

Labour & Development

Special Issue on India & ILO: 1919-2019

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ILO AND INDIA: A CENTURY OF A SHARED QUEST FOR SOCIAL JUSTICE

S.K. Sasikumar*

“Si vis pacem, cole justitiam” – “If you desire peace, cultivate justice”. This is the motto enshrined in the foundations of the International Labour Organization’s (ILO) original building in Geneva. Based on the belief that universal and lasting peace can be accomplished only if it is rooted in social justice, the ILO was founded in 1919 as part of the ‘Treaty of Versailles’ that ended the First World War. The war and its immediate aftermath highlighted the exploitative and harsh conditions under which millions worked around the world. It was believed that inhumane conditions of work anywhere were an impediment to progress and prosperity everywhere. One firm principle enshrined in the ILO’s Constitution was that labour was not to be treated as an article of commerce or as a mere commodity (Part XIII, Treaty of Versailles, 1919). Ensuring dignified working conditions of all workers was considered the best way to secure social justice and lasting world peace (Thomas, 1921). The ILO was to carry out these high ideals by creating international standards of work through its Conventions and Recommendations. These standards were established through a unique mode of tripartite consultation among representatives of governments, employers and workers.

Interestingly, even though a British colony at the time, India was one of the founding members of the ILO and also became a permanent member of the Governing Body in 1922 as one of the ‘chief countries of industrial importance’ (Sundaram, 1944). The inception of the ILO accelerated the formation of representative organisations of employers and of workers in India. The All India Trade Union Congress (AITUC), the first federation of trade unions in India, was founded on 31 October, 1920; its establishment aided in the democratic election of workers’ delegates to the International Labour Conference (Gupta, 1980). N.M. Joshi was nominated as the first workers’ representative, and had a lifelong association with the ILO. Similarly, the formation of the Federation of Indian Chambers of Commerce and Industry (FICCI) in 1927 facilitated the participation of representatives of Indian employers in the subsequent International Labour Conferences. Stalwarts of Indian industry – G.D. Birla, Ardeshir Dalal, Naval H. Tata – participated in

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International Labour Conferences and in the governing body of the ILO in different capacities in the initial phase of the ILO's journey.

The ILO also played a role in the Indian independence struggle, serving as an important international forum where views differing from that of the British government could be voiced and the conditions of workers under colonial rule highlighted. In a famous letter to Mahatma Gandhi written on 22 October 1931, the then ILO Director General, Albert Thomas, noted, "... how firmly I believe in the principle of the independence of all people and my earnest desire is to see them live in peace and fraternity on the basis of each respecting the independence of others ... It has been one of my greatest desires to meet you, talk with you about the future of India, especially from the point of view of the protection of the workers." Leaders of the Indian independence struggle, such as Bal Gangadhar Tilak, Lala Lajpat Rai, V.V. Giri and Jawaharlal Nehru, were connected to the ILO in different capacities at different points of time. Lala Lajpat Rai anticipated the framework of enduring cooperation between India and the ILO by arguing and asking for the support of the 'workers of the West' in the struggle against colonialism. In 1942, Dr. B.R. Ambedkar, as the Labour Minister, institutionalized the Indian Labour Conference, a tripartite consultative body modelled on the International Labour Conference of ILO. This institution continues to be an important forum for the governance of labour relations in India.

In 1944, even as the Second World War was nearing its end, the ILO in its meeting at Philadelphia brought out the 'Declaration of Philadelphia' that endorsed the organisation's original ideals: that 'labour was not a commodity' and that social justice must be available to all human beings irrespective of race, creed or sex of the workers. The spirit of the ILO Declaration of Philadelphia resonated strongly with the ideals of the Indian Constitution adopted in 1950. Both documents rejected colonialism and advocated for universal rights with provisions to ensure social justice for all. Around that time - in 1947 and 1957- two Asian Regional Conferences were held in India. During the deliberations, Indian Premier Jawaharlal Nehru emphasised the need not only for a political revolution, but an economic one with the primary focus on the core needs of working people.

Many labour legislations enacted in the early years of independent India, and the wide-ranging social protection provisions in them reflect the ideals enshrined in the ILO's international Conventions. India has ratified many crucial Conventions and has adopted many of the ILO Recommendations. In 1951, India signed a significant technical assistance

agreement with the ILO leading to a large programme encompassing topics such as employment, working conditions, occupational safety and health. ILO activities and standards earlier mainly focused on organised sector workers; from the 1970s unorganised/informal sector workers became a primary concern for the ILO. The organisation pioneered methods of identification and documentation of informal sector workers and crafted Conventions focused on providing social security to unprotected workers (Bassanger, 2000). Home Work Convention, 1996 (No. 177), and Domestic Workers Convention, 2011 (No. 189), are prime examples of this.

Since the 1990s the ILO has played a vital role in protecting the interests of workers affected by globalisation and liberalisation. To mitigate the effects of the structural adjustment programmes, the ILO adopted the Declaration of Fundamental Rights at Work, 1998, and the Decent Work Programme, 1999. The former committed all ILO member states to respect principles and rights in four areas: Freedom of Association and Collective Bargaining, Forced Labour, Child Labour and Discrimination at Work. The concept of decent work encompasses recognising work as part of the core identity of human beings – giving working lives meaning and dignity, while allowing us to support ourselves and our families (Ghai, 2006). Decent work became the root of social cohesion and the catalyst for poverty reduction in all societies (Rodgers et al., 2009). Countries like India began to anchor their development strategy in the decent work framework.

The 2008 global financial crisis was an important reminder of the imperative need for a new social compact with the generation of decent jobs at the centre of public policy. The Global Jobs Pact proposed by the ILO in 2009 called for a coordinated international response to the need for fair globalisation, a greener economy and development that creates jobs and promotes sustainable enterprises. Even as the world struggled to shake off the effects of the crisis, the churn introduced by the technological revolution of digitisation and automation emerged as a new challenge. The impending crisis induced by climate change has also injected a new urgency into creating a sustainable world of work.

ILO has responded to the challenges by proposing a human-centred agenda for the future of work by placing people and the work they do at the centre of economic, social and business policy. This was reaffirmed in the historic Centenary Declaration adopted by the ILO in the 108th session of the International Labour Conference in 2019. The Centenary Declaration acknowledged the ILO's enduring legacy of social justice and decent work, also marking the organisation's path towards the future.

The Declaration noted the enormous advances made towards the goals of social justice and the economic and social progress that have led to more humane conditions of work. It simultaneously acknowledged the persistence of inequality, poverty and conflict in many regions of the world. Outlining four key issues, the Declaration aimed to address the challenges of climate change, globalisation, technological innovations and shifting demographics. The ILO reiterated its faith in a human-centred conception of work, reaffirming the agenda of decent work and indeed the Fundamental Rights at Work Programme. Such an approach is extremely relevant for India as it is in the midst of a demographic transition whose benefits can be reaped only by generating quality jobs for aspiring young entrants.

2019 marks the centenary of the inception of the ILO. It also marks a century of eventful and productive cooperation between India and the ILO. The complementarity of the ILO's efforts to promote 'a humane and decent future of work' and India's quest for 'development for all' reiterates the strength of this unique partnership to respond to the many challenges of change.

This special issue of the journal *Labour & Development* commemorates the shared journey of India and the ILO in their quest for social justice and a dignified world of work. The articles in this volume and the special photo feature delineate both the history of this joint quest and the role played by the different stakeholders in strengthening the India-ILO partnership.

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ONE HUNDRED YEARS IN PURSUIT OF A DREAM

A.V. Jose*

International Labour Organisation (ILO), the oldest among all UN Agencies, is celebrating an eventful century of its existence in 2019. As an organisation, ILO was entrusted with a mandate to set and implement a universally acceptable set of labour standards. This paper examines the history of ILO and addresses some core questions related to the governance of the workplace like: What is the rationale for interventions at a global level for enforcement of labour standards? Is there any compulsion to set or follow a set of common standards for the governance of work? How did ILO acquire such a mandate to make regulatory standards on work? How did it perform fulfilling the mandate entrusted to its care? and What tangible outcome did the organization produce? The article also provides a succinct account of ILO's long and lasting relationship with India.

Keywords: *International Labour Organization (ILO); ILO Conventions; Labour Standards; ILO- India Relationship*

1. INTRODUCTION

This is the centenary year of International Labour Organization (ILO). The oldest among all UN Agencies, ILO came into being along with the League of Nations in 1919. Its founding was part of the "Peace Treaty of Versailles" that marked the end of First World War. As an organization, ILO was entrusted with a mandate to set and implement a universally acceptable set of labour standards for governance of the workplace. Today ILO has a total strength of 187 member-states with a secretariat – The International Labour Office – based in Geneva, Switzerland. A multi-national staff of 2300 officials work at the headquarters and in 40 field offices spread around the world.

Right from the beginning, ILO took on the mandate of standard setting with seriousness and diplomacy. All normative standards concerning work, practised or not in all countries of the world, which range from: hours of work, wage and non-wage benefits, working conditions, occupational safety and health, terminal allowances and social security benefits, have been defined and codified in the precincts of its secretariat for eventual acceptance and implementation by the sovereign member-

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states of ILO. These standards are embodied in the ILO Conventions. Through the last one hundred years, ILO has adopted as many as 189 conventions through voting by constituents, gathered at the annual International Labour Conferences (ILC). The conventions become binding obligations of member-states, only when they are ratified and taken up for implementation based on national level legislations.

