

Global Governance Spotlight

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The Future of Work – and the ILO From standard-setting to enforcement

Markus Demele

The International Labour Organization (ILO) – the oldest specialized agency of the United Nations (UN) – celebrates its centenary this year amidst what is surely the greatest crisis facing multilateralism since the end of the Cold War. However, while the United Nations Children’s Fund (UNICEF), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO) and their core functions are well-known, most people, even those with an interest in politics, simply shrug their shoulders at the three letters “ILO”, even after 100 years. This led ILO Director-General Guy Ryder, in his 2013 report – entitled *Towards the ILO centenary: Realities, renewal and tripartite commitment* – at the annual International Labour Conference in Geneva to propose seven ideas as an ILO agenda for the next hundred years. The first and most important is the focus on the future of work. Since 2017, a 27-member Global Commission on the Future of Work, co-chaired by President Cyril Ramaphosa of South Africa and Swedish Prime Minister Stefan Löfven, has been preparing a report on the global future of work, including recommendations for achieving the goal of decent work for all. The report was published on 22 January 2019. But does it have what it takes to get the centenary celebrations off to a flying start? The answer is: only to a limited extent. This paper looks at the reasons why and identifies some of the actions needed to achieve decent working conditions.

The ILO at 100: a brief review

In 1969, the ILO was awarded the Nobel Peace Prize. Exactly 50 years later, making the future of work the focus of the centenary celebrations is a smart move, institutionally speaking, and is urgently needed in view of the atrocious conditions endured by workers around the world. A glance back at the past 100 years reveals that the ILO’s effectiveness has been modest at best. Its greatest achievements are undoubtedly the setting – although sadly not the enforcement – of the core labour standards (see Box, p. 2), increasingly recognised as reference norms and international treaty law, and its successful ownership and development of the discourse around decent work and social dialogue.

Former ILO Director-General Juan Somavía also did much to shape the international labour policy debate with his Decent Work Agenda, unveiled in 1999. The Agenda consists of four pillars: implementation of core labour standards; decent work for a decent wage; strengthening social protection; and social dialogue. The Decent Work Agenda was elaborated in more detail in the ILO Declaration on Social Justice for a Fair Globalization, adopted in 2008.

When it comes to the international level and to establishing a new global governance architecture,

however, this successful agenda-setting clearly reaches its limits. Until 1999, the ILO and the institutions which espoused market liberalism – notably the World Bank and the World Trade Organization (WTO) – tended to regard each other as rivals as they wrangled over interpretations of what constituted the right development pathway. By contrast, Somavía focused on creating a new culture of cooperation built around joint analyses and statements. It is still unclear whether the shift away from the World Bank’s structural adjustment programmes towards a more holistic, no longer purely supply-oriented conception of economic development can be partly attributed to these dialogues. Despite diverse forms of networking and the genuine efforts by the International Labour Office in Geneva to make the ILO’s agenda and governance approach more visible within the UN system, the outcomes – even at a purely declaratory level – are still very limited. In the Sustainable Development Goals (SDGs) defined in the 2030 Agenda – since 2015, the main frame of reference for the United Nations and its members in relation to global development processes – “decent work” is mentioned only as the eighth out of a total of 17 Goals and then only as an adjunct to “sustained economic growth”. Nevertheless, the ILO has imprinted itself on the language and tone of the labour policy discourse in recent years, and this latest report may well support this progress.

Report by the Global Commission on the Future of Work

The new report, entitled *Work for a Brighter Future* starts by acknowledging that “new forces” are transforming the world of work (p. 10). Technological advances such as automation will result in a dramatic shift and perhaps even a net reduction in demand for labour. Managing these and other challenges will require a “reinvigoration of the social contract” (p. 23) to give working people an equitable share in the prosperity to which they contribute. Specifically, the report proposes a “human-centred agenda” (p. 28) consisting of three pillars of action: (1) increasing investment in people’s capabilities, (2) increasing investment in the institutions of work, and (3) increasing investment in decent and sustainable work.

