PATHOLOGY OF PATH DEPENDENCY? THE ILO AND THE CHALLENGE OF NEW GOVERNANCE

LUCIO BACCARO AND VALENTINA MELE*

Using archival sources, the authors study strategic and organizational change in the International Labour Organization (ILO) over the last twenty years. They focus specifically on the ILO's efforts to incorporate certain elements of the "new governance" model into its policies and organizational practices, which include the shift from standards expressed as detailed legal norms to "soft law"; the active involvement of civil society organizations other than trade unions and employer associations in regulatory activities; and the introduction of quantitative indicators of compliance with labor standards. They argue that the efforts of the ILO leadership have been waylaid by the organization's corporatist structure, which gives employer associations and trade unions veto power over policy developments at a time in which these actors are increasingly unable to agree on concrete policy measures. Finally, the authors ask whether this corporatist structure accurately reflects the ILO's self-defined mission: providing "decent work for all."

The International Labour Organization (ILO), the UN agency in charge of labor and social standards, has for the last several years been engaged in sustained efforts to increase its relevance to and impact on the world of work. These efforts at reform have been motivated by the realization, shared by two successive directors-general (DGs), that the organization's traditional standard-setting model is fraught with problems. The ILO's traditional model involves the negotiation of detailed international labor treaties (*conventions*) that become part of the corpus of national law when, and if, a government ratifies them. It has, however, not only become more difficult to achieve the necessary degree of consensus among the ILO's constituents (governments, labor unions, and employers) to adopt of new conventions, it also appears to be increasingly difficult for newly adopted conventions to achieve an acceptable level of ratification among member states. This situa-

tion stands in stark contrast to the organization's stated goal of providing universal and uniform rules regulating labor conditions around the world.

The ILO reform efforts we examine here all tend in the direction of the so-called "new governance." They involve a shift from detailed legal norms backed by sanctions to "soft law," i.e., declarations of principles without binding force; the active involvement of NGOs and other civil society organizations in the regulatory activities of the organization; and the creation and public diffusion of quantitative indicators tracking actors' progress toward the achievement of regulatory goals on the ground. **Our aim is to consider** how the leadership of the ILO persuaded itself that such reforms were necessary; to delineate the internal debates prompted by the proposed reforms together with the internal obstacles they encountered; and to assess the degree to which the leadership was in the end able to push through a reform program. Ultimately, we seek to assess whether the ILO's internal governance structure is in truth an obstacle to the accomplishment of the organization's ambitious and important goal of providing "decent work for all." At a time of international economic turmoil, when an effective and vigorous international labour organization is more necessary than ever, we hope to contribute to the discussion of how the ILO could become more incisive.

One of us worked for the ILO for a number of years and has direct experience with the themes we examine here. This personal experience shapes much of the content of this article. Proximity, however, can be a source not only of insight but also of possible bias. To reduce the latter, we make an effort to back up all factual statements with references to publicly available primary documents, and to this end, we make extensive reference to ILO archival sources.

The ILO's Traditional Standard-Setting Model

Established in 1919 as part of the Treaty of Versailles, the International Labour Organization is the oldest international organization in existence. It survived the collapse of the League of Nations, and after World War II, it became a specialized agency of the United Nations, charged with producing and monitoring international labor standards. Currently 183 countries are members of the organization. The ILO is the only international organization to incorporate private as well as state actors in its governance structure. The governing institutions of the ILO, the International Labour Conference (ILC) and the Governing Body (GB) are composed not just of government representatives but also of representatives of labor unions and employer associations. Unions and employers each hold a quarter of the seats in the ILC and GB, while government representatives hold the remaining half. The activities of the ILO are supported by a large secretariat, the International Labour Office, whose headquarters are in Geneva, Switzerland. There are also field offices in 40 countries. The office is staffed by 1,900 international civil servants and a large number of technical consultants.

The core business of the ILO is the production of international treaties intended to regulate various labor and social matters. Regulatory instruments can take two forms: conventions and recommendations. Conventions are detailed legal provisions that become part of the corpus of national law if a country ratifies them. Their ratification is entirely voluntary, but governments have an obligation to submit the text of the relevant conventions to domestic decision-making organs for consideration within twelve to eighteen months of the convention's release (Constitution of the International Labour Organization, art. 19, para. 5(b)). In contrast to conventions, recommendations are not intended to be obligatory but simply to guide national and international policy. As such, they are not subject to ratification by member states. Generally, an approved convention is accompanied by a supporting recommendation, and it is rare for recommendations to be issued in isolation.

The ILC convenes in Geneva for a three-week meeting in June of each year. Its main business is to discuss and vote on conventions and recommendations. To be adopted, conventions and recommendations need a two-thirds majority in the conference. Although in theory new instruments can be approved against the will of one of the "social partners" (unions and employers), in practice this only occurs in exceptional circumstances. Although constitutionally the junior partners, unions and employers are the key players within the ILO. If, as has recently become increasingly rare, they succeed in reaching agreement between themselves on a particular issue, it is almost guaranteed that a sufficient number of governments will follow suit to permit the required majority in the ILC. Unlike governments, unions and employers have their own organizational structures within the International Labour Office—the Bureau for Workers' Activities and the Bureau for Employers' Activities—which they use to vet and influence all the activities of the office. While the power to issue regulatory instruments rests exclusively with the ILC, the agenda of the conference is determined by the Governing Body, a more restricted executive organ composed of representatives of 28 governments (including the ten largest economies), 14 union representatives and 14 employer representatives.

ILO member countries have several reporting obligations. Countries that have ratified a particular convention are requested to submit periodic reports to the ILO detailing the measures they have taken to "give effect" to the provisions of the convention in question (Constitution of the International Labour Organization, art. 22). Each country produces as many reports as it has ratified conventions. Since 1926 these reports have been read and commented upon by the Committee of Experts on the Application of Conventions and Recommendations composed of 20 eminent jurists from various parts of the world. The reports produced by the Committee of Experts focus on whether national legislation and practice are in line with the regulatory provisions of the relevant conventions. Through observations and requests for information the Committee of Experts seeks to gently cajole member states into modifying their laws and practices to

bring them into line with the international labor standards they have ratified.

In addition, a semijudicial body known as the Committee on Freedom of Association examines complaints about violations of freedom of association, whether or not the country in question has ratified the relevant conventions (C87 Freedom of Association and Protection of the Right to Organize Convention, 1948; C98 Right to Organize and Collective Bargaining Convention, 1949) (ILO 1948, 1949). Complaints can be lodged by any ILO constituent, including those from other countries, and by the international organizations of unions and employers. The committee's pronouncements are public and have often been used to chastise antiunion policies such as those promulgated in the United Kingdom under the government of Margaret Thatcher, in the United States under the presidency of Ronald Reagan, or in contemporary Colombia, where trade unionists have often been killed.
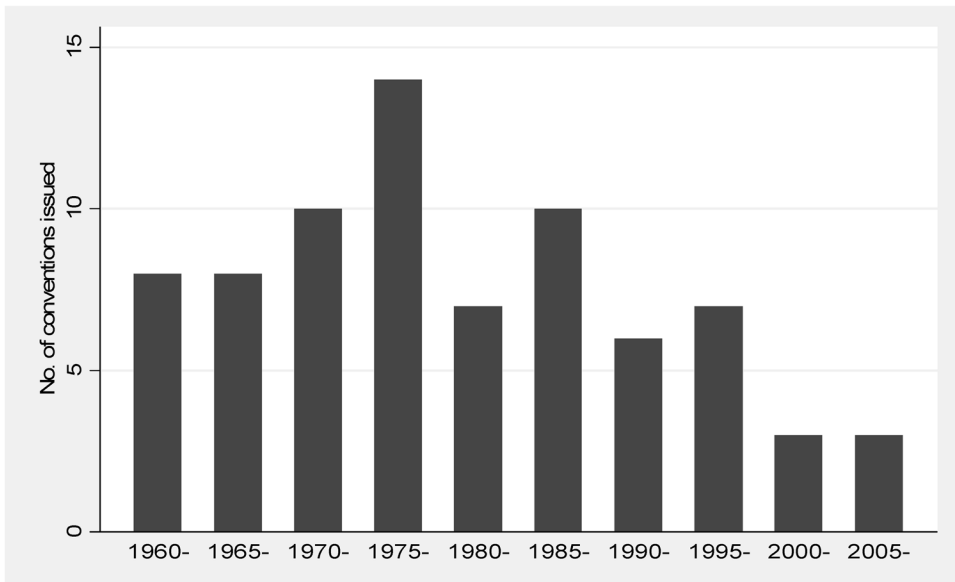
The ILO's production of a convention or a recommendation is preceded by a lengthy gestation period during which consensus is built incrementally. An issue tabled for standard-setting is first thoroughly examined and discussed in one of the GB committees, often over several years. It is then placed on the agenda of the ILC, which is set three years in advance. Proposals for new instruments are generally discussed at two successive sessions of the ILC, and only the second discussion, if it occurs at all, is expected to lead to the issuing of a convention or a recommendation.