There is an elaborate procedure leading to the adoption of each ILO convention. Its provisions are discussed and finalized in different sittings of the ILC and voted for adoption by the delegates representing workers, employers and governments of member-states. For that reason, the ILC convened every year, is deemed as a global parliament of all from the world of work. The governments of member-states, once they ratify a specific convention, are required to report details of their compliance with obligations of the convention to specially constituted supervisory committees of the ILO. In general, the conventions are reckoned as international labour standards, whether or not they are ratified by member-states.

At the time of adopting a convention on any labour standard, ILO also makes a set of recommendations listing a feasible set of practices and procedures that could ideally be followed by member-states. These recommendations do not however, have the same binding force as conventions. In any case, the member-states are not required to ratify the ILO Recommendations.

A question naturally arises as to what is the rationale for interventions at a global level for enforcement of labour standards? There are some related questions too that beg for answers. Is there any compulsion to set or follow a set of common standards for the governance of work? How did ILO acquire such a mandate to make regulatory standards on work? How did it perform fulfilling the mandate entrusted to its care? In the process, what tangible outcome did the organization produce? If we were to answer these queries, it calls for a quick look at the history of ILO in the 20th century.

In what follows, a review of the ILO story is organized into five sections. The first, besides this introduction, goes back to the circumstances leading to creation of the organization in 1919. Next, is a review of the standard setting work done by ILO right unto the end of World War II. The post-war decades, generally considered as a golden age of the global economy, when a post-war construct of employment and

industrial relations was put in place among the western industrialized economies, come up for discussion in Section 3. This also happened to a period when ILO gave greater attention on the problems and concerns of developing countries. In Section 4, the focus is on how ILO adapted itself to the changing environment of a global economy during the closing decades of 20th century. The final section offers a glimpse of how far the concerns of India have been addressed by the organization, and how the tripartite constituents and officials from India have contributed at various stages to the work of ILO.

1.1 Si vis pacem, cole justitiam

Buried under the foundation stone of William Roppar Centre in Geneva, originally a home built for the International Labour Organization in 1923, is a time-capsule carrying an inscription in Latin, which says “Si vis pacem, cole justitiam”. Its meaning: “if you are seeking peace, cultivate justice” is a candid statement of the founding principle of ILO. There indeed was a compelling case for pursuing social justice, dictated by the circumstance in which the organization came into being. The stage was set in the course of more than two hundred years of industrial advancement that occurred in the western hemisphere.

ILO was created primarily to deal with the “Social Question of Europe”, which surfaced in the course of a turbulent phase of industrialization during 18th and 19th centuries. The social question itself was a fall-out of Europe’s long march to prosperity through Industrial Revolution on a road, littered with the blood and sweat of the entire working class of industrializing countries and of the colonies in Asia, Africa and Latin America. Two centuries of Industrial Revolution in Europe since the mid-17th century had necessitated the creation of durable institutions that could provide lasting solutions to the social questions that demanded answers.

The widespread prevalence of sub-human working conditions, manifested through meagre wages, excessive hours of work, high unemployment, abuse of child labour, and absence of even rudimentary forms of social security called out for long-term solutions through collective action. These problems became glaring in all emerging industrial societies, as they experienced extensive urbanization together with far-reaching changes in the organisation of work. New incumbents of urban industrial societies were detached and disinherited from the pre-industrial societies, they originally belonged to. They shared

a common trait, which was a near uniformity in skill endowments, as they were hired as providers of dispensable manual labour. For that reason, they found themselves at the receiving end of unequal employment relations, which have had corrosive consequences on all industrial societies.¹

Demand for a just sharing of the fruits of progress had already gathered momentum in the course of 19th Century. Right through this period, the social reformers and epistemic communities of Europe persuasively argued for new institutional safeguards to benefit the workers, belatedly being recognized as contributors to the material prosperity brought by industrial revolution. The deeper wounds inflicted on workers alienated from their means of production, a rising threat of social unrest by distressed workers in many continental European countries, and a perceived need to accommodate their concerns in the course of First World War were also among the factors that necessitated the establishment of ILO (Alcock, 1971, Ch.1). More important, the large workplaces of industrial societies had made it possible for workers to come together, form fraternal alliances, and demand improvements in their working and living conditions. The material prosperity acquired through industrial revolution had circumstantially made it possible to acquiesce to their demands (Friedman, 2006, Ch.4).

As it happened, the incumbents of industrial societies were transformed and empowered to become growth engines of all emerging economies. Empowerment took place under the aegis of a host of institutions, which were designed and developed within the precincts of the International Labour Organization. In retrospect, the greatest achievement of ILO was that it served as a seedbed of institutions, which helped industrial societies to consolidate their material and moral gains and to perpetuate them for the benefit of posterity. The organization provided a common forum to advance and realize the economic and social interests of all workers, and in the process developed a legal architecture for governance in the world of work.

1.2 Peace Treaty of Versailles, 1919

Arguably the most important component of the Versailles Treaty was its Labour Charter, listing the essential ingredients of a post-War society,

1. There are touching accounts of the devastating transformation of workplace relations in the course of industrialization in Europe. See in particular Thompson (1964), Pinchbeck (1930) and Sennet (1988).

just and fair to all its incumbents. The Charter, which gave universal recognition and legitimacy to the material interests of workers in industrial societies, specifically mentioned the following elements: i) Labour should not be regarded merely as a commodity or article of commerce; ii) The right of association; iii) Payment of adequate wage to maintain a reasonable standard of living; iv) An eight hour working day or forty eight hour week; v) A weekly rest of at least twenty four hours; vi) Abolition of child labour; vii) Equal pay for equal work; viii) Equitable economic treatment of all workers in a country (migrants as well as nationals); ix) An inspection system to ensure the enforcement of the laws for worker protection (Alcock, 1971 p.35). These were precursors of major changes in the world of work, and vigorously pursued by ILO.

The Labour Charter represented the hopes and aspirations of all urban industrial workers for a just society. The economic interests of workers, which originally belonged to the realm of private laws and governed under customary rules, had matured into important entitlements of the employed. They showed up as improved wages, better working conditions, stipulated hours of work, health and safety at workplace, and social security benefits. A broad-based recognition of these entitlements was the industrial economies' prudent response to the 'social question' of 19th Century. They were acknowledged as workers' rights, which in turn were guaranteed under public laws, and constitutionalized by nation states.

2. STANDARD SETTING IN THE EARLY YEARS OF ILO

The first convention adopted by the ILO in 1919, concerned the specification of an eight-hour working day. The conference also adopted four conventions relating to Night Work for Women, Maternity Protection, Minimum Age in Industry, and Night Work for Young Persons (Alcock, 1971, p.46). In the first 10 years, ILO voted for 28 conventions, all related to terms and conditions of employment, occupational safety and health, protection of vulnerable groups, and social insurance of workers. The adoption of the Forced Labour Convention in 1930 was another landmark event. These conventions were a collective recognition of the basic entitlements of workers, which they realized through exercising civil liberties, also guaranteed in the context of industrial societies.

In this regard, Hepple (2006) draws a distinction between substantive and procedural rights of workers. Substantive rights are those, which

determine the actual conditions of labour such as minimum wages, maximum working time and right to equal treatment. Procedural rights are those, which shape the processes by which substantive rights are determined, such as: right to collective bargaining, rights of workers' representatives, and right to equal opportunities. The legal framework was based on a tacit recognition that if you set the processes right through correct and durable institutional safeguards, then equitable outcomes will follow. In subsequent decades, ILO adopted more progressive conventions, which effectively guaranteed the procedural rights of workers through freedom of association and collective bargaining.

Through emphasizing procedural rights, based on civil liberties, ILO made it possible to elevate public law to a higher plane of public international law and to set the stage for their universal acceptance and progressive realization in all countries, developed and developing. To this end, the founding leaders of ILO created a uniquely democratic forum – a tripartite structure represented by workers, employers and governments from different countries of the world – as part of a global legislature of all related to work. The tripartite representatives gathered in Geneva from time to time, studied, deliberated, and voted to create new normative standards for the world of work. As one would expect, western industrialized countries pioneered in the ratification and implementation of international labour standards, thus adopted.

2.1 Legal Architecture for the World of Work

The global forum for tripartite representation, instituted by ILO, strived methodically to work out lasting solutions to the social and economic problems that surfaced in the course of industrialization. Primarily, it facilitated the establishment of regulatory institutions for mitigating the exploitation and misery of people in the lower tiers of work. New institutional safeguards for protecting workers made it possible for them to receive fair minimum wages, acquire mobility in labour markets and move on to better jobs that offered higher returns and improved living standards.

Specifically in the western context, a variety of factors set the stage for such accomplishments.² Some factors, frequently mentioned are the following: i) Greater opportunities for education and skill acquisition were opened up; ii) Large workplaces made it possible for workers to

2. For an insightful discussion of many contributory factors, which are described as the moral consequences of economic growth, see Friedman (2006).

come together and form fraternal alliances to demand improvements in their working and living conditions; iii) Material prosperity generated by industrial revolution made it circumstantially possible to acquiesce to those demands; iv) Moral philosophers and other custodians of the conscience of humanity, who constituted themselves into epistemic communities, demanded improvement of wages and working conditions in industrial societies; and v) As pointed out by Hobsbawm (1994), the fratricidal wars of the 20th century had already raised the stature and strategic importance of labour.

