission with which society had entrusted them.

Some of the indicators in the EWCS survey relate to this expressive component of work: the use and development of employees' skills, autonomy and the social environment. The majority of European employees report that their job gives them job satisfaction (80 per cent) and have the feeling of doing useful work (84 per cent). But 16 per cent of them do not feel that they receive the recognition they deserve for their work and only 38 per cent think they have career prospects.

In these times of flexicurity and uncertainty, employees doubt their professional future and attach great importance to being able to use and develop their skills. Thus, 71 per cent of them say that their job involves learning new things, but this is not the case for the remaining 29 per cent. Nearly half of employees (46 per cent) say they perform monotonous tasks, but just as many feel they can apply their own ideas into their work (27 per cent sometimes and 25 per cent never).

Life-long training is a European issue in the 'Education and Training 2020' strategic framework. The survey shows that 41 per cent of employees received training paid for by their employers during the previous 12 months. The most qualified of them have access to more and longer-term training.

In terms of autonomy, the situations are contrasted. About 65 per cent of employees can choose or change the order of the tasks they have to perform, their working speed and the methods applied. Only a quarter of them have a

say in choosing their colleagues. The participation of employees in decisions concerning the organisational aspects that concern them remains limited: 44 per cent of them are consulted prior to their objectives being set; 44 per cent are involved in improving the organisation and work processes of their department; and 41 per cent have an influence on the important decisions that concern them.

Only a third of employees are autonomous in the performance of their tasks and also have the opportunity to be heard and to contribute to the development of the organisation. Conversely, 34 per cent have no opportunity to exercise their autonomy and contribute to the development of the organisation. The situation in this area is therefore still far from optimal.

Work can also be an opportunity to meet new people and belong to a professional community. In most cases, this experience is positive. But sometimes it is less so, especially when people at work are victims of certain forms of violence, when they are not supported by their colleagues or their superiors, or when they are placed under the authority of a manager unable or unwilling to help and encourage them.

For more than two-thirds of employees, the social climate in which they operate is positive: 69 per cent say that employees generally trust their management, 71 per cent say that conflicts are resolved in a fair way, 73 per cent feel that the work is distributed equitably and 82 per cent feel that management trusts the employees to do their job well. Finally, 89 per cent of employees say they work well with their colleagues.

Many employees benefit from social support within the company if a problem arises: 72 per cent of them say they have—always or nearly always—the support of their colleagues, while 58 per cent say they are supported by their superior in the hierarchy. They feel respected by the latter in nine out of ten cases; but 5 per cent of employees say they are never or almost never respected by this same superior. About seven out of ten employees appreciate the technical skills of their manager: 66 per cent feel that their superior is helpful in getting the job done better; 70 per cent say that their supervisor provides useful feedback on their work; 71 per cent say they are congratulated and recognised by their supervisor when they do a good job; and 73 per cent report that their superior is successful in getting people to work together. Just under seven in ten (68 per cent) feel encouraged and supported by their manager in their professional development. But this figure should not overshadow the fact that more than three in ten employees say they are poorly managed.

3.4 *Health Indicators Revealing the Ageing Labour Force*

The sixth EWCS survey provides a number of indicators on the perceived health and subjective well-being of workers based on the WHO-5 World Health

Organization index.⁶ This index assesses different aspects (positive mood, vitality and general interest) to calculate a score between 0 and 100. On average, the subjective well-being of workers is quite high in Europe (68 points out of 100). But a quarter of European employees (25 per cent) say that their health is threatened by their work; 41 per cent suffer from muscle pain in the shoulders, neck and/or upper limbs and 29 per cent from muscle pain in their lower limbs. The impact of working conditions on the health of workers is a significant cost to the company and the community.

Numerous other indicators measure the prevalence of certain symptoms (including sleep disorders, general fatigue, anxiety and stress) and provide a better understanding of how these disorders relate to certain organisational or occupational characteristics. Thus, 35 per cent of European employees suffered from general fatigue during the twelve months preceding the survey, 18 per cent from insomnia or sleep disorders (several times a week) and 15 per cent from anxiety. More women than men suffer from general fatigue, insomnia and sleep disorders. A significant proportion of European employees also report having been confronted with stress in the course of their work: almost 10 per cent 'always', 17 per cent 'most of the time', 40 per cent 'sometimes', 20 per cent 'rarely' and 13 per cent 'never'. More than one in four employees state that they are regularly exposed to stress in the course of their work. Exposure to stress differs with occupation. It is frequent in management functions (34 per cent) as well as in the category of professionals⁷ (29 per cent), among plant and machine operators (29 per cent) and among service workers and technicians, as well as clerks⁸ (26 per cent). Disparities between countries are also significant.