The ILO's standard-setting regime is considered exemplary in the field of international law and a model for other human rights regimes (Alston 2004: 458). Yet, its record on ratifications is and has always been less than impressive. Figure 1 plots the number of conventions produced by the ILO over time. Between 1960 and the late 1980s, each successive ILC passed an average of approximately two conventions per year. These conventions, however, were only sparsely ratified. Figure 2 plots the average number of ratifications. The average number of states that have ratified a convention five years after its adoption by the ILC is less than 13. This number seems much too low for an organization that seeks to regulate working conditions uniformly around the world.

The truth of the matter is that, outside of the international legal field, the world has not shown much interest in the ILO's standards. Certain conventions, like C157 Maintenance of Social Security Rights Convention, 1982, and C165 Social Security (Seafarers) Convention (Revised), 1987 have received only three or four ratifications (ILO 1982, 1987). Not surprisingly, in the 1990s the ILO sought to reduce the number of conventions it issued and to focus on truly basic regulatory matters. This led, for example, to the adoption of C182 Worst Forms of Child Labor Convention, 1999, which received 150 ratifications within the first five years and is by this measure, and by some distance, the most successful ILO convention ever (ILO 1999). In general, however, the number of ratifications for conventions adopted in the 1990s and 2000s remained low.
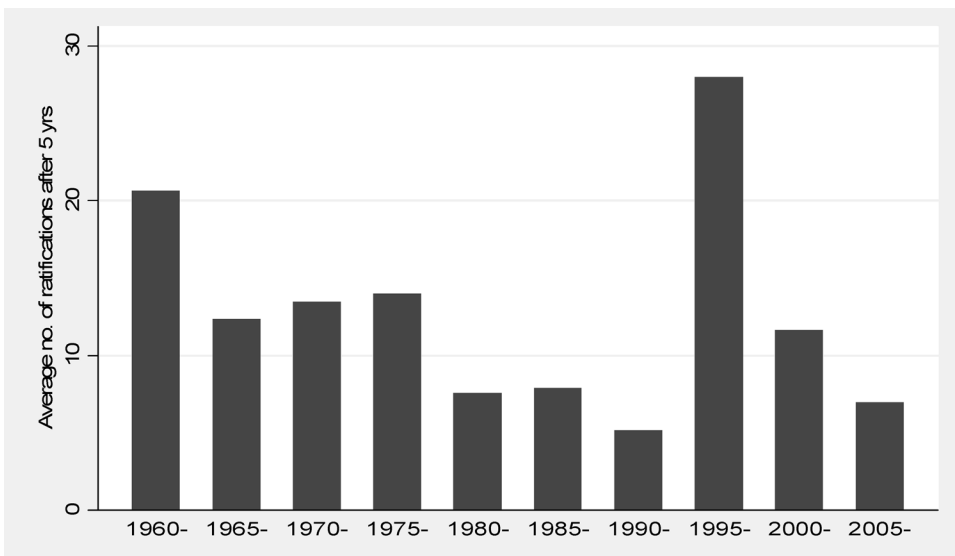
Faced with this discouraging record of ratifications, the ILO leadership came to the conclusion that that there was little point in repeatedly issuing

Figure 1. Conventions issued by the ILO, 1960–2009 (Five-Year Intervals)

Source: ILOLEX Database, author elaborations

Figure 2. Average Number of Ratifications Five Years after Approval of Convention (1960–2009)*

Source: ILOLEX Database, author elaborations.
*The interval is less than five years for two conventions issued in 2006 and one in 2007

new legal instruments that were scarcely applied in practice and that the organization should engage in a thorough restructuring of its standard-setting system. This sense of urgency was clearly communicated to the 1994 International Labour Conference by the then director general, Michel Hansenne: "*It is not enough merely to produce standards.* For standards must be

ratified and applied. While national legislation directly applies to relations between the State and workers and employers, the ILO's international standards can have the same effect only with the assent of the member States, as signified through ratification of the instrument"(ILO 1994: 43, emphasis added).

A New Governance Model of International Regulation?

"New governance" is an expression usually used to designate a set of interrelated developments taking place at the national and subnational levels that have profoundly altered the way in which state authorities exercise sovereign control (Rhodes 1996, 1997; Peters and Pierre 1998, 2000). The expression evokes the decline of the classical command-and-control mode of regulation in which public actors, democratically selected by their national constituencies, make decisions that are universally binding and implemented through governmental agencies. It suggests instead the ascent of a new system in which regulation is produced in a participatory fashion by public and private actors working in collaboration with each other.

Mutatis mutandis, similar changes have been detected at the supranational level (Hannerz 1996; Kahler and Lake 2003; Kerwer 2005; Djelic and Sahlin-Andersson 2006; Abbott and Snidal 2009; Baccaro and Mele, 2011). Indeed, a growing body of literature argues that at the supranational level the old governance model is being transformed by three interrelated developments, each posing a challenge to the traditional regulatory functions of international organizations.

In the first of these developments, detailed regulatory norms are being replaced by declarations of general principles that take the form of soft law (Abbott and Snidal 2000; Kirton and Trebilcock 2004; Trubek and Trubek 2005). Unlike its hard counterpart, soft law has no binding power and only expresses broad goals or political commitments or principles of an inspirational nature. It is issued and actively promoted by an international organization operating in the policy area in question.

Second, responsibility for the more precise definition of the principles, as well as of the means to achieve them, is devolved to multistakeholder partnerships of public and private actors, including civil society organizations and nongovernment organizations (NGOs). Actors become involved because of their interest in or familiarity with specific regulatory problems (Sabel et al. 2000; Fung et al. 2001). Classic examples of new governance regulation can be found in the fields of labor and environmental standards (Bartley 2005; Bartley 2007; Cashore et al. 2007; Locke et al. 2007; Stafford 2007; Terlaak 2007; Locke et al. 2008). In these areas, matters that traditionally fall within the regulatory compass of both national and international agencies have become subject to new forms of regulation issuing from complex multilevel private-public partnerships. In highly stylized form, the new regulatory model operates as follows: under pressure from consumer organizations a company voluntarily endorses a corporate code of conduct,

either its own or one issued by an international organization (for example, the United Nations' Global Compact). It then monitors the compliance of its suppliers with the code by relying on internal monitoring procedures, as well as on intelligence provided by NGOs on the ground, state inspectors, trade unions, etc.