Nonetheless, at the end of the 2nd World War, when decolonisation became universal and widely accepted, ILO fitted well with the contours of an emerging international economic order. There was a concerted attempt to promote labour standards in developing countries, mainly through implementing technical co-operation programmes. Ground work for a more ambitious role was done during the war under the leadership of Edward Phelan, at a time when ILO had shifted its headquarters to Montreal in Canada. The tripartite structure of ILO probably helped in saving it from complete obliteration during the war, as it had happened to many agencies of the former League of Nations. ILO emerged from the ashes of the war with an action plan, primarily addressed to the concerns and human rights of people in developing countries (Alcock, 1971, Chapters 9-11). The Philadelphia Declaration of 1944 was a landmark event in its history.

3. POST-WORLD WAR II DECADES: A GOLDEN AGE

The Philadelphia Declaration was a forthright restatement of the principles and objectives of ILO. One among the memorable arguments it brought to world-wide attention was the following: "That poverty anywhere is a threat to prosperity everywhere... and that all human beings irrespective of race, creed or sex, have a right to pursue both their material well-being and spiritual development in conditions of freedom and dignity, of economic security and equal opportunity" (Alcock, 1971, Ch.10). The Declaration also marked a quantum leap in the thinking and approach of international agencies towards playing a positive role, promoting employment and development of all emerging nation states. The underlying strategy was to facilitate development through reliance on technical co-operation programmes and thereby set the stage for a progressive adoption of international labour standards. With the Philadelphia Declaration in place, ILO focussed attention

on securing a universal acceptance of human rights at work and the elimination of poverty in all countries. Under the new UN system, ILO became a specialized agency.

After the war came a period of great euphoria and optimism, accentuated by decolonisation, explosion of markets, and emphasis on internationalism. Post-war years witnessed rapid economic growth and distinct changes in the composition of labour with rising presence of white-collar workers. A European Social Model of employment relations was in the making, which became the most widely advocated goal for emulation by developing countries. This model was an outcome of durable partnerships between social democratic regimes and workers of industrial societies, who were increasingly drafted into an ascending middle class.

Some notable features of the social model were: i) Assured opportunities for employment based on open-ended contracts; ii) Improved terms and conditions of employment along with minimal disparities in wage earnings; and iii) Social protection of workers and their dependents with safety, health and secure income during and beyond working lives; and iv) Universal provision of public goods including education, health-care, infrastructure and a clean environment to all citizens. The industrial societies attained these goals during a golden age of growth and prosperity, and while doing so created appropriate regulatory institutions to secure them (Esping-Anderson, 2006).

The Employment Policy Convention (C-122) adopted by ILO in 1964 was an important event, which occurred against the background of near full employment conditions among industrial economies of the West. The convention enjoined all member-states to work towards the goal of full employment. Also, there were conventions centered around human rights, adopted during the golden age. Equal Remuneration Convention (C-100) of 1951, Minimum Wage Fixing (C-131) of 1970 and Minimum Age for Employment (C-138) of 1973 deserve special mention for having triggered off many progressive changes in the labour markets of developing countries.

The ideal world of work envisaged by ILO, where the rights and entitlements of workers were enshrined in national labour codes, remained regrettably beyond the reach of many developing countries. The countries had just come out of colonization in a state of poverty and deprivation only in the post-war decades. It took a while to understand

that merely preaching labour standards was not sufficient, but the rich world needed to work towards setting a stage for acceptance and adoption of such standards among the formerly colonized countries. The international community had a moral obligation to promote universal labour standards through appropriate means of action.

This point was argued by no less a person than Wilfred Jenks, an eminent jurist and a former Director General of ILO in the 1970s. Jenks traced the transformation of workers' interests into rights as a continuous process that goes hand in hand with economic growth. Interests of workers for material advancement mature into entitlements; they in turn gain legitimacy as rights through legal instruments and sanctions. He made a poignant observation that "only when the acquired interests of workers gain social recognition in the course of economic development, can their usage be legitimised through legal instruments" (Jenks, 1968).

Increasingly the developed countries, which were already the repositories of improved labour standards, came forward to work closely with the developing countries for economic and social development through a panoply of technical co-operation programmes. Guided by an abiding concern to gain legitimacy in the developing world, ILO became an active protagonist of technical co-operation for employment and development in Asia, Africa, Latin America and the Caribbean.

3.1 Nobel Peace Prize Followed by Deeper Involvement in Technical Co-operation

A multi-faceted pursuit of social justice at the global level, came up for universal recognition, when ILO was awarded the Nobel Prize for Peace in 1969, on the 50th anniversary of its founding. Thereon, ILO was geared to facing a major challenge of minimizing the economic gap between rich and poor nations of the world. On the occasion of receiving Nobel prize, David Morse, Director General of the organization, outlined a futuristic vision and noted that the work done during previous fifty years was "prelude to an epoch where instinctive solidarity between people of the world is mobilized in a joint world-wide attack on poverty" (Lionaes, 1969). Prize money that came with the award was kept as a special endowment of the International Institute of Labour Studies for promoting ILO's outreach activities.

In 1969, ILO launched the World Employment Programme and assigned for itself a central role in the development agenda of member-states

mainly through employment promotion. It created regional teams for advisory services in three continents – Asia, Africa and Latin America – and embarked on a substantial programme of research and action to define and implement employment strategies. Leading social scientists and policy practitioners of the world supported and co-operated with this remarkable venture of ILO. The employment missions, organized from time to time, were headed by renowned social scientists. They generated some treasured outputs containing analytical studies on the problems and priorities of developing countries together with strategic approaches and action programmes for employment promotion. The World Employment Programme made pioneering contributions to the debate on Informal Employment, Basic Needs Approach to Development and Redistributive Strategies for Economic Growth. These contributions became the foundation of a growing knowledge base on development strategies.

A vast literature produced by ILO on the Basic Needs Approach to Development deserves special mention. The organization pointed to the significance of public policy interventions, meant to improve the social consumption of people at the lower end of income distribution. Its central message to the policy community was that a range of interventions starting from re-distributive land reforms to public spending for improved access to education, health, nutrition, housing and transport infrastructure, are important stepping stones to meeting the basic needs of all people. These measures can make a vast difference to the quality of life in developing countries and set the stage for faster economic and social development. Obviously, there are pre-requisites for embarking on such interventions, predicated on political support for redistributive reforms.

4. GLOBALIZATION AND THEREAFTER

The onset of an accelerated phase of globalization from the fourth quarter of 20th century onwards brought in a different genre of problems to ILO and its tripartite community. As it happened, globalization intensified competition, accelerated the mobility of capital, and added to the vulnerability of labour. The post-war decades of growth and prosperity gave way to a prolonged phase of stagnation in the global economy. Factors contributing to this change were easily identified; but remained intractable. They, in particular included: i) Technological progress and the restructuring production processes; ii) Changes in the

composition of workforce together with an increase of new entrants, particularly women to the labour markets; iii) Adoption of liberal economic policies by governments; and iv) Practice of flexible labour market policies among the developed and developing countries only aggravated the insecurity of workers.³

These changes have had a profound impact on the content of workplace relations, idolized and promoted by ILO. In due course, the changes raised some difficult questions concerning the relevance of employment protection laws, considered inviolable by all politically alert workers of industrialized countries. Globalization and the rising prominence of value chains posed serious problems to the sustainability of inward-looking industrialization strategies and protectionist labour policies of the past. The very sanctity of a post war-construct of employment relations, built on full-time and life-time jobs backed up by open-ended contracts, also an enduring model for emulation in the developing countries, was called into question. The explosive growth of informal employment became an intractable problem in many developing countries. At a global level, it became necessary to take a call on the feasibility of governance structures for regulating the conditions of informal employment.

On the other hand, the perceived outcomes of globalization were not entirely disastrous, as there were some positive elements in the pattern emerging. It opened up opportunities for transforming work and the relations at work through faster growth and social development. The rise of value chains and new production platforms in developing countries brought new opportunities for connecting people through transport and communications, adding value to their acquired skills.

As it happened, globalization coincided with the liberalization of markets in many developing countries, making it possible for some 2 billion people to gain access and position themselves at vantage points on global value chains. For many aspiring workers of the developing world, globalization was not necessarily a 'race to the bottom', in terms of wages and working conditions, but an unprecedented opportunity to climb out of poverty and deprivation. The value chains also become conduits for the spread of improved labour standards in developing countries. A rising presence of digital

3. These forces, which also resulted in major changes in the density and mobilizing capacity of trade unions, an important pillar of the industrial society, are discussed in Jose (2002, Chapter 1).

media too helped to empower the workers, creating greater awareness of their rights and opportunities.

4.1 Declaration on Fundamental Principles and Rights at Work

In the changing environment, ILO tried to retrieve the ground by specifying the components of a social floor of the global economy, as an absolute minimum for governance in the world of work. To this end, the International Labour Conference of 1998 deliberated a Universal Declaration on Fundamental Principles and Rights at Work, which has had four components: i) Freedom of Association and effective recognition of the right to bargain collectively; ii) Elimination of all forms of forced and compulsory labour; iii) Effective abolition of child labour; and iv) Elimination of discrimination with respect to employment and occupation. It was adopted unanimously by the Conference.