This survey highlights the fact that lack of time to do one's job is one of the main factors of stress. European employees who say they 'never' or 'rarely' have the time necessary to perform their work (55 per cent) also report being regularly confronted with stress in their jobs. Only 27 per cent of European employees say they have always enough time to do their jobs. It should be noted

6 For more information on the index, see the website <https://www.psykiatri-regionh.dk/who-5/who-5-questionnaires/Pages/default.aspx> (accessed on 31 July 2018).

7 This category includes the professions of engineering, architecture, research, management, marketing, IT, law, social sciences, culture, media; artists, doctors, nursing managers, chemists, dentists, paramedics, and those involved in any of the levels of education including training outside of the school environment.

8 This category includes those working in accounting, finance, property, commercial services, specialised secretaries, social workers, customs inspectors, those working in tax, the police, sports, arts and leisure activities; technicians in industry, in laboratory work, in transport, supervisors, inspectors, ICT and media technicians; technicians and assistants in medicine and the paramedical domain, nurses and midwives, and health officials.

that employees in structures that experienced significant restructuring or re-organisation during the three years preceding the survey were more likely to report being exposed to stress on a regular basis. The same phenomenon is observed in those who have recently experienced the implementation of new processes or new technologies or who report a feeling of insecurity in their jobs. Employees who fear losing their jobs in the next six months are thus more likely to declare themselves exposed to stress in their work.

Finally, the retention of older workers—which is essential for European economies—is highly dependent on working conditions. Based on 2010 data from the EWCS survey, the Eurofound report shows that the retention of the oldest employees in working life is strongly correlated with working conditions (Vendramin et al., 2012). The most unfavourable factors for such retention are a rapid pace of work, exposure to physical risks, painful postures, night work or shift work, a lack of balance between work and personal life, and, finally, being confronted with aggressive behaviour or harassment.

3.5 *The Return of a Balance between Work and Private Life*

For several decades, the work–life balance, formerly known as the work–family balance, has been a recurring theme on the job scene. This new term has not been chosen at random: the notion of balance questions work itself. The idea of work–family balance was essentially aimed at adapting private life to work—that is to say, supporting workers in their private lives so as to enable them to carry out their professional activities. This issue is again on the agenda in a context in which workers—especially the youngest of them—have a new relationship with their work.

Dominique Méda and Patricia Vendramin (2016) conducted a large-scale research project in six European countries,⁹ in which they highlighted convergences in the development of the work relationship. Two of these convergences relate directly to this quest for balance between work and private life. First, there is a rejection of the hegemonic place given to work and a desire to tackle projects in various fields. If work remains an important value for Europeans,

9 SPReW (Social patterns of relationship to work/Intergenerational dimensions in changing relations to work). European research carried out under the 6th Framework Programme for Research of the European Union. The research brought together eight partners and six countries (Germany, Belgium, France, Hungary, Italy and Portugal) from June 2006 to September 2008. It drew inter alia on a qualitative approach (150 narrative interviews and 18 group interviews in total) conducted in the six countries as well as on quantitative data from international (European Value Survey [EVS], European Social Survey [ESS], International Social Survey Programme [ISSP]) and national surveys. For more information, see the website <http://www.ftu-namur.org/sprew> (accessed on 19 June 2018).

they also express the wish to be able to flourish in other spheres of life that all contribute to the building of their identity—family in particular, but also friends, hobbies, social life and civic life. For both women and men, the hegemony of labour-value has given way to a multi-centred conception of life: this development makes it all the more necessary to redefine the modalities of the balance between professional life and private life—especially for expenses relating to care. Méda and Vendramin highlighted an increasing closeness between male and female models of commitment to work, particularly obvious in the case of younger generations of workers. This phenomenon could be defined as a feminisation of the masculine model coupled with a masculinisation of the feminine model. In their relation to work, young men seem more guided by expressive aims and by changes in the perception of their role as fathers. Despite a still very unequal division of roles, this new engagement of men in the family increases with the level of education of the male partner as well as in families where both partners are active. In addition, young women—who, on average, have a higher level of education than their male counterparts—are seeking to become fully engaged in working life and no longer perceive themselves as providing supplementary wages. Young women are increasingly building their social identity from their work. This convergence of gender models in the work relationship—especially for young graduates—is an incentive for human resources managers to question the retention of young graduates and to take into account the new types of compromises that young male executives are willing to make in order to balance working and family life.