The third development that has contributed to the transformation of the old governance is the development of quantitative indicators. In order to achieve coordination among participants in new governance regulation, as well as to attract media attention to the organizations' key goals, international organizations increasingly collect data on the performance of local actors, often through the creation and public diffusion of quantitative indicators. The existence of such data also promotes the circulation of information about best practices. A well-known example of an internationally applied quantitative indicator is the United Nations Development Programme's Human Development Index or HDI (Haq 1995). This is a very simple composite index based on widely available statistics and composed of three elements: (1) average life expectancy at birth, which captures a population's health; (2) the adult literacy rate and the gross school enrolment ratio, which captures educational accomplishment and opportunity; and (3) gross domestic product per capita (in purchasing power parity terms), which captures the level of economic development. Countries are ranked on the basis of their scores and the rankings are published in the annual Human Development Report. The HDI was created in order to shift the focus of development thinking from purely economic considerations to the human and social dimensions. Despite the methodological problems of this and other composite indicators, the index has been highly successful in the sense that countries pay attention to their HDI standing and invest considerable resources to improve it, sometimes—as argued for countries such as Brazil and Indonesia (Sagar and Najam 1998: 263; Morse 2003)—by gaming the system and turning natural resources into income.[1] Other prominent examples of international indicators are the World Bank's Doing Business and Worldwide Governance indicators.

For the ILO, a full shift to the new governance model would necessitate fundamental changes in its modus operandi. The traditional standard-setting function, both the organization's mark of distinction and the object of much recent controversy (Alston 2004; Langille 2005; Standing 2008), would have to be fundamentally reformed. The organization would have to develop new capacities for network coordination, establish open-ended partnerships at the local level, develop quantifiable measures of performance, and circulate information about best practices. In short, it would have to turn itself into a transparent agency accessible to a plurality of civil society organizations, not just trade unions and employer associations. It

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[1]"The HDI has had a significant impact on drawing the attention of governments, corporations and international organizations to aspects of development that focus on the expansion of choices and freedoms, not just income." (Cleveland and Douglas, 2008)

has been argued that such a model would be both more effective and more democratic than the established ILO approach (Fung 2003).

The Transition to Soft Law

The transition to new governance mechanisms has neither been uncontested within the ILO nor fully accomplished. Nevertheless, a trend in this direction is clearly visible and is manifest in three interrelated developments: (1) a tendency towards legislative simplification; (2) a debate on the role of NGOs and other civil society organizations, and on the most appropriate ways to establish links with them; and (3) efforts to establish quantitative indicators of conformity with labor standards.

In the field of international law, hard law is a rare occurrence as states are generally unwilling to limit their sovereignty by committing to binding measures. The ILO's traditional standard-setting system, however, is rather close to a hard law regime. While conventions are voluntary, they are detailed pieces of legislation on such issues as working conditions, occupational health and safety, social protection programs, and working-time schedules, and they become binding through the authority of the nation state that ratifies them.

In his 1997 report to the International Labour Conference, Director-General Hansenne argued forcefully for a fundamental reform of the organization's standard-setting system. He set the crisis of ILO standards against the backdrop of globalization. On the one hand, he argued, globalization had spurred a process of competition among countries, which made them less willing to improve their labor and social conditions for fear of jeopardizing their comparative advantage in international trade, particularly if they were developing countries. On the other hand, globalization increased the relevance and need for international labor standards. Indeed, for globalization to be socially sustainable and politically viable, it had to include a social dimension, short of which a "temptation of retreating back to protectionism" might emerge (ILO 1997: 10).

According to Hansenne's analysis, globalization presented the ILO not just with challenges but also with an historic opportunity to play a key role in the construction of the new institutional architecture that would embed the global economy and ensure a fair distribution of the fruits of international trade. He proposed that the ILO respond with a two-pronged strategy that would include both legislative simplification and a renewed effort to monitor working conditions, which would include engaging with social labeling and private monitoring schemes. The first prong of the strategy, involving a transition from hard to soft law, was implemented; the second generated an interesting internal debate, but never saw the light of day.

With regard to legislative simplification, Hansenne argued that the organization needed to "propose a list of priorities among its objectives" if it was "to retain any credibility or relevance" (ILO 1997: 4). He argued that it was no use continuing to promote detailed and universally applicable regulatory instruments in an increasingly heterogeneous world. Rather, it was

much preferable to focus on a "'*minimum programme*' that each country should try to achieve" (ILO 1997: 24, emphasis added).

This new strategic orientation was linked to two important developments in the international sphere. First, in 1995 the World Summit for Social Development (WSSD), convened in Copenhagen by the United Nations Economic and Social Council, had issued a Declaration that pledged to put the social dimension at the centre of international economic policy. The ILO had been involved in the World Summit and had been given the task of drafting the employment portions of the final declaration (World Summit for Social Development 1995: part C, 3(i).

The World Summit Declaration drew a distinction between core and non-core conventions that had already been introduced in internal ILO documents. Some conventions, such as those on freedom of association and collective bargaining, forced labor, equal remuneration, and discrimination in employment, but *not yet* child labor, had been dubbed "basic human rights conventions" (Leary 1996: 215).

The second important development linked to the ILO's new strategic orientation was a declaration by the World Trade Organization (WTO). In 1996 the WTO's ministerial meeting in Singapore had declared the WTO incompetent to deal with labor standards—the request that the WTO deal with them had been made by certain advanced countries, in particular the United States and France—and solemnly restated that the ILO had an exclusive mandate to operate in the labor domain (WTO 1996).

In the eyes of many who represented the developing countries that signed the Singapore declaration, the point of asserting that the ILO was the only international organization with any competence in the field of labor standards was not to strengthen the role of the ILO. Rather, it was to prevent the introduction of a link between access to the multilateral trade system and respect for labor standards. Such a link, usually known as the "social clause," would allow some countries, presumably the richer ones, to discriminate commercially against other countries, presumably the poorer ones, that were deemed to be in violation of core labor standards (Scherrer and Greven 2001).

The ILO took the Singapore declaration very seriously. In fact, Director-General Hansenne's address to the 1997 International Labour Conference was a direct response to it. He argued that free trade did not necessarily require the equalization of social conditions among countries at different levels of development but *did* require the guarantee of fundamental rights everywhere. Fundamental rights were necessary to enable workers to claim their fair share of the benefits of free trade. The ILO, Hansenne added, had a clear mandate to implement such a program because by choosing to join the organization, member states had already committed themselves to be bound by a "minimum of obligations with respect to fundamental rights," whether or not they had ratified the relevant conventions (ILO 1997: 15).

Thus, according to Hansenne's analysis, the ILO needed to move away from the production of detailed standards, for which internal consensus was increasingly difficult to build and which in any case were largely ignored by

member states when it came to ratification. Instead, it needed to refocus on the basic principles and commitments included in the ILO Constitution. In addition, these principles might need to be explicitly reaffirmed in a solemn declaration. Hansenne took the view that the organization would not need to set up a whole new follow-up machinery to implement this new strategic orientation but could base it on existing constitutional provisions.

According to the ILO Constitution (art. 19, par. 5(e)), even a member state that elects not to ratify a particular convention nevertheless has the obligation to report on "the matters dealt with in [it], showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention . . . and stating the difficulties which prevent or delay the ratification of such Convention." This constitutional obligation would provide the legal basis for a new type of reporting in which countries that had not ratified the core conventions on freedom of association and collective bargaining, discrimination, forced labor, and child labor would report on the situation of these fundamental principles within their national territories. Hansenne hoped that the public nature of these reports and the fact that they would be vetted and discussed by the Governing Body would prompt a process of positive emulation and thus favor ratcheting-up among the laggards.

Consistent with these strategic views, in 1998 the ILC approved the Declaration of Fundamental Principles and Rights at Work, by which all ILO member countries confirmed their commitment to freedom of association and collective bargaining, non-discrimination, prohibition of child labor, and prohibition of forced labor. The declaration introduced an important distinction between *principles* and *rights.* Principles are embedded in the ILO constitution and all member states are bound to uphold them simply by virtue of their membership in the ILO, regardless of whether they have ratified the relevant conventions. Rights are spelled out in detail in the relevant conventions and associated jurisprudence, and they give rise to precise legal obligations. Unlike rights, principles indicate a goal and a direction but leave member states free to go about implementation as they see fit.