As argued by Hepple (2006), the Declaration marked a shift in emphasis towards promotional rather than punitive corpus of soft law that would serve as directive principles of state policy, rather than a rigorous interpretation of the principles and procedures of hard law, based on conventions. The first component of Declaration pointed to promotion of individual rights to organize and bargain collectively for realizing justice in the world of work. Such articulation of rights is premised on the presence of negative immunities granted to all individuals, akin to the right to life and property. The prevalence of forced labour and child labour is symptomatic of the absence of basic freedoms along with deprivation and degradation of life. The cure lies in tackling poverty and destitution through collective action. The component on discriminatory practices at work is an argument for making labour markets open under the watchful eye of state. More often discrimination is shrouded in primordial loyalties of ethnicity, caste, language or religion. The barriers to entry and mobility of workers, it poses can be broken only through affirmative action led by the state. The four components of Declaration together set the stage for attaining what ILO calls a *Decent Work* agenda in all countries.

As an ideal to be realized, decent work is closely connected to the concerns of all developing countries. Essentially it means “secure income from work for all men and women under conditions of freedom, dignity and equal opportunity”. A decent work agenda for developing countries is all about creating a congenial environment for employment, poverty alleviation, dignity at work, elimination of all

forms of discrimination, skill development, and institutional safeguards for fair wages and social security to all taking part in the production of income and wealth.⁴ Such an agenda is the surest means to promote equitable growth in all countries. At the dawn of a new millennium, ILO has launched an ambitious campaign of advocacy for decent work. In this regard, it is important to mention the preparatory work done by two World Commissions instituted by ILO.⁵

4.2 World Commission on the Social Dimensions of Globalization

In 2001, ILO established a World Commission on the Social Dimensions of Globalization, consisting of distinguished scholars, policy practitioners, and representatives of the tripartite community with a mandate to prepare policy prescriptions that can mitigate the adverse effects of globalization and ensure that globalization leads to equitable outcomes for all in the world of work. Subsequently the Commission's report, "A Fair Globalization - Creating Opportunities for All", was submitted to the International Labour Conference of 2004. The report noted un-equivocally that deep-seated and persistent imbalances existed in the working of global economy, and that such globalization, ethically unacceptable and politically unsustainable, has not met the legitimate aspirations of a vast majority of men and women for decent jobs and a better future for their children.

The report recommended changes in attitudes and policies to create a strong social dimension for globalization, based on universal values, human rights, individual dignity, democracy and opportunity for all. It outlined co-ordinated actions at national, regional and international levels involving governments, workers, employers, civil society and international bodies to promote decent employment, sustainable economic development, social security, education and health-care. The report argued that decisions and policies linked to globalization should be made in democratic and coherent ways, and for that to happen it is important to strengthen local communities, ensure better governance at national levels, and reform international institutions.

4. A collection of articles offering excellent discussion of the concept of decent work and strategies for realizing that goal has been put together by Ghai (2006).

5. Details of the analytical work and recommendations by the two World Commissions on Social Dimensions of Globalization and Future of Work, briefly discussed in Sections 4.2 and 4.3, are available at the ILO website: www.ilo.org

4.3 World Commission on Future of Work

In 2017, ILO set a high level commission to undertake an in-depth examination of the future of work, which in turn could provide the analytical basis for delivering social justice in the 21st century. The Commission's report, finalized early in 2019, noted that technological advances involving artificial intelligence, automation and robotics would inevitably lead to major job losses in the coming decades. However, countless opportunities lie ahead to improve the quality of working lives, expand choice, close the gender gap, and reverse the damages wreaked by global inequality. Millions of jobs can be created towards meeting these objectives if the global community can seize the opportunities and initiate timely action.

The Commission outlined a vision for human-centred agenda, investing in people's capabilities, institutions of work and in decent and sustainable work. Based on the vision, some recommendations for action made at the International Labour Conference of 2019 were the following: i) A universal guarantee that protects workers' fundamental rights, adequate living wage, limits on hours of work and safe and healthy workplaces; ii) Guaranteed social protection that supports people's needs over the life cycle; iii) Universal entitlement to lifelong learning that enables people to acquire and upgrade skills; iv) Managing technological change to boost decent work, including an international governance system for digital labour platforms; v) Greater investment in the care, green and rural economies; vi) A transformative and measurable agenda for gender equality; and vii) Reshaping business incentives to encourage long-term investments.

The launch of world commissions on two occasions, following an acceleration in globalization, underscores the point that ILO has been leading a search for meaningful solutions to the problems in the world of work in fulfilment of its long term goal of social justice. The search continues as an enduring mission of the organization with support of academic scholars, media and social partners. Social justice is still a dream in all countries, rich and poor. It will remain a dream, eminently worth pursuing for many years to come.

5. LONG AND LASTING RELATIONS WITH INDIA

Right from the inception, member-states of ILO included both developed and developing countries. India, though a British colony in

1919 was a founding member of ILO and a permanent member of its Governing Body since 1922. As a founding member, India has had a special bond with the organization. Many pioneers of the Indian labour movement built up lasting relationship with ILO; led their delegations to ILO conferences and played a prominent role in shaping important international conventions for universal adoption (Rodgers, 2011).

Right through the past one hundred years, a distinguished line of officials from India lent their services to ILO (Krishnamurti, 2011). They included eminent academics, renowned trade unions leaders and prominent civil servants. Some notable personnel of early years were: P.P. Pillai, R.K. Das, K. Kuriyan and Raghunath Rao. In more recent times, Indians in the top line of leadership included S.K. Jain, Aamir Ali and Padmanabha Gopinath. In 1928, when ILO opened its Branch Office in India, it was headed by P.P. Pillai, who was already the first Permanent Representative of India to League of Nations. Later in 1944, Pillai played a role in drafting the Philadelphia Declaration, which redefined the aims and objectives of ILO. Both Pillai and Das were eminent economists of their time. Later, K.N. Raj and Amartya Sen helped shaping the content of ILO work under the World Employment Programme.⁶

In October 1947, just two months after attaining independence, India hosted the first Asian Regional Conference of ILO. The conference was inaugurated by Prime Minister Jawaharlal Nehru. In the early years, prior to US becoming a member in 1934, India was also a major contributor to the finances of ILO (Krishnamurti, 2011). Atul Chatterjee of the Indian Civil Service chaired the ILO Conference of 1927 and the ILO Governing Body in 1932-33. V.V. Giri, the prominent trade union leader and later the President of India attended the Conference in 1927. R. Venketaraman, also later the President of India, led the Indian delegation to ILO in 1958. Among the distinguished Indians who figured in the proceedings of the ILO conferences were: Shanmugham Chetty (who vehemently opposed the 'native labour code' of ILO that discriminated against workers in the colonized countries), Ramaswamy Mudaliar, Justice P.B. Gajendragadkar and Justice J.N. Bhagwati, N.M. Joshi and Kanti Mehta (from trade unions), and Naval Tata and JRD Tata (from the employers).⁷

6. The contributions of Indian officials to the work of ILO are discussed in depth by Krishnamurti (2011) and Rodgers (2011).

7. The speeches made by leaders of various Indian delegations to the International Labour Conferences from 1969 to 2003 are documented in Sangma (1994).

The labour movement of India, mainly based in industrial cities and plantation regions, was a crucial ally and a source of strength to the national freedom movement. It was a mutually reinforcing relationship between two movements that facilitated the enactment of several pro-labour legislations in India after Independence. These legislations were monumental pieces as they guaranteed the rights of workers to organize, bargain collectively and to avail themselves of better working conditions and social protection. Collectively they contributed to strengthening the civil liberties of the entire polity. A point for emphasis is that India, right from the time of Independence, regardless of its development status, has imbibed the foundational principles of ILO and received synergy and support from the organization for protecting the rights and interests of its workforce.

However, India's track record in ratifying the ILO Conventions has never been very commendable. Out of the 189 Conventions, India has so far ratified only 43, a record on par with that of many emerging economies. Nonetheless, India's ratification does not include C-87 on Freedom of Association and C-98 on Collective Bargaining, which are considered to be core conventions. One excuse offered is that the union and state governments of India are the largest employers of organized sector and that national interests might be compromised if room for collective action is conceded to the public sector workers. Like the United States, another non-signatory of the core conventions, India argues that the workers' rights to organize and bargain are guaranteed in the Indian Constitution. In any case, India has effectively acceded to the core conventions by adopting the 1998 Declaration on Fundamental Principles and Rights at Work.

5.1 Some Solutions through National Policy Interventions

It has always been a problem bringing the developing countries for adoption of a uniform set of labour standards on board an international platform. The practice of procedural rights, advocated by ILO, has always required the presence of democratic institutions, through which workers enjoy respect, dignity and political space. In reality, such institutions are still at rudimentary stages of evolution in many developing countries, notably those formerly under colonial rule. They are yet to live through a transformative process, culminating in the ascent of democratic institutions. At best, the international community can help them walk through this transformation with appropriate forms of development assistance.

The protagonists of a 'high road' to labour standards might as well listen to the words of Wilfred Jenks, referred to earlier in this paper, that the acquired interests of workers should first gain social recognition in the course of economic development, before they are constitutionalized by the state. Likewise, they need to obtain the procedural rights through political mobilization. Ideally, these two should go hand in hand, strengthening the wherewithal of people to exercise their rights. This is entirely an endogenous development. To this end, the Indian state can lead with targeted interventions of social spending and re-distributive transfers. There is a long way before India can claim its rightful place in the comity of nations, as a proud repository of all standards of a civilized society, which ought to be done.

6. SUMMING UP

This short review of ILO's history is meant to commemorate the organization's centenary year. Originally ILO came into being at the end of World War I as an answer to the "social question" of western countries, reflected in oppressive employment relations and deep income inequalities. These problems, as they became wide-spread in the course of Industrial Revolution, called for collective solution by an emerging community of nations. Thereon, ILO became a global parliament and an enduring democratic platform for workers, employers and governments across the world to gather and create a legal architecture for governance work. Over a century, the organization has had some commendable achievements. Every known labour standard, followed in all countries to safeguard the rights and entitlements of workers concerning wages, working hours, conditions of work, safety, health and social security has been structured into a "public international law" at the behest of ILO.