According to the EWCS survey, 82 per cent of employees feel their work hours fit in with family or social commitments outside of work. This proportion has changed little since 2005. The remaining 18 per cent believe, on the contrary, that their working hours do not suit their private lives, but this figure conceals large disparities between countries. A total of 63 per cent of employees can easily come to an arrangement with their employer involving an hour or two's work when family reasons are concerned. In the remaining 37 per cent, we more commonly find employees with long working days (48 hours a week or more), those who take work home and those working nights, shifts or weekends.

Conflicts between private and professional life have negative consequences for both workers and companies: the employees concerned can suffer a deterioration in their psychological balance and health, and they may also be less involved in their work. According to the survey, around 20 per cent of employees say they are too tired to carry out the necessary household chores. In addition, 12 per cent of them think about their work during their free time and 11 per cent say they cannot spend as much time as they would like with their

families because of their work. Importantly, family problems seem to weigh less heavily on work than work-related problems do on the family. Only 3 per cent of employees say they have difficulty concentrating on their work because of family responsibilities or have not spent as much time as they wanted to at work because of family responsibilities. Finally, a good balance between work and private life is also a factor in keeping older workers in employment (Vendramin et al., 2012).

4 Sustainable Work: A Desirable Horizon?

These data on current working conditions in Europe need to be put into perspective, especially by taking into account the significance of work in our Western societies. Dominique Méda and Patricia Vendramin (2016) have attempted to interpret, in a historical and comparative perspective, the contemporary meaning of work. They have identified three types of worker-specific expectations, which are the result of historical developments that cannot be discussed here,¹⁰ but which shape the current relationship to work. First, work must ensure the security of existence. These so-called instrumental expectations make it a means to an end—to provide income and security. Second, work is a provider of social links. It is important to develop quality social relationships with colleagues, the hierarchy and other partners in the activity—subcontractors, customers or users. Finally, work must satisfy the expressive expectations of workers, their need to develop and flourish in their professional activity. Recognition, meaningful work, learning and sense of purpose: the labour force aspires to all these factors of well-being, now that it is overall better trained and partly relieved of the weight of the instrumental component of labour thanks to the development of the welfare state since the post-war years. These expressive expectations come up against often unsuitable modes of organisation. Therefore, the process of redefining working conditions must imperatively take into account this dissatisfaction and reconnect the world of work and its changing nature to the expectations of Europeans. Indeed, the desire to create jobs without regard to their quality and to promote all-round flexibility is currently threatening social cohesion in Europe, increasing inequalities and undermining the well-being of the population in most European states. Therefore, social justice and inclusive development must follow other routes.

¹⁰ For the historical developments, see Méda and Vendramin, 2016, pp. 7–47.

Thanks to the twenty key principles of the European Pillar of Social Rights,¹¹ job quality has returned to the public arena. The European Commission encourages permanent employment, social dialogue and worker participation, healthy and adapted workplaces, secure employment for a fair wage, and finally a balance between professional life and private life.

Sustainable work is a desirable horizon for Europe, insofar as it is likely to underlie a multidimensional approach to quality of work that will take into account working individuals as a whole, with their characteristics, their constraints and their trajectories. The ILO could also choose this direction, which is already reflected in the many points raised during the national dialogues on the future of work (ILO, 2017). Moreover, since the concept of sustainable work initially brought together two issues—that is to say, sustainable development and working systems—it could probably be used to combine the priorities of sustainable development and decent work. It could also contribute to a reaffirmation of the humanistic and social principles of the Declaration of Philadelphia (ILO, 1944) and lead us to a society in which ‘labour is not a commodity’ and in which ‘all human beings [...] have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity’ (ILO, 1944, Article II(a)).

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11 See the principles on the website https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en (accessed on 31 July 2018).

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