Critics have seen this transition from rights to principles as a debasement of ILO standards, since member states are now no longer required to abide by the conventions' precise definitions and obligations (Alston 2004). This allows countries like the United States, which has ratified only two of the eight core conventions and has several problems, particularly in the domain of freedom of association and collective bargaining (Compa 2004), to take the moral high ground vis-à-vis developing countries. U.S. legislation acknowledges the principle of trade union freedom but is arguably in contradiction with some of the content of the relevant ILO conventions. Not surprisingly, the United States wholeheartedly embraced the declaration and referred to it in the various bilateral trade agreements that were signed after its approval.

Defenders, on the other hand, see the declaration as a positive development that marks the transition from understanding standards as constraints

on actors' pursuit of their self-interest to conceptualizing them as legal devices that help actors achieve a more enlightened notion of their own self-interest (Langille 2005).

Inside the ILO, the adoption of the declaration was supported by the employers, who appreciated the fact that it did not impose new obligations but only reframed existing ones. The unions were less enthusiastic about it, precisely because they considered that there was nothing new in it. Among the governments, some developing countries vehemently objected to the declaration, which they feared could one day be used by the WTO to impose some form of trade conditionality. Because of these preoccupations and certain developing countries voting against the declaration, it was not unanimously approved (ILC 1998).

The Declaration of 1998 was the first but not the last ILO experiment with soft law. Ten years later, in 2008, the tripartite constituents approved the Declaration on Social Justice for a Fair Globalization, this time unanimously. With it they reiterated their commitment to the ILO's constitutional principles, which they regarded as coalescing around four interrelated objectives: employment promotion, social protection, social dialogue, and fundamental principles. In 2009, the ILC produced another solemn pronouncement, the Global Jobs Pact, intended as a response to the global financial crisis that would attenuate its negative socioeconomic impact. The policy recommendations contained in both the declaration on social justice and the jobs pact, however, were rather vague.

Between its founding and 1998, the ILO adopted only two declarations, the 1944 Declaration of Philadelphia and the 1977 Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy. In the last twelve years it has adopted three, while over the same period only seven traditional conventions have been issued—a dramatic decline from the past. A sympathetic observer has talked of the ILO's possible "declaratory incontinence" (Maupain 2009:1). Even if one does not agree with this assessment, one is bound to conclude that the ILO now fully acknowledges the legitimacy of soft law.

Opening up to Civil Society

Director-General Hansenne intended that the strategy of legislative simplification would be accompanied by a simultaneous revamping of monitoring procedures to make the ILO relevant to the growing number of actors other than traditional labor unions that were struggling to improve working conditions in global supply chains (Elliott and Freeman 2003). The director-general looked with great interest at the corporate labeling schemes in which private enterprises, NGOs, or consortiums of different organizations certified that certain goods were "sweatshop-free," i.e., produced in compliance with basic labor standards. This world of social entrepreneurship, populated by consumer organizations, producer cooperatives, and other NGOs of every shape and color was very different from that inhabited by the ILO.

In particular, governments, trade unions, and employer associations played a limited role in this world. Hansenne, however, argued that the ILO should make an effort to reach out to it, as its goals were very similar to those of the ILO (ILO 1997: 27–28).

Hansenne was well aware that developing countries regarded the various labeling schemes as ill-disguised attempts to discriminate commercially against goods produced in the global south, and he was careful to acknowledge their shortcomings. Private schemes, he argued, were often arbitrary because they focused on the more emotional aspects of exploitative work, such as child labor, without paying attention to other aspects, such as freedom of association, that were just as important. They focused unduly on work in tradable sectors at the expense of work in nontraded industries, where the worst working conditions were often to be found. They did not show adequate consideration for the plight of workers who lost their jobs as a result of the elimination of sweatshops. Finally, it was not clear who the monitors were and what legitimacy they had. Despite all this, the director-general still regarded the labeling and monitoring movement as a positive development for the ILO, because "it g[ave] an impulse and force to the ILO's standard-setting action beyond its normal audience" (ILO 1997: 30). Furthermore, if the ILO chose to get directly involved, its involvement would attenuate, if not eliminate, many of the private initiatives' shortcomings. At any rate, argued Hansenne, the phenomenon would not go away simply because the ILO chose to ignore it (ILO 1997: 29–30).

Thus, in 1997 Hansenne proposed to the ILC that the ILO engage directly in the business of certifying the compliance of working conditions with internationallyrecognized labor standards. To be sure, the ILO could not become one label-maker among others. It would deal not with companies, as this was outside its mandate, but with governments. Those governments that wanted to credibly signal to the world that they were committed to respecting labor standards would ask the ILO to certify their legislation and practices.

In practical terms, the social label proposal would take the form of a new convention that "would allow each State to decide freely whether to give an overall social label to all goods produced on its territory—provided that it accepts the obligations inherent in the Convention and agrees to have monitoring on the spot" (ILO 1997: 30–31).

The social label proposal took the ILC by surprise. Apparently, it had been Hansenne's own last-minute addition to the 1997 conference report. The reaction of the audience was skeptical to, say the least. Developing country governments were openly hostile. The comments made in the plenary debate by a Chinese delegate were representative of their negative feelings. "Some people have proposed the launch of a "social labelling" campaign to strengthen [the ILO]. However, in essence, the labelling of one country's products as being up to standards is tantamount to openly advocating the rejection or boycott of products from other countries. *This in fact links standards with international trade and represents trade protectionism in disguise*" (ILC 1997: 22, emphasis added).

In his Reply to the Discussion of the report, Hansenne acknowledged that his social label proposal had failed to find broad consensus among the constituents (ILC 1997: 280). It was therefore decided that discussions on this topic would move from the ILC to the Governing Body, where it would be examined by the Working Party on the Social Dimensions of Globalization. If consensus could be built in that venue, the issue would later return to the conference for standard-setting.

Discussions in the working party lasted for about two years. It emerged that the social label proposal had only one clear supporter, the labor movement. The other constituents were either tepid or openly against (ILO GB, 1998a: VI/6). The employers argued that the ILO had no mandate to "associate itself with NGO activities in this field" (ILO GB 1998b: VII/3). The Governing Body concluded therefore that the office may "respond to requests presented to it on matters clearly lying within its terms of reference; this involved the supply of information and advice, *but should not place the ILO in the position of approving or rejecting individual company initiatives*" (ILO GB 1999: IV/1, emphasis added).

After the Governing Body session in March 1999 the social label issue essentially dropped out of ILO discussions, although a limited implementation of it, for a single country and only one sector, took place with the ILO Cambodia project (Polaski 2006). In the early 2000s the ILO was asked by the U.S. government, which financed the project, to officially inspect and certify working conditions in Cambodia's apparel industry. Cambodia's access to the U.S. market was made contingent on positive results achieved in these monitoring rounds. The Cambodia project became one of the most internationally renowned ILO projects.

In 1999 Michel Hansenne stepped down, and Juan Somavia succeeded him as director-general. Somavia's key strategic orientation, expressed in his 1999 Report to the ILC, was not fundamentally different from Hansenne's. He, too, was persuaded that the ILO needed to change dramatically in order to remain relevant. Somavia's strategic vision was that the ILO was about providing "decent work" for all. The notion of decent work was never precisely defined, but it evoked everything the ILO stood for, particularly the importance of creating jobs of a certain quality, i.e., jobs in which fundamental rights were respected, workers were entitled to social protection, and they had opportunities for voice and for participating in the design of the economic policies that affected them. Referring to *work* rather than *labor* was an important innovation, as work includes all kinds of labor market exchanges in which no employment relation is involved. By proclaiming that its mandate was decent work rather than just decent labor the ILO implicitly signaled that it intended to become more relevant for workers in the informal economy, the majority of whom were located in poor countries. This was a much broader social universe than that traditionally represented by trade unions and employer associations.