The organization on its part has been continuously trying to redefine its role and relevance in a fast-changing world of work. It has been engaged in a relentless search for meaningful solutions to the problems facing constituents - workers, employers and governments in all countries - through strengthening the institutional safeguards, it has developed through dialogue among the constituents. Realizing the dream for Social Justice has become an enduring mission of ILO.

As a founding member, India (though under colonial rule at the time) has had a special bond with the organization. Many pioneers of India's labour movement led delegations and played a prominent role in shaping international conventions on the terms and conditions of

employment for universal adoption. The labour movement of India was a crucial ally and a source of strength to India's national freedom movement. It was a mutually reinforcing relationship between the two movements that facilitated the constitutionalization of civil liberties and enactment of several pro-labour legislations in post-independence India. Lasting bonds with ILO have had a distinct impact on the well-being of workers in India.

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INDIA, LABOUR, ORGANISATION: A HISTORY OF THE ILO, 1919-1935

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A centenary after the forming of the International Labour Organisation (ILO), this article explores the importance of the ILO and its relationship with India between 1919-1935. The paper argues that the founding of the ILO emerged not just from the immediate aftermath of WW1, but also from the pushes of the International Labour Movement. Moreover, in the case of India, the relationship took on a peculiar form with the ILO, as the early years meant increasing importance of the Labour Conferences as avenues for workers delegates to air contrarian views to the Colonial Government such as the advocacy of universal labour standards. This was simultaneously coupled with the inability of India to gain a seat on the Governing Body until 1922. Using examples from the Forced Labour Convention (1930), the paper examines the impact of the ILO in influencing labour at a discursive and material level and reactions of trade unions such as the All India Trade Union Congress to them. Moreover, through the use of legislations, an attempt is made to address the creation of exceptions, and how these were rooted in conceptions such as industrial peace. These often restricted modalities of labour in this period, towards the norm of industrial labour, tripartite bargaining and discouraging of strike action.

Keywords: *International Labour Organisation (ILO); History of ILO; Labour Movement; India and ILO*

The International Labour Organisation (ILO) was established when several countries came together to plan the reconstruction of the world after the Great War (WW I), the Bolshevik Revolution and amid widespread labour unrest. Created by the Treaty of Versailles, the ILO was an attempt to provide an alternative vision for labour with universal peace and social justice as goals, achieved through cooperation and dialogue. Emerging from the labour unrest since 1914, the conception was a result of the agitations from the labour movement in Europe, with the aim of dissuading workers from revolutionary activity. The organisation aimed to do so through the ideal of Industrial Peace, while using International Labour Legislation to better conditions of labour.

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Since its formation, the ILO has had great influence on the realm of labour. In many ways it has identified, defined, expanded and limited various parameters of labour in the world of work. This in turn would leave its imprint on several concepts, laws, and the responses of the labour movement to them.

From the outset, the organisation has also had a peculiar connection with India, as it was a founding member (the only non-Independent nation) and was soon a member of the governing body and one of eight states of 'Chief Industrial Importance'. While there exists some literature on India and the ILO, it focuses on either elite networks and the importance of corporatism¹ or on the importance of the ILO for the National struggle.

The paper attempts to explore the role of the ILO from 1919-1935 with specific reference to India and its role in solidifying already existing labour relationships and movements or in stimulating them. More specifically, it is divided into four sections, which each address important themes of the early years of the ILO. The primary thrust of the paper is to explore the founding of the Organisation itself, coupled with India's membership in the Organisation and the Governing body. The paper, therefore, attempts to explore the context of the Post-War unrest as well as the Nineteenth Century labour movement and the emergence of the ILO. Further, India's membership to the governing body and the struggle which was involved, from 1919-1922, both in terms of International Politics and the League of Nations, as well as the questions of representation for non-European powers emerges as an important theme.

Secondly, the paper examines the development and attitude of the organisation towards the question of labour standards. In particular reference to the International Labour Conference, the attempt is to examine the complexity between the Indian labour movement, through the All Indian Trade Union Congress (AITUC), the national movement and the ILO.

Using specific examples regarding the Forced Labour Convention, the question of Legislation is examined since it seems to be the most direct measure of the impact of the Organisation. The ILO

1. Herren, Madeleine (2013), 'Global Corporatism after the First World War - The Indian Case', in *Globalizing Social Rights: The International Labour Organization and Beyond*, pp.137-53, International Labour Office.

Convention on Forced Labour (1930) was particularly important since it witnessed labour delegates directly contradicting the Colonial Government on the question of standards, while advocating for universal application. It was also a core Convention of the ILO which sought to abolish forced labour and through it create a universal acceptance of free labour.

In assessing the question of Legislation, the paper also tries to move beyond the standard question of conventions and their ratification, through an examination of the Factory Act amendments (1922). Situated within the broader dynamics of Colonialism, franchise and the question of labour, opposing tendencies come to light amongst the differing social actors such as the Colonial State, Employers organisations and Workers representatives. The most vivid of these tensions between Local Governments and labour representatives were regarding the Conventions passed at the first labour conference of the ILO, the Washington Conference. The focus of the paper however, remains on the use of law in the creation and modification of certain categories of labour. And through this process also creating inherent exceptions and limitations, which remain out of the purview of law, at a national and an international level.

The paper therefore seeks to examine the foundation of the ILO with specific reference to India as well as the dominating themes in the Organisation between 1919-1935 and how these questions influenced forms of labour, at a national and a global level.

1. THE FOUNDING MOMENT

Most of the existing literature on the ILO situates its formation in the immediate aftermath of the First World War, with some references to the demands of the International Labour Movement from the 19th century. Gerry Rodgers mentions how “War and Revolution” served as two important triggers for the Organisation since the fear of the spreading Bolshevik Revolution was paramount in 20th Century Europe.² Rodgers’ work importantly mentions how social justice played a key role in the Post War peace, through the ILO. This was reflected in the centrality of labour to the Versailles Peace, a demand of the International Labour Movement, which was reflected in Part XIII of the Treaty. This section

2. Rodgers, Gerry (2009), *The International Labour Organization and the Quest for Social Justice, 1919-2009*, Geneva: International Labour Office, p. 1.

was regarded by some observers to be the “Magna Carta of the Worker’s World”, while also serving as the ILO’s constitution until 1946.³

A wider examination, however, strongly places the emergence of the ILO in the international labour movement of the late 19th century. While the organisation emerged through the ideas of Social Democracy, which was exemplified in the first director of the Organisation, Albert Thomas, the demands for an international organisation with a clear outlook on labour was a universal one in the trade union movement.⁴ Out of the several unions in the movement, two are of direct importance. These demands were especially reflected in the activities of two organisations, the International Federation of Trade Unions (IFTU) and the International Association for Labour Legislation. Both these organisations set out to envision an international solution to the crisis of labour and capital that occurred, through non-revolutionary means. The IFTU emerged from the throes of the old Second International and played a key role in advocating the adoption of an eight hour work day as a crucial talking point of the ILO. It played a key role in organising international conferences with the long term aim of a labour charter in the Post War Treaty, along with pursuing strong Socialist ideas. Simultaneously, the International Association for Labour Legislation worked towards establishing an international consensus on labour issues through international and multilateral Conventions on work, such as the ones established by the Berne Conferences. These dual efforts came together in the Leeds Conference of 1916, where among other things, the crucial goal was to establish “*a minimum of moral and material guarantees regarding the right of work, the right to organise, regulation of imported labour, social insurance, hours of work and the health and safety of the workers.*”⁵

The coming together of these long term processes occurred in the aftermath of the First World War. On 25th January 1919, the Treaty of Versailles established the **Commission on International Labour Legislation**. This Commission was set various tasks including the establishment of the International Labour Organisation and its constitution, the agenda for the first conference as well as other labour aspects of the Treaty of Versailles.⁶ Crucially, the terms of reference set

3. Sundaram, Lanka (1944), *India in World Politics: A Historical Analysis and Appraisal*. Delhi: Sultan Chand and Co., p. 54.

4. Sundaram, Lanka (1944), *India in World Politics*, p. 55.

5. Pillai, *India and the International Labour Organisation*, p. 71.

6. Sundaram, ‘*India in World Politics*’, p. 55.

about the establishment of the Labour Organisation, "*With cooperation and under direction of the League of Nations.*"⁷ This clause emerged as a flash-point in the early years of the ILO, especially with reference to India and membership to the Governing Body of the Organisation.

While the ILO came into being through the Paris Peace Treaty, the Versailles settlement served merely as the crystallisation of a variety of ideas, ideologies and approaches to labour over the preceding decades. Indeed, while the **Commission on International Labour Legislation** was setting the agenda for the Washington Conference, there was an International Socialist Conference held at Berne in February 1919. This Conference witnessed the first proposal for a detailed labour charter which included "*An eight hour work-day, prohibition of women's night work, a system of social insurance and freedom of association.*"⁸ The Socialist Congress therefore served as important inspiration to the ILO since it not only brought labour issues to the forefront, but placed the question of labour as one which was central to world peace.