For the Commission, (1) investment in people’s capabilities (p. 29f.) means a universal entitlement to lifelong learning. Above all, an active labour market policy should support people through transitions, such as school to work, and moving into retirement. Implementing a transformative agenda for gender equality is also identified as an urgent priority, not only in relation to unpaid care and domestic responsibilities but also in individual sectors. The importance of strengthening universal social protection is particularly emphasised under this pillar.

The ILO’s core labour standards are set out in the following agreements:

Convention No. 87	Freedom of Association and Protection of the Right to Organise (1948)
Convention No. 98	Right to Organise and Collective Bargaining (1949)
Convention No. 29	Forced Labour (1930) and Protocol to the Forced Labour Convention (2014)
Convention No. 105	Abolition of Forced Labour (1957)
Convention No. 100	Equal Remuneration (1951)
Convention No. 111	Discrimination in Respect of Employment and Occupation (1958)
Convention No. 138	Minimum Age (1973)
Convention No. 182	Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)

Source: Author’s own compilation

(2) Increasing investment in the institutions of work is necessary as these institutions are the building blocks of just societies (p. 38f.). A universal labour guarantee should be established, with institutions that promote an adequate living wage and decent working conditions. Expanding time sovereignty, with workers’ greater autonomy over their working time, should be possible, along with measures to protect against the blurring of boundaries between working time and private time. Governments should expand and guarantee the right of social dialogue. New technology should be harnessed but always with a “human-in-command” approach. Digital labour platforms should be required to respect work-related rights and protections.

(3) The report also calls for increasing investment in decent and sustainable work (p. 45f.), referring in this context to the 2030 Agenda. Investment incentives to create jobs in micro-, small and medium-sized enterprises, especially in the world’s rural economies, should be prioritised. High-quality digital infrastructures are fundamental prerequisites here. Business incentive structures should be restructured for longer-term investment. This should include fair fiscal policies and revised corporate accounting standards. New measures of progress towards prosperity also need to be developed to account for the value of unpaid work performed in the service of households and communities.

For the implementation of this human-centred agenda, the report recommends a reinvigoration

of the social contract based on national strategies (p. 55). Within the international system, the report calls for the establishment of more systemic and substantive working relations with the WTO and the International Monetary Fund (IMF), although the debate about strategies for shaping the future of work should remain centred on the ILO itself. The report also recommends that urgent attention be given to the impacts of the digital revolution. And finally, the ILO is encouraged to reassert the universality of its mandate. This implies scaling up its activities to include those working in the informal economy.

Where does the report fit in?

Anyone familiar with the reports and strategies produced by the ILO in recent decades will be left feeling somewhat bemused by this report. There are both positives and negatives, more or less evenly balanced. In reality, the content of the report would need to be far more focused in order to get the year of celebration and action off to a flying start and make a sustainable contribution to the debate about the future of work and the shaping of this agenda through a reformed global governance architecture. In all probability, the same mechanisms that make the ILO relatively ineffective prevented the Commission from expressing its demands and proposals with greater clarity. Even in the preface, the two Co-Chairs concede (p. 5) that it had “not been possible” to include in the report “several good ideas ... on how to implement our recommendations” due to “points of divergence between the members of the Commission”.

While the Decent Work Agenda is now a well-established concept in the international policy discourse, the human-centred agenda seems unlikely to achieve the same status. The language and framing of this latter agenda are too cumbersome and lacking in conceptual clarity.

Regrettably, the content of some of the recommendations lags behind other concepts that have already been formulated and taken forward. For example, after Amartya Sen’s address to the 87th Session of the International Labour Conference in 1999, the ILO embraced his “capability approach” and integrated it into its policies. Although the new report lists publications by Sen’s collaborator Martha Nussbaum in its references, “capabilities” – in keeping with the tenor of the agenda’s first pillar – are reduced to “skills”.