Consistent with these premises, Somavia's first report to the ILC in 1999 explicitly recognized the positive role played by civil society organizations and the need for the ILO to establish stronger links with them:

A major development with implications for the social partners is the burgeon-ing of civil society groups. From the perspective of the ILO, two groups are par-ticularly relevant, beyond its own constituents. The first consists of people on the periphery of formal systems of employment. These include self-employed micro-entrepreneurs in the informal sector who are on their way to becoming employ-ers, as well as dismissed former salaried workers, for example, or associations of homeworkers who are beginning to form incipient trade unions. As their activi-ties grow and become more structured, these people could flow naturally into either the employer or the trade union camp . . .The second group is the myriad non-governmental organizations (NGOs) that have sprung up in the North and the South around issues ranging from global warming, to child labour, and to the provision of local water supplies. The growth and dynamism of NGOs is a hallmark of our era. They are important counterparts in international coopera-tion programmes. NGOs have been behind many voluntary initiatives that ad-dress corporate citizenship and workers' welfare, such as codes of conduct and social labelling. Successful NGOs display strength, flexibility and imagination. They have their drawbacks; their action may be sporadic, their representation uncertain, their life-span limited and their funding unstable. The ILO has to sup-port ways in which its constituents can work more effectively in partnership with these groups to pursue shared objectives. *Closer links with civil society, if well defined, can be a source of great strength for the ILO and its constituents.*' (ILC 1999: 39–40, emphasis added)

Despite the new director-general's reassurance that the traditional social partners would not lose their privileged place in the ILO's governance struc-ture, unions and employers were worried that this was exactly what would end up happening. To prevent any movement in this direction, in 2002 they included in the agenda of the ILC (using Article 17 of the Standings Orders of the International Labour Conference, which relates to matters not tabled for discussion according to the usual process) the apparently anodyne but in reality highly significant Resolution on Tripartism and Social Dialogue (ILC 2002). Given that it had never been openly challenged, the need to solemnly reaffirm the tripartite nature of the ILO was questionable. Never-theless, this is the essence of what the resolution was about. In addition, it contained a series of specific operational directives for the director-general and the office. Among other things, the ILO's secretariat was asked to

(a) *consolidate the tripartite nature of the Organization – governments, workers and employers – legitimately representing the aspirations of its constituents in the world of work*;
(b) continue to this end their efforts to strengthen employers' and workers' organizations to enable them better to collaborate in the work of the Office and be more effective in their countries;
(c) enhance the role of tripartism and social dialogue in the Organization . . . [. . .]
(i) reiterate in headquarters and in the field the importance of strengthening the tripartite structure of the International Labour Organization and to ensure that the Office works with and for the constituents of the Organization;
(j) *ensure that the tripartite constituents will be consulted as appropriate in the selection of and relationships with other civil society organizations with which the International Organization might work*' (ILC, 2002, pp.: 21/25–26).

The message was clear: the ILO was to remain an exclusively tripartite organization. What is more, the social partners were to be consulted every

time the office planned to work with civil society organizations and were to participate in their selection. Furthermore, the office was asked to "recognize the unique functions and roles of the Bureaux for Employers' and Workers' Activities within the Office and strengthen their abilities to provide services to employers' and workers' organizations worldwide in order to enable them to maximize the outcome of the Office's work" (ILC 2002: 21/25–26). The Bureaux for Employers and Workers' Activities essentially reported to the international organizations of employers and workers, respectively, while being formally part of the ILO bureaucracy. In practice, the resolution greatly limited the operational autonomy of the director-general and the office in all matters that pertained to relationships with civil society.

Interestingly, unions and employers, who had recently found it difficult to converge on anything substantive in matters of policy, found themselves in full agreement on this particular issue of internal governance. The record of discussions reports that the employers' spokesperson "stressed that the idea of tripartism should continue to concern the three current social partners, notwithstanding the attention given to the role of NGOs and civil society" (ILC 2002: 21/4). The unions' spokesperson "stressed the need to differentiate social dialogue, which was carried on exclusively between the social partners, from civil dialogue, which included other actors in civil society" (ILC 2002: 21/14–15).

In the plenary debate on the resolution, a workers' delegate from India—a country in which the representativeness of trade unions is extremely limited (Kuruvilla et al. 2002) and in which NGOs play a key role in voicing the interests and concerns of society at large—stated: "Tripartism is a decisive instrument for facilitating dialogue with civil society organizations, including their selection, thus *guarding against the idea of replacing tripartism and the social partners with other chosen agencies in the name of civil society organizations or NGOs.* This is being tried in many places, particularly in order to marginalize the legitimate organizations of workers and employers" (ILC 2002: 26/15).

Only one government representative, France's representative, went on record to express concern that an exclusive focus on tripartism risked damaging a host of vulnerable groups that were not adequately represented within the tripartite context (ILC 2002: 21/17). In the ensuing Governing Body discussion on implementation of the resolution, the government representative from Portugal, speaking on behalf of the group of Western European governments, complained that "governments had been marginalized within the ILO in comparison with the other groups" (ILO GB 2002: VI/4).

With the resolution on tripartism the social partners essentially signaled to Somavia that they were not prepared to tolerate the opening up to civil society. While their views were ultimately respected, it was with a certain time lag. In fact, in February 2002—before the resolution on tripartism had been adopted—the director-general had convened a high commission composed of eminent figures, representing government, trade union, employer association, and civil society circles from both developed and developing countries and had entrusted the commission with the task of preparing a

new report on how globalization could be reconciled with the pursuit of more equitable societies. The commission issued the *Report of the World Commission on the Social Dimension of Globalization*, in February 2004.
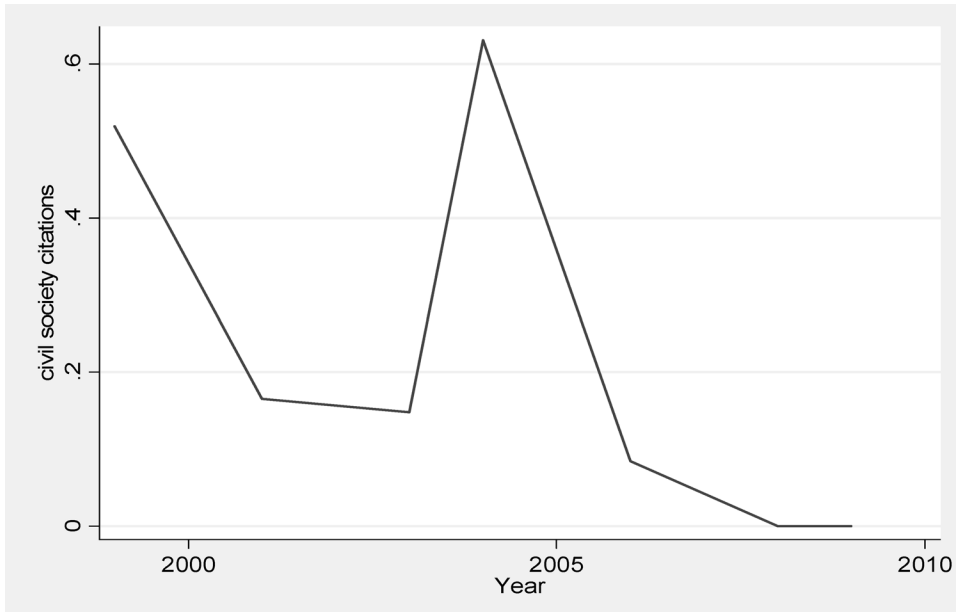
The report argued that the main problem with globalization in its contemporary form was the inadequacy of the governance structures that were supposed to regulate it. The report advocated a broadly participatory approach to development at all levels, from the local to the international. This approach was based on the principle that all those who were likely to contribute to or to be affected by development policies had a right to participate in their governance. The participatory approach proposed, however, was not necessarily a tripartite approach. In fact, the report frequently used the expression "governments, business, unions and civil society," as if the structure of consultations it had in mind was explicitly quadripartite (see, for example, ILO 2004a: para. 568 and para. 613–14). It also recommended strengthening the institutional access of NGOs to all international organizations.