India as a Founding Member

Examining India's role as a founding member of the International Labour Organisation involves an important and necessary detour into the world of international politics and diplomacy with a specific focus on sovereignty. While India became a founding member, its place in the ILO rested on its entry into the League of Nations and preceding this, its mere presence at the Paris Peace Conference. Lanka Sundaram examines India's participation in Imperial War Conferences as well as its monumental war effort as a crucial reason for a place at the Peace Conference as a Dominion.⁹ Subsequently, the question of Sovereignty emerged during India's claim for a place as a member of the League of Nations. This was crucial since it was this membership which allowed India default entrance to the ILO, as a founding member. Indeed, India's status in international politics was a peculiar one since it was deemed to be neither Sovereign nor a mere Colony. Indeed, the final resolution was to establish India as a "Dependency with Sovereign status only for the organisational efforts of the League of Nations."¹⁰ This position of India, described as "an anomaly of anomalies", meant that India had

7. Sundaram, 'India in World Politics', p. 56.

8. Pillai, India and the International Labour Organisation, p. 78.

9. Sundaram, 'India in World Politics', p. 20.

10. Ibid. p. 27.

secured itself a sovereign status within the league, as a self-governing dominion, without being self-governed.¹¹ Moreover, this peculiarity was exemplified if one looks at the functioning of the League, where India was regarded as having treaty-making powers but also had a “co-ordinated common policy” with Britain.¹² The complex functioning of the League highlighted the various flash-points and distinctive status that India represented, with its colonial status. In particular, the different functioning of its role in the Peace Conference, the League of Nations and indeed the ILO are avenues which are explored below. Despite this however, India’s membership to the International Labour Organisation, established by the **Commission**, was secured, as was its membership into the several international organisations which emerged after the war, including the International Court of Justice.

India’s Role in the Governing Body

The peculiarity of the ILO as an organisational body continued, as India played a significant role in the assembly of the ILO, the International Labour Conference (ILC), while simultaneously struggling for a role in the governing body of the Organisation. Indeed, India’s attempt to secure a place (Government and Worker’s) from 1919 until 1922 and the various obstacles it faced serves as an important lens to view the ILO itself. This struggle was situated strongly in the domain of international politics and the dominance of the European powers, while it could also be used to question the idea of trying to ‘autonomously’ address labour issues at a global level.

In the subsequent struggle which lasted for four years, the crucial questions which emerged regarding India’s status were around sovereignty, the domination of European Nations, and the emergence of a category of “Chief Industrial Importance”. In exploring these questions, one must return to the three crucial bodies, The League of Nations, Paris Peace Conference and the Commission on International Labour Legislation, as well as the ILO’s assembly, the International Labour Conference (ILC).

The questions of India’s sovereignty which were established by its peculiar status as original member in the League of Nations’, emerged once again in the **Commission on International Labour Legislation**. The **Commission** was tasked with a threefold objective: set up the

11. Ibid. p. 30.

12. Sundaram, ‘India in World Politics’, p. 29.

International Labour Organisation, set the agenda for the first labour conference as well as establish the labour clauses of the Treaty of Versailles. In the draft resolutions for the setting up of the International Labour Organisation, the status of India and other British Dominions emerged as a flash-point. The matter of debate was the status accorded to India, where the British delegation supported an 'independent status' which was opposed by other European Nations. The first Draft Resolution therefore, posed by Britain was phrased as: "*The self-governing dominions of the British Empire and India may become parties to this Convention and have the same rights and obligations thereunder as if they were independent states*".¹³ The anxiety of Colonialism, British as well as European, in according an "Independent" status to India and its repercussions in International Law meant that the final draft which was submitted to the peace conference, was phrased as to replace "independent states" with the term "*High-contracting parties*".¹⁴

The Question of Chief Industrial Importance

While criteria for membership to the Organisation had been relatively straightforward, the formation of the Governing body was anything but. The **Commission** had to negotiate claims which were regarded as purely political, such as ones from the Netherlands and Poland, along with ones which incorporated different visions of labour, such as Italy's-including agricultural labour. This was coupled with negotiating the dynamics of diplomacy in the post-war world which ensured places for the 'Great Powers'. The criteria of 'Chief Industrial Importance' therefore, emerged from this context, with the aim of establishing a clear pathway to membership of the labour organisation, as distinct from the League of Nations. The result, however, was the opposite.

The **Commission** itself struggled to find a suitable definition for admission, with the British draft purposing that out of the twenty-four seats, twelve should be reserved for government delegates. Moreover, out of these twelve, eight should be "*Nominated by High-contracting parties which are of chief industrial importance*", while the other four would be elected.¹⁵ Further, there appeared an ambiguity in the **Commission's** definition of Chief Industrial Importance, since dominions were not mentioned, but weren't barred from membership either, while Italy's

13. Sundaram, 'India in World Politics', p. 56.

14. Sundaram, 'India in World Politics', p. 57.

15. Ibid. p. 58.

claim for membership rested on the predominance of agricultural labour, a factor which would later impact India's claim.

Paris Peace Conference

At the Paris Peace Conference therefore, while the foundation of the ILO and the adoption of the **Commission's** report passed through seamlessly, the ambiguities regarding membership to the Governing Body remained. Indeed, the crux of these ambiguities can be examined in Article 393 of the Versailles Treaty (a subset of part XIII- and therefore drawn straight from the **Commission's** report). Following the policy of eight delegates chosen from Chief Industrially Important Countries, the Treaty also mentioned that the tenure of the Governing Body would be of three years, and more crucially that any objection must be referred to the Council of the League of Nations.¹⁶ Not only did this put firm control of the ILO's functioning in the hands of the League of Nations, it also created problems of its own, since the first Governing Body of the ILO was constituted at the Washington Conference (1st ILO Conference) in October 1919, well before the formation of the Council of the League of Nations.

Council of League of Nations

India's claim as a member of the Governing Body of the ILO highlighted the fluctuating relationships of power that existed within the International Labour Conference, the Governing Body and indeed the League of Nations. India's claim therefore, was pursued on all three fronts, with differing approaches and results. With regard to the Governing Body itself, India submitted several memorandums to the second and fourth meetings of the Governing Body (April-June 1920), citing membership on the broader case of the illegality of the First Governing Body and the subsequent claim of non-European members to seats, as well as its unique case.¹⁷ The inability of the Governing Body to come to a decision meant the meeting of the Council of the League of Nations at San Sebastian, in July 1920. The sticking point once again was the question of what constituted Industrial Importance, and the League's Council jointly with the Governing Body itself, appointed a Committee of Experts which examined the question of Industrial Importance generally and India's case specially.¹⁸

16. Part XIII of the Treaty.

17. Sundaram, 'India in World Politics', pp.61-62.

18. League of Nations, Council, Online Archives: Report of the Committee of Experts.

The Committee of Experts Report was particularly important since it not only addressed India's claim to be a member of the Governing Body but also tackled the question of Industrial Importance, at a broader level. The developments surrounding the submission of the Committee's Report and the final decision on August 5th 1922, involved an evolution in understanding the statistical approach to Labour. Subsequently, two questions emerged, one with reference to India's role in the Governing Body and the role of "Chief Industrial Importance" in that regard, while the second was of the significance of 'Chief Industrial Importance' category to the ILO's categorisation of work.

The statistical question was further intensified by the submission of a memorandum by Professor Gini along with the Committee of Experts Report. This memorandum highlighted a huge variation in claims based on the seven important criteria established by the Organising Committee of the Washington Conference (1919), for determining Industrial Importance. These criteria were: a) total industrial population, b) the proportion of industrial population to the whole population, c) total horse-power, d) horse-power per head of population, e) total length of railways, f) length of railways per thousand square kilometres of territory, g) development of mercantile marine.¹⁹

These variations moreover weren't merely a question of numerical discrepancy, but were variations in the fundamental criteria itself. Thus, while numerical discrepancies existed, which included the Industrial Population of India, regarded as 20 million by the Nation, but 8 million by the ILO, the change in criteria itself was more important. For example, according to the measure of the number of industrial workers, India would get 4th Place, while it could also be in 10th place according to the application of an alternative criteria by Gini.²⁰ Thus, several alternate proposals for measuring Industrial Importance were suggested in Gini's memorandum, including the indicating of the 7 aforementioned criteria, while the other alternate proposals involved the calculation of absolute and relative industrial importance.²¹ The malleability of the statistics as well as the ambiguity of the criteria presented, was exemplified in the Report of the Special Rapporteur to the Committee in August 1922. This

19. The Question of the Eight States of Chief Industrial Importance, 3 League of Nations O.J. 1510 (1922).

20. League of Nations, Council, Online Archives: First Report by the Representative of Japan, 1922.

21. League of Nations, Council, Online Archives: Memorandum submitted by Secretary of State, India, 1922, p. 12.

two part report finally settled the question of Industrial Importance with regard to membership of the Governing Body by transcending the statistical question. The report said, "*The Statistical evidence before us was not conclusive... We have therefore, considered the question, not merely in the light of the available statistics and statistical methods, but also in the light of general arguments.*"²²

India's appeal therefore as a country of Chief Industrial Importance went beyond the furnishing of statistical evidence. While arguing India's case in front of the Council, Secretary of State, Chelmsford highlighted the crucial 'human element' in part XIII of the Peace Treaty.²³ Chelmsford's, speech suggested that the duality of the statistical measure as well as the human element, through the high number of workers, meant that India deserved its place in the Governing Body. Indeed, India was finally accorded the 8th place after Germany, Belgium, Canada, France, Great Britain, Italy and Japan according to the Council's resolution on 13th September 1922.