There is also a wide gap where civil society should be, and this is a political misjudgement. Indeed, a negative distinction is made in the statement that civil society alliances cannot substitute for organizing workers (p. 42). This is true: they cannot and should not do so. Nevertheless, the finding in the ILO’s own

research that civil society alliances are often precursors to trade union activity, and that in some contexts they have been instrumental in securing collective rights, has progressively enhanced the status of civil society, also in an institutional context. The “tripartism plus” label underscores the importance of civil society groups in the debate about social dialogue, enabling the outcomes of this dialogue to be communicated and implemented more effectively and thus enhancing their legitimacy in the eyes of wider society. There is not a shred of evidence from the social sciences to back the assumption that even a fraction of the report’s objectives identified could be achieved without an active and resilient civil society. A reference to the importance of complementarity and mutual support among the tripartite partners and civil society alliances should have been included at this point.

As well as restating many important but hitherto unrealised policy measures, the report contains some fresh ideas. For example, social dialogue is, for the first time, described as “a public good” (p. 41). This conveys the message that no one should be denied access to this mechanism (non-excludability) and that this asset may be utilised by everyone without becoming depleted (non-rivalry). The first of these ambitions in particular has yet to be realised in many countries.

The report also states that measuring economic and social progress should be based not only on gross domestic product (GDP) (p. 50) but should also take account of externalities, such as pollution, as well as unpaid work performed in the service of households and communities. This calls attention to a holistic paradigm of human development that looks beyond purely statistical indicators.

Reference is also, and quite rightly, made to the problems relating to rights and benefits in the platform economy (p. 36); this takes up a fair amount of space at various places in the report. Entirely new issues relating to the transformation of working conditions will indeed arise here and will be difficult to resolve with the traditional toolkit for the implementation of labour standards. The report rightly recommends that the ILO conduct further research and activities here as a matter of urgency. This must include developing practical pathways for action in response to the Geneva outcomes on the expansion of social protection in the platform economy.

The Decent Work Agenda should itself be integrated into country programmes. Very few member states have done so yet, and fewer still have attempted to take action in line with the strategies formulated. The report’s recommendation that all countries establish national strategies for action on the new agenda (p. 55) is all well and good, but few countries are likely to take this forward.

Recommendations

In moving closer to the attainment of humane working conditions for all the world's working people – in other words, towards a “human-centred” economy – statements of intent are merely the first step. Yes, it is both positive and helpful if normative concepts of what people need in order to be able to work in a decent way are applied to ever more countries, sectors and contexts. However, these norms must also be enforced. Countries with weak governance and poorly resourced administrations and public authorities need support here from those states whose businesses exploit the poor enforcement of labour standards in international supply chains, for example in Asia, Latin America and Africa.

This can only be achieved, however, if the ILO or other international institutions are mandated to enforce these standards. An International Labour Court could be an effective mechanism for raising public awareness and enforcing labour standards. Unlike the International Court of Justice in The Hague and the ILO's own complaints procedure, legal action could then be taken not only against governments but also against companies headquartered in a member state that had ratified the relevant convention and thus transposed it into national law. A permanent International Labour Court would require its own statute, to be ratified individually by member states.

Thus far, neither the Guidelines for Multinational Enterprises issued by the Organisation for Economic Co-operation and Development (OECD) nor any of the UN Principles on Business and Human Rights, or

indeed any bilateral or multilateral trade or investment agreement, have established structures that would constitute an adequate forum for dealing with violations of labour rights. When it comes to negotiating labour standards and making law, its tripartite structure means that the ILO is a step ahead of all the other UN agencies in terms of its legitimacy. This must now be utilised for the purpose of rights enforcement. In the next century of its existence, the ILO should focus less on promoting harmony and more on having the courage to embrace confrontation. The soft approach of standard-setting, on its own, has failed to establish a global governance architecture for employment that prevents slavery, exploitative child labour, death and disease caused by work continuing to be the reality for the majority of the world's working people.

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