The numerous openings to civil society contained in the world commission report were sure to upset the ILO's social partners. But the director-general managed to limit the damage by glossing over the difference between the broadly participatory approach to development advocated by the world commission and the tripartite structure of the ILO. In the 2004 report to the ILC, which drew out the implications of the world commission's work for future ILO activities, he again framed the issue of the relationship between the tripartite structure and the world of civil society as simply a matter of choice, one which it was in the best interests of the traditional social partners to make (ILO, 2004b, p.: 51).

In addition, the director-general's opening remarks to the conference summarized the implications of the world commission report for the ILO as follows: (1) making decent work a global goal;(2) making the ILO a global player; (3) mobilizing tripartism for decent work; and (4) making the organization as a whole a truly global team. He made no mention of civil society at all (ILC, 2004 : 10). In other words, what needed to be mobilized for a fair globalization was just tripartism. The ILO's social partners had no need to worry.

In the end, the hostility of the social partners prevented all attempts to give civil society organizations a more formalized and institutionalized role within the ILO. Field programs continued to rely on NGOs, often heavily, especially in countries in which the representation and operational capacities of unions and employers' associations were limited, but at headquarters even the timid steps that had been taken at the onset of the Decent Work strategy (e.g., a small operational program in the Social Dialogue Department devoted to "tripartism-plus") were reversed. ILO rhetoric also changed. Figure 3 tracks the frequency with which the expression *civil society* appears in the director-general's reports to the ILC from 1999 on. Unsurprisingly, mentions of this term peaks with the 2004 report, the one that assessed the implication of the world commission report for the ILO, but then drops dramatically. In the 2008 report *Decent Work: Some Strategic Challenges Ahead*

Figure 3. Number of Times the Expression "Civil Society" Appears in the DG's Strategic Reports to the ILC (per 1,000 words)

Note: Strategic are reports are usually produced every two years, every other year the report focuses on implementation; however there are exceptions.
Source: author elaborations on the texts of the reports

(ILO 2008) and in the 2009 report on *Tackling the Global Jobs Crisis: Recovery through Decent Work Policies* (ILO 2009), civil society is not even mentioned once.

Measuring Labor Standards

With the ILO's decision to embrace decent work as its strategic priority, it became of paramount importance for the ILO not only to precisely define that concept but in order to gauge country progress towards it to make it amenable to measurement. The decent work strategy was based on four central concerns or pillars—fundamental rights, employment, social protection, and social dialogue—which were envisioned as points on a virtuous circle. For example, fundamental rights would lead to greater employment, which would provide the economic margin needed to strengthen social protection, which would in turn strengthen fundamental rights even further. This kind of positive feedback loop, however, was never specified in any detail, let alone empirically documented. Lack of clarity gave each constituent the opportunity to interpret decent work as it saw fit or to simply leave things vague.

The problem was that behind the lip service paid to the notion of decent work, the ILO's constituents disagreed fundamentally on how this notion

was to be interpreted and achieved. The most important line of cleavage was between unions and employers, but there was also a division between the countries of the global north and global south, which was the legacy of the battles of the previous decade around the social clause.

For the employers, the key strategic objective was employment creation. They subscribed to a view of the labor market (shared with mainstream international organizations, such as the IMF, the OECD, and the World Bank) that social protection programs, union representation, and collective bargaining produced more obstacles to job creation than enabling conditions (OECD 1994; World Bank 1995; IMF 2003). A similar position was taken by most but not all southern governments, for whom the economic policy priority was simply growth. In a global economy, asserting the primacy of growth implied that developing countries should be allowed to exploit fully their main source of comparative advantage in international trade, namely low labor costs and standards. Rights and social protection were consequences of the process of development, and they would emerge *after* a country had reached a certain level of affluence. According to this view, the northern governments' insistence on labor standards was both protectionist and hypocritical because some of these same countries, notably the United States, had not ratified most of the core ILO conventions.

By contrast, for the unions the key element was fundamental rights, most particularly the right of workers to freely associate in trade unions. The argument behind this position was both instrumental and axiological. From the instrumental perspective, fundamental rights were enabling conditions that would put countries on a high-road development path that would foster growth by competing on quality and human capital development rather than by keeping labor costs and standards low (Piore and Sabel 1984; Streeck 1991; Campbell and Sengenberger 1994). From the perspective of political and ethical principle, rights were not merely a prerequisite of development but the core of the development process itself because rights enabled the development and effective utilization of fundamental human capacities (Sen 1999).

Unions and employers had also fundamentally different views on how some of the constituent elements of decent work were to be interpreted. For example, the employers did not agree with the notion that social dialogue should necessarily consist of collective bargaining. For them, direct dialogue between firms and individual workers counted as social dialogue as well.

Given these deep differences of opinion, it is hardly surprising that trying to measure decent work turned out to be fraught with political difficulty. The operationalization of the concept of decent work and subsequent attempts to measure it proved to be highly divisive. Measurement demands conceptual precision, and this threatened the careful ambiguity that made the notion of decent work acceptable to all the actors involved. Despite these dangers, a series of initiatives was launched in the early 2000s by various ILO departments working independently. In 2003 the *International Labour Review*, the ILO's in-house scholarly journal, published the early results

of these initiatives in a special issue, *Measuring Decent Work*. All but one of the articles in the issue were written by ILO officials (Anker et al. 2003; Bescond et al. 2003; Bonnet et al. 2003; Ghai 2003). They presented different possible approaches to measurement. It was up to the constituents to choose which approach they deemed fit or to propose alternatives.

A clear reference point for efforts to measure decent work was the United Nations Development Programme's Human Development Index. It is conceivable that a decent work index constructed along similar lines to the HDI would have set in motion the kind of dynamic of positive emulation among countries that the HDI index seems to have prompted. This was exactly the type of effect Michel Hansenne had in mind when he launched the idea of a social label.

In 2003, the issue of measuring decent work was discussed at the 17th International Conference of Labour Statisticians (ICLS). This technical conference, when labor statisticians from ILO's member countries convene to agree on standards for the collection of labor statistics, takes place every five years. Unions and employers also participate, either directly or through the appointment of experts. The ILO's Statistics Department provides secretarial services for the conference. In the report submitted to the 2003 ICLS, the office stated that it had "decided to use a pluralistic approach initially in developing indicators of decent work" (ICLS 2003: 21). It also informed the conference that at least one department in the ILO, the InFocus Programme on Socio-Economic Security (SES), had prepared a full set of decent work indicators. The data had been collected for two years,1990 and 1999, based on various sources. The same department was also completing work on a "Decent Work Index (DWI) [to] be used as a standard measure of decent work performance." The index "would be presented in annual reports published by the ILO." Furthermore, a complementary index, the Decent Work Enterprise Index, was also in preparation. This was intended as a "measure of the commitment and achievement by firms to practices oriented to *decent work*" (Ibid.: 24).[2]

The response of the conference was less than enthusiastic. In the discussion, "questions were raised about the utility of the decent work concept in countries where the self-employed formed a large portion of the work force and where the scarcity of jobs meant that workers had to accept any job irrespective of its characteristics." In particular, the record reports that the employers' delegates were "sceptical [. . .] about the interest of these indicators." Furthermore, the conference "*overwhelmingly opposed the aggregation of the indicators into a composite index of decent work for the purpose of ranking countries*" (Ibid.: 5, 7, emphasis added).

Another topic on the agenda of the 2003 conference was the development of technical standards for the collection of social dialogue indicators.

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[2]In 2004, this same department published a lengthy report and an economic security index for 90 countries (ILO Socio-Economic Security Programme, 2004). These data, however, were not made available for analysis, not even to researchers internally. A few years later the department was shut down.

Social dialogue is one of the four pillars of decent work, so this topic was obviously connected to the decent work question. The office had prepared a report with guidelines for the collection of data on trade union density and collective bargaining coverage. This was a key ILO domain for which no official in-house data existed. Instead, ILO officials were obliged to use data-bases produced by other international organizations or academics as the basis of their analyses.