India's success for recognition at the Governing Body was also extended to Employers and Worker's delegates with Mr. Eurlkar, President of the Indian Chamber of Commerce and Industry in Europe, serving as a representative in 1931, while Jamnadas Mehta and N.M. Joshi serving as labour representatives in 1934.

International Labour Conference as a Forum

Simultaneously with the League's decision to accord India a position of Industrial Importance and subsequently on the Governing Body, the fourth session of the International Labour Conference itself decided to address the question of 'Extra-European' representation, and thus the Governing Body itself was expanded and made broader based. With thirty-two seats instead of twenty-four.²⁴

India's struggle for a place at the Governing Body of the ILO, by establishing itself as a state of Chief Industrial Importance took two routes, with participation and advocacy at the assembly of the ILO, the International Labour Conference as well as political manoeuvring. The first process, involvement with the International Labour Conferences,

22. League of Nations, Council, Online Archives: Second Report by the Representative of Japan, 1922, p. 4.

23. League of Nations, Council, Online Archives: Memorandum submitted by Secretary of State, Chelmsford, p. 14.

24. Sundaram, 'India in World Politics', p. 70.

is important since it was at the first Labour Conference at Washington in October-November 1919, that the Governing Body consisting of 8 States was formed.

The Washington Conference in its totality was a very significant conference due to its agenda, as well as India's participation with regard to the Conventions on Hours of Work and Child Labour, which will be examined later. The Conference brought out the Eurocentric bias of the organisation and more specifically of the Governing Body.²⁵ This was concretely established with the motion of censure raised by the South African Employer's delegate. The motion expressed its dismay that twenty out of the twenty-four members of the Governing Body were from European nations and the motion was supported by Japan and Britain.²⁶ The passing of this motion as well as the ensuing debate on non-European members of the Governing body was a recurring theme in subsequent conferences. The first few International Labour Conferences therefore, witnessed several instances of the broader fight for representation of non-European nations as well as the more specific case of India.

The Labour Conference, in its early years witnessed significant activity by Indian delegates. Several works have already examined the ILO in general and the ILC's in particular as important avenues for expressing the 'National ambitions of India'.²⁷ Moreover, unlike the Governing Body, the ILC retained equality of votes between government delegates, employers delegates and workers delegates. This accorded an opportunity not only for the voicing of opinions in direct opposition to the British Government, but also allowed workers' representatives the opportunity to contradict the Colonial Government and bring international recognition to their concerns.

2. LABOUR STANDARDS AND THE 1920s

The impact and significance of the International Labour Conference and India's participation in it, can be examined through the question of labour standards, while also analysing the ILO's role in the Indian

25. Sundaram, 'India in World Politics', p. 60.

26. International Labour Conference, 1st Session, Washington- Record of Proceedings, 1920, [https://www.ilo.org/public/libdoc/ilo/P/09616/09616\(1919-1\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09616/09616(1919-1).pdf). Accessed on August 2018.

27. Sundaram, 'India in World Politics', p. 72.

labour movement. The question of labour standards is particularly important since it highlighted the dialogue between Universality, Paternalism and Colonialism.

This character emerges in the minutes of the first International Labour Conference itself, held in 1919. The Washington Conference witnessed a sharp debate between the Colonial government delegate and the Indian labour delegate.²⁸ This debate also highlighted the peculiarity of the ILO as an international organisation, since its tripartite nature (two government delegates, one employer's delegate and one labour delegate) gave a unique opportunity for contrarian voices against the Colonial government to be heard. Indeed, one commentator goes as far as addressing the contribution of the ILO as crucial to voicing pro-independence voices in the International arena.²⁹

The crux of the debate revolved around the Hours of Work (8 hour day) and the Minimum Age of Employment of Children Conventions, two significant resolutions passed by the conference. As Government representative to the ILO, A.C. Chatterjee mentioned the small fraction of children employed in factories and how their employment was in light and subsidiary occupations rather than heavy ones. N.M. Joshi, the workers' delegate, went against the recommendations of the Colonial government delegates, and supported the amendment raised by Ms. Bronfeld (UK) which said that the minimum age for employment must remain the at 14.³⁰ Joshi refuted the argument based on Climatic differences by saying, *"The second argument against the amendment is that India has different climatic conditions. I admit we have more of the sun than western countries. But are you going to believe that in India children of 9 years of age are as well developed as children of 14 years of age in western countries?"*³¹

The question of labour standards was also wrapped up in the Oriental paradigm and therefore closely linked to the questions of climate, production and organisation. This can be seen explicitly with reference to the discussion surrounding the Hours of Work Convention of the Washington Conference. Here, once again according to article 405 of the Treaty of Versailles, a resolution was passed which allowed a separate

28. International Labour Conference, 1st Session, Washington- Record of Proceedings, 1920.

29. Herren, Madeleine (2013), *Global Corporatism after the First World War*.

30. International Labour Conference, 1st Session, Washington-Record of Proceedings, 1920, p. 95.

31. Records of Proceedings, Washington, p. 96

Commission on Special Countries and therefore would consider a different application of standards.³² The Treaty itself highlighted three categories which allowed for exceptions: climatic conditions, imperfect development of industrial organisation, or other special circumstances make the industrial conditions substantially different.³³ These exceptions and ambiguities therefore were created at the heart of the ILO, and were used throughout to differing effects by different players in the Labour Conferences.

The Commission on Special Countries recommended the following of a 60 hour work week for India (instead of 48) and acknowledged that a much smaller number of the population engaged in industrial work. This had a close relationship not just with the factory laws in India but also with the ILO's approach to work, since a large number of workers in India were agricultural ones. Significantly, the ensuing debate around the hours of work raised up important issues of agricultural labour (a factor in India's place at the governing body) as well as those involving the understanding and redefining the notion of the factory, an important theme which will be examined in detail later on.

When one examines N.M. Joshi's argument supporting universal labour standards, an important theme of the early years of the institution emerges with regard to India. The Colonial Government continuously advocated for differential labour standards based on climatic differences, lack of education and a general character of 'backwardness', while the Indian labour delegates often advocated for a more universal application of standards in certain situations, agreeing with the arguments proposed by delegates from Britain.³⁴ This dynamic was a recurring one in the organisation, with Indian labour delegates often agreeing with British delegates, on issues as varied as Minimum Age of Employment as well as hours of work. Placing these arguments within the paradigm of Benevolence and Orientalism does add a complexity to the debate on standards and industrialisation, something which can be extended to address the question of representation.

All India Trade Union Congress (AITUC) and Labour Standards

The question of labour standards and universality was deeply connected to the burgeoning labour movement in India and indeed

32. Records of Proceedings, Washington, p. 59.

33. Treaty of Versailles, Part XIII, Article 405.

34. Records of Proceedings, Washington, p. 60.

the ILO's influence in stimulating it. As the primary organisation for labour representatives, the ILO itself emerged through the demands of the International labour movement in the 19th and early 20th century. Similarly, the role of the ILO, either as providing international recognition or through creating actual stimulus, is linked with the Indian labour movement in the 1920s. In particular, the relationship with the All India Trade Union Congress (AITUC) is important.

Formed in October 1920, AITUC played an important role in the ILO, as the primary representational body for labour delegates until 1947 when it was replaced by Indian National Trade Union Congress (INTUC). There seems to be a slight discrepancy regarding the origin of the organisation, with two sharp opinions. The dominant one seems to suggest that the All India Trade Union Congress had a relationship with the ILO from its inception, with its formation largely dependent on nominating a labour delegate who would be representative of workers to the International Labour Conference. According to articles 389 and 412 of the Part XIII of the Treaty of Versailles, the labour delegate of a country must not be a mere government nomination but rather be truly representative of the Worker's. N.M. Joshi's nomination at the Washington Conference by the Colonial Government did spark significant uproar within parts of the Trade Union movement, with several leaders arguing that it violated the entire question of representation. The subsequent year therefore, Joshi was nominated through the electoral process at the AITUC session, whereupon he served as the labour delegate in the 1921 International Labour Conference.

Returning to the question of origin, Maniben Kalra at the XVth AITUC session characterised the organisation by saying that: "*It had no clear-cut programme of action and no basic principle to guide its policy*" and that the main function was to serve as a nominating body for the representation at the ILO conference in Geneva."³⁵

There does seem to be some contrasting opinions on this however, since the prominent trade Union leader, S.A. Dange (also a compiler of the History of the AITUC) seems to suggest that the demand for the creation of the All India Trade Union Congress preceded the League of Nations and the proposals for an International Labour Conference. Dange asserts that the formation was related to the burgeoning work by Bal Gangadhar Tilak and Lala Lajpat Rai in their interactions

35. Dange, S.A. (1973), AITUC-Fifty Years-Documents, Vol. 1, New Delhi: AITUC Publication.

with the trade union workers, even asserting that had Tilak not been arrested in 1908, the AITUC would have been formed then.³⁶ This was substantiated through Tilak's strong link with the initial parts of the national movement, with some emphasis on labour as well as the observation that he was nominated as adviser to the labour delegate in 1919 before his death.

Moving beyond questions of its origin, one must recognise the differing ideologies present within the Congress, while assessing its impact. These differences reflected the ambivalence within the organisation, with a multitude of factions and perspectives within it. This ideological difference was reflected in the contradictory policies towards labour standards, as while N.M. Joshi advocated for universal labour standards, Lajpat Rai argued against a universal application of them. Lajpat Rai therefore said, *"There is nobody in India who believes that European and Russian standards of labour can be applied to the India of today. If there were, I would remind him of the message of Lenin to Belal Kun, wherein the former warned the latter against the danger of applying Russian standard to Hungary prematurely."*³⁷ Moreover, the 1929 split at Nagpur within the Trade Union Congress revolved around the question of the ILO, international representation and the question of the national movement.

The Whitley Commission and its report exemplified this ideological difference and emerged as a major flash-point in the labour movement. The origin of the Commission was twofold. The first was the desire within the ILO to study the 'conditions of backwardness' in India, while the second was the attempt of the Colonial State to manage the backlash of the Simon Commission with its suggested reforms. Indeed, the Royal Commission as it was known, was a key reason for the split in the AITUC, with the left faction arguing that anything but a boycott of the Commission and its terms of reference meant collaboration with the Colonial State. The Commission, therefore, was only represented with labour members from the breakaway (moderate) faction of the All India Trade Union Congress, with N.M. Joshi and Chaman Lall voicing important recommendations, while P.P. Pillai served as a crucial organising head.³⁸

36. Dange (1973), AITUC Fifty Years.

37. Dange, AITUC Fifty Years, 21-37.

38. Gupta, Prem Sagar (1980), A Short History of All-India Trade Union Congress (1920-1947), AITUC.

Assessing the impact of the Royal Commission is particularly difficult with respect to the labour movement and the question of standards. The Commission was rooted in the Native labour code, perpetuating differential standards for Western or more advanced nations and Eastern or more backward ones. The terms of reference itself, reinforced this distinction. Moreover, the recommendations from N.M. Joshi and Chaman Lall to increase the minimum working ages from twelve to fourteen, in accordance with and progressing from the Washington Conference, was addressed minimally. Whilst the recommendations for the reduction in working hours was bypassed entirely.³⁹

Moreover, the report was situated within the framework of industrial peace as norm, with a significant bias against strike action. This was witnessed in the members of the Commission as well as the labour representatives, Joshi and Chaman Lall, who strongly critiqued the Bombay mill strikes of 1928-29 and the Communist role in them. Despite these facts, some of the suggestions of the Commission did have long lasting impact with respect to labour. In particular, the suggestion of establishing a Tripartite Industrial Council was mentioned in the Commission, modelled on the International Labour Conference. This, as well as the Indian Labour Conference was established in 1942. Similarly, the question of the role of labour in the 1935 Government of India Act (constitution) was an important theme, with the conference suggesting a concurrence between central and provincial jurisdiction on the same.

3. FORCED LABOUR

While this ambivalence in the Indian trade union movement towards the ILO existed until the re-merger of the All India Trade Union Congress in 1938, the ILO did play an important role in the categorisation and conceptualisation of different forms of labour. This can be reflected in the ILO's first Core Convention, the Forced Labour Convention (1930), which was the first Convention motivated by seemingly 'humanitarian' concerns.

The Convention emerged as a flashpoint with particular regard to India, because of the Colonial Government's attitude towards and application of the Native Labour Code, as distinct from and opposite of a more universal outlook towards standards.⁴⁰ Whilst the convention itself was

39. Government of India (1931), Report of the Royal Commission of Labour in India.

40. Rodgers, Gerry (2009), *The International Labour Organization and the Quest for Social Justice, 1919-2009*, Geneva: International Labour Office, p. 42.

not universal in its scope, with exemptions for four categories: convict labour, conscription, civic obligations and emergency situations, it did mark a major step towards the Organisation's goal of social justice to all.⁴¹ The conflicting attitudes of the British Government, the Colonial Government and the Indian delegates (labour and employers) to this Convention was clearly evident in the proceedings of the Labour Conference, with the most stringent opposition towards the legislation emanating from the Colonial Government.

This opposition was reflected in two attempted amendments to the convention by the Colonial Government, both significant in highlighting the interests involved. The first was to include convict labour used by private individuals or companies as an exception to the convention. While the second one was to include criminally listed tribes under the aegis of convict labour, thus exempt from being categorised as forced labour.⁴²

The reluctant attitude of the Colonial Government in ratifying this Convention can be seen not only on the International floor, but also on the national one, with a refusal to ratify the convention in the Legislative Assembly and enact a law. Once again, the Government cited the Criminal Tribes Act (1924) and the existence of tribal settlements used for labour under the aegis of the act, as an inability to ratify the convention.⁴³ The Government also resorted to supporting the principle of the abolition, while refusing to enact any legislation. Further, reports from several states and provinces such as Rajasthan, Orissa, Gujarat and Bihar suggested the continuation of the *Begar* relationship.⁴⁴

While there was an acknowledgement of the existence of forced labour in the form of *Begar*, *Jajmani* and similar systems, pre-dating Colonial rule, the transformation of the bonded relationship in the 19th and 20th centuries and the role of the Colonial State in it was a significant factor. The Colonial government's reluctance in enacting legislation, suggested the increasing importance that forms of bonded and tribal

41. Forced Labour Convention (No. 29), 1930.

42. International Labour Conference, 14th Session, Geneva-Record of Proceedings, 302-305, [https://www.ilo.org/public/libdoc/ilo/P/09616/09616\(1930-14\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09616/09616(1930-14).pdf). Accessed on February 2019.

43. International Labour Office: New Delhi Branch, October 1931, page 10-14. <http://www.uni-goettingen.de/en/324221.html> Accessed June 2019.

44. International Labour Office: New Delhi Branch, July 1931.

(forced) labour had for the Colonial state. This was manifested, either directly under state projects, or indirectly, through *Zamindars*.

The International Labour Conference of that year (1930) witnessed another important debate wherein B. Shiva Rao (Indian labour delegate), openly contradicted the Colonial Government's position and advocated for a uniform acceptance of the convention. Shiva Rao asserted that the amendments posited were an attempt by the government to tip the scales of employers against labour, as they attempted to use private convict labour as strike breakers.⁴⁵ This was particularly important since it linked the question of labour standards with the importance of the ILO as a voice of contrarian opinions. Thus, the labour delegate was once again seen to advocate for a universal acceptance of standards, in direct contrast to the Colonial Government, which sought to argue the specific case of forced labour in India, according to custom. This also lends support to the view proposed about the ILO becoming the singular International body which helped give a voice to the various struggles in Colonial India.⁴⁶

The Forced Labour Convention and its ratification was an evidently uncomfortable situation for the British Government too. Supporting the ideals of 'free labour' meant the vehement abolition of forced labour, which was seen in Britain's support of the Convention. The anxieties of Colonialism however, emerged through this wherein Samuel Hoare, Secretary of State for India was questioned on the failure of ratification in the House of Commons and was forced to justify it on procedural grounds.⁴⁷ As opposed to an inaction of laws by the Colonial Government, several Provincial Legislatures did attempt to ratify the convention, with the Madras law perhaps being the most comprehensive one.⁴⁸

4. LEGISLATION

Perhaps the most significant impact of the ILO on the field of Indian labour was on the national labour legislations, which were often drawn with significant influences from the conventions passed by the organisation. While the impact of conventions did ebb and flow, the broad advisory thrust remained. The most evident example of it is the

45. International Labour Conference, 14th Session, Geneva- Records of Proceedings.

46. Herren, *Global Corporatism*, 2013.

47. International Labour Office: New Delhi Branch, Feb 1934, p. 10.

48. International Labour Office: New Delhi Branch, Feb 1934.

Trade Union Act (1926), which was deeply influenced by the ILO's position on Collective bargaining and Freedom of Association (87 and 98), two of the eight core conventions.

However, in order to analyse the impact of the ILO on the legal framework of labour in India, it is important to move away from merely focusing on Conventions and their impact on legislation, which has been well documented in several works. What remains relatively unexplored is the impact which this legal framework had on the forms of labour and its role in transforming it. This essay attempts to do so, while also examining the amendments to the Factory Act (1922) are in particular since they involved the beginning of categorisation of formal, organised labour in India.

India also played a significant role in altering the conception of work at a global level. Indeed, while the ILO focused primarily on the urban, organised workforce, a feature which is evident from the focus of its conventions until the 1940s, the potential growth of India was impossible to ignore. With the largest agricultural population and the second largest number of maritime workers, India played a key role in the Organisation. More specifically, while arguing for a role as a Chief Industrial Country, India lobbied for a position not only on its growing industrial strength in the 1920s, but also on the characteristics of a traditionally 'backward' country: a large agricultural population.⁴⁹

Thus, while assessing the impact of the ILO on national Legislations or indeed addressing the question of Legislations, the focus has to move beyond mere ratification of conventions. Lanka Sundaram asserts that while India had a high ratification rate, this didn't necessarily reflect the underlying tensions that existed.⁵⁰ The most significant of these of course was the question of franchise and indeed the specifically Colonial character of the government. Sundaram asserts this position strongly by articulating that the, "*Restrictive system of franchise was definite impediment in the way of real progressive industrial and social legislation.*"⁵¹ Exploring the idea further, Sundaram mentions two important instances, of which the second one is particularly important. Citing N.M. Joshi's claim for the ratification of the claim on Unemployment Insurance at the Washington Conference in the Central Legislature on

49. Herren, 'Global Corporatism', pp. 142-143.

50. Sundaram, 'India in World Politics', p. 80.

51. Sundaram, 'India in World Politics', p. 82.

March 13, 1931, Sundaram highlights the intentions of the Colonial Government.⁵² Despite the vote being settled by the President in favour of ratification, the Colonial Government decided to overturn the decision and reject it. The question therefore isn't merely one on the restricted franchise of the Legislature or indeed on the