On this topic the response of the conference was even more negative than in the case of the decent work indicators. The final report states that "the Working Group considered holding a meeting of experts"—a prelimi-nary step for standard-setting—"prior to consideration of standards in this field by the next ICLS, *otherwise it would be at least ten years before internationally approved statistical standards would be available.* However, the Employer repre-sentatives, while fully supporting continued work by the Office, considered that in view of the many other priority topics for development, such a meet-ing during the next two years might be *premature*" (Ibid.: 24, emphasis added). Clearly, a reader familiar with the ILO could read this text as mean-ing that the employers were adamantly opposed to the development of so-cial dialogue indicators.

Given that there was insufficient internal consensus even on the need to measure, let alone on what and how to measure, the office essentially aban-doned its measurement efforts and very little progress was made in this do-main for the next few years. The decent work indicators prepared by the SES Programme disappeared from sight.

In November 2007, the issue of measurement resurfaced in the ILO GB, in connection with the forthcoming declaration on social justice (which was to be put to the 2008 ILC for approval). Among other things, the declaration included a reference to the need to develop statistical indicators to track progress toward decent work at the country level. The report *Measuring De-cent Work,* prepared by the office anticipated the constituents' criticisms by stating that an aggregate decent work index was of dubious technical valid-ity. It also suggested that the measurement of rights at work was inevitably subjective and therefore also inappropriate. This argument was intended to stave off criticism from the employers. The report proposed instead that country profiles combining quantitative and qualitative information should be prepared and regularly updated (ILO GB 2007a: 20/5).

In reality, there is no particular technical reason why a decent work index should not be feasible. Decent work is undoubtedly a multidimensional construct, but so is human development. If the ILO's constituents could agree on what exactly matters in the notion of decent work and select a lim-ited number of core indicators on this basis, the resulting composite index would be no more arbitrary than the HDI or any of the various indexes of competitiveness, good governance, and business regulations that are regu-larly issued by international organizations. As for the argument that funda-mental rights are ill-suited to quantification, the ILO produces a number of standardized reports whose formulaic prose is rather easily amenable to the

type of coding commonly used in the content analysis of texts. Inter-coder reliability could be explicitly tested, and if found inadequate, coding procedures could be further standardized to increase the rate of agreement among coders. In the end, the measure would probably have to be ordinal rather than cardinal (hence the appropriateness of ranking), but it would certainly be preferable to having no measure at all.

The impression that the main problems around the decent work indicators were not technical but political and were linked to the resistance of some constituents to the very idea of measurement was confirmed when the employers argued in the Governing Body that "Decent Work had to be defined not at an international level but at a national level." Hence, attempts to measure it cross-nationally should be abandoned as they made little sense (ILO GB 2007b: 72). The unions responded that the notion of decent work was a global one and should be measured as such. They also rejected the course of action proposed by the office—that of giving up on efforts to quantify freedom of association and collective bargaining—and argued instead that "indicators which did not provide measurable data on freedom of association and collective bargaining were of little use as a measure of Decent Work." Even the unions agreed, however, that "composite indices ranking countries were not very helpful" (Ibid.). In the GB discussion of March 2008 a government representative of the Industrialized Market Economy Countries—which could be believed to have an interest in ranking because most of them would probably come out on top—also agreed that the indicators should "not be used to rank countries" (ILO GB 2007c: 60).

The primary practical outcome of these Governing Body discussions was that the office was finally authorized to convene a meeting of experts on decent work indicators. The meeting was held in September 2008. The report prepared for the meeting by the office left it open whether information on rights at work should be conveyed in tabular format (i.e., without quantification) or aggregated into compliance scores (ILO 2008b). Not surprisingly, in the discussion "some *independent* experts argued in favour of a composite index to measure progress towards Decent Work, as in their view such progress could be gauged only on the basis of indices. The reasons brought forward against such an index in the discussion paper were not fully convincing, given that other organizations had successfully established indices such as the Human Development Index" (ILO 2008c: 5, emphasis added). The proposal that quantitative indicators of fundamental rights at work should be produced—a proposal on which the office's report had been equivocal—was strongly endorsed by the experts.

In November 2008, the Governing Body approved the proposal to collect both qualitative information on legislation and quantitative data on other areas with a view to creating templates that would be used by each country to assess progress over time, but *not* for the purposes of ranking. In the discussion, several developing country governments emphasized that the list of indicators should be flexible and take into account national circumstances. The government representative of Mexico argued that indicators "*should not*

be made public, in order to avoid misuse by third parties" (ILO GB 2008: 68, emphasis added).

Thus, more than a decade after the introduction of the decent work strategy, it seems that the ILO is finally on its way to producing quantitative measures of compliance with standards. A number of limitations, however, have been placed on the type and potential use of these indicators. They may not be aggregated into a single composite index, which means that their visibility and impact on country policies will be smaller than it could have been. They may not be used to evaluate between-country performance but only to within-country performance, which is to say, to track progress over time. In addition, it is not clear that the data will be publicly released. Last but not least, timing seems to be an issue. The office is expected to report on the results of the pilot phase at the 2013 International Conference of Labour Statisticians, after which a decision will be made by the constituents on whether or not to go ahead with a full-scale data collection effort. By that time, the current director-general, the architect of the decent work strategy, may have well stepped down, and his successor may have other priorities.

Assessing the ILO's Trajectory of Change

During the 1990s the ILO became aware that its standard-setting model was in crisis and responded by introducing organizational changes of the new governance type. More specifically, it shifted away from detailed standards and toward broad declarations of basic principles, that is, soft law; it explored ways to involve the organization in the social labeling movement, as well as involving NGOs and civil society associations in ILO policy design and implementation; and it considered issuing quantitative measures of compliance with labor standards, potentially including a summative decent work index that would catalyze public attention and would track country and enterprise progress towards the ILO's goals. While the transition to soft law was accomplished, the attempt to open up the organization to private monitoring schemes and civil society met with staunch internal resistance and was eventually abandoned. Efforts to produce quantitative indicators have produced only partial and belated results.

Recent scholarship on the ILO is sharply divided on how to evaluate recent developments. Helfer (2006) paints an organization which, thanks to the ability and farsightedness of its leaders, has been able to rejuvenate itself, inter alia by opening up to civil society. Standing (2008) expresses the opposite view, seeing the history of the organization since the 1990s as involving a series of strategic mistakes compounded by mismanagement. In his view, these errors have made the ILO largely irrelevant. In the light of the evidence presented above, however, both types of argument overemphasize agency and underplay the structural constraints faced by the ILO leadership.

The Hansenne and Somavia directorships produced fundamentally convergent analyses of the ILO crisis: in both cases it was agreed that clinging to

the traditional standard-setting model was untenable and would lead to the organization's marginalization, and that instead, the appropriate strategy was to introduce new governance mechanisms. In our opinion, this analysis was fundamentally correct. Despite the leadership's repeated attempts to adopt a coherent new governance strategy, however, the ILO constituents' reluctance to move in this direction has meant that the organization has been unable to introduce an appropriately comprehensive reform of its structures and processes.[3]

The adoption of the 1998 declaration was not the consequence of a spontaneous re-alignment of opinion among member states. Rather, it was actively promoted by the ILO Secretariat which saw it as an opportunity simultaneously to relaunch the ILO's standard-setting role in the age of globalization and to respond to the challenge posed by the 1996 WTO ministerial conference in Singapore. The office had to work hard to build the necessary consensus among constituents. Even so, the declaration was passed by the ILC after an unusually divisive political process, and was not unanimously approved.

The felicitous alignment of stars that had led to the declaration would remain a rare occurrence. The director general had intended that the declaration would be accompanied by a revamping of the ILO's monitoring activities, which were to be refocused on country certification of minimum standards and the issuing of an ILO social label. This proposal, however, received *no* support from the employers and a mixed reception from governments. Among developing country governments, it prompted even stronger fears of protectionism than had the declaration itself (ILC, 1997). The axis between developed country governments and the trade union movement, which in the past had been a key feature of policy development in the ILO (Cox 1973), was on this occasion insufficient to move the organization along.[4]

In the years that followed, the absence of consensus among the ILO constituents remained. The employers vetoed all proposals that would have given the ILO a real mandate and capacity to regulate working conditions across countries. The unions supported many of these same proposals, but to no avail. The only topic on which unions and employers found themselves in full agreement was the need for the ILO to remain a tripartite organization and to exclude NGOs and civil society organizations from any formalized access to the organization.

Governments mostly waited by the sidelines. The advanced countries paid little attention to policy development in the ILO, and developing coun-

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[3]Not all of the ILO's problems are a matter of structure; some are the result of agency. For example, Standing (2008) argues that DG Somavia made a 'historic error' by politicizing top managerial appointments. This lowered the capacity of the Secretariat to retain technical control.

[4]It bears emphasizing that in the past the ILO leadership had enjoyed a greater degree of autonomy than in the period covered by the analysis of this paper. For example, in the 1950s and 1960s DG David Morse was able to shift the organization towards a greater emphasis on technical assistance. For more on this and other developments, see the reconstruction in Standing (2008).

tries became involved only as much as was necessary to prevent the ILO from imposing new obligations on them.

The response of the ILO leadership to these internal divisions could be called a strategy of fudging. On the one hand, it has involved issuing very general statements, like those falling under the label of decent work, which are insufficiently precise to be openly disagreed with. On the other hand, these proclamations have allowed the organization not just to remain globally visible, but to actually increase the level of public attention it attracts. Furthermore, and perhaps most important, the leadership's strategy has allowed the organization to remain a formally united organization despite growing differences in its constituents' goals and preferences.

In assessing recent developments in the ILO, one is reminded of the historical-institutionalist paradigm in political economy, according to which an institution's evolution is path-dependent and that the founding moments are crucial. An institution's establishment freezes the particular constellation of interests and power resources prevailing at the time of its foundation. The future development of the institution continues to be shaped by this constellation even when environmental circumstances change completely (Thelen and Steinmo 1992; Hall and Taylor 1996; Pierson, 2003, 2004; Streeck and Thelen 2005).

This argument seems highly relevant for the ILO. The organization was established in 1919, at a time when the countries of the West were seeking to respond to the Russian Revolution (Cox 1973: 102). To disgruntled Western workers, among whom the taste for revolutionary movements had become alarmingly well-established, the Western powers offered corporatism as an institutional alternative to communism.

Corporatism is characterized by the systematic involvement of trade unions and employers in the formulation of governmental policy, particularly labor market and social policy (Schmitter and Lehmbruch 1979; Berger 1981; Lehmbruch and Schmitter 1982; Goldthorpe 1984). In Central European and Scandinavian countries corporatist arrangements emerged from the labor mobilization of the 1920s and 1930s and the ensuing labor peace or basic agreements, by which union movements accepted the legitimacy of the capitalist system of production in exchange for institutional recognition (Korpi 1978, 1983; Korpi and Shalev 1979; Esping-Andersen 1990). In the postwar years, corporatist policy-making took the form of "political exchange" (Pizzorno 1978): the unions delivered wage moderation, which stimulated investment and growth (Eichengreen 1996; Eichengreen and Iversen 1999), and received in exchange the expansion of various welfare state programs.

But even in small European countries like Austria and Sweden, by all accounts corporatism's home territory, the corporatist model was never fully implemented, remaining more an ideal than a detailed blueprint for policy development (Katzenstein 1985). Indeed, the model was fully implemented only in the ILO, where all policy development was tripartite.

Tripartism, another name for corporatism, is the hallmark of the ILO, which misses no opportunity to extol its virtues and to promote it among its

member states. It worked reasonably well until the 1950s, when the ILO was still predominantly a European organization. When the countries of the Soviet bloc and former colonies joined the organization, it continued to be viable, thanks to the alliance established between Western countries and the labor movement (Cox 1973) and to the received wisdom at that time, including among developing country elites, that developing countries would modernize along lines previously traced by the developed countries.

That said, however, no global south country ever came close to putting the corporatist model into practice. Trade unions were generally too weak and unrepresentative. At best, they could claim representation of government and other public sector workers, usually a privileged category. Similarly, even in the best of circumstances, employer organizations spoke only for formal enterprises. The large majority of workers, who were employed in informal jobs and microenterprises, never had a place in the governance structure of the ILO.

In its early stages, the decent work strategy sought to tackle the contradiction between a mission framed in terms of *work* and a governance structure tightly organized around *labor*. Yet, notwithstanding the leadership's repeated attempts, no substantial change was ever achieved. The ILO constituents killed the attempts at organizational reform that were made in the early stages of the Somavia's stewardship and, particularly, the proposed opening up to civil society.

Currently, the ILO presents itself as the agency that has the capacity to embed globalization within an institutional framework that reconciles economic progress with social justice (Standing 2008). But at a time at which corporatism as a socially progressive strategy is itself in crisis, especially in its Northern and Central European heartland, all it has to offer is a corporatist response to the problems posed by globalization (Baccaro 2009).[5] This corporatist strategy has never been seriously applied in the developing world, and there are reasons to doubt that it would be successful. Should it be tried on a large scale, it may even degenerate into a series of insider deals. Moreover, it is far from clear that other development agencies not wedded to the corporatist model for historical reasons would find it intellectually persuasive and would be willing to collaborate with the ILO in pursuing it.

Concluding Remarks

We have examined the extent to which the ILO's structure and strategy has changed in response to the perceived crisis of its old governance model of standard-setting. We have concluded that the record of reform is mixed. On the one hand, the organization has acknowledged the limited practical utility of continuing the production of detailed standards and has decided to focus on fundamental principles. On the other hand, the involvement of

[5]Notwithstanding the current crisis of corporatism, this model has in the past contributed to build in Scandinavian countries what many would consider the most inclusive, socially just economies in the world.

civil society remains taboo. In the late 1990s and early 2000s the leadership made efforts to move the organization in this direction, but to no avail. As for quantitative indicators, their production would seem to follow naturally from the strategy of providing decent work for all adopted in 1999. Indicators would specify exactly what decent work is and would provide a benchmark to assess progress towards it. So far, however, the ILO has not released any kind of quantitative measure of decent work. There have been repeated technical initiatives, but they have been thwarted by political resistance, particularly from the employers, who seem determined that nothing concrete or effective should come out of the decent work agenda.

To remain relevant, the ILO needs to change. Having officially acknowledged the importance of a broadly participatory approach to development (ILO 2004a), it should now follow through and strengthen the representativeness of its governance structures by allowing NGOs and civil society organizations to speak for workers and microenterprises in contexts in which the traditional corporatist actors are either absent or unrepresentative. It is not clear why the unions do not push forcefully for this kind of development. Their opposition to NGO inclusion seems myopic and possibly amounts to a strategic error because, given their goals and political orientations, the NGOs are likely to sit on their side of the bargaining table.

Notwithstanding the functionalist and neofunctionalist views on international organizations à la Mitrany (1943) and Haas (1964), however, change is unlikely to come from the functional interests' side, and perhaps it should not. Instead, the third and, in principle, the most important group of ILO constituents, the government representatives, should become much more active. The ILO constitution clearly gives governments a preeminent role, and Article 3 even suggests that it is up to governments to designate the nongovernment representatives. Governments from the global north and global south may have a shared interest in ensuring the continued viability of globalization as a political economic regime at a time in which globalization is threatened by the twin challenges of protectionism (from some northern countries) and neomercantilism (from some southern countries). Should governments decide that a more effective standard-setting organization is in their best interests, they may also decide to take the lead and encourage the ILO to become a more pluralistic agency that would open itself up to a variety of social actors but grant veto power to none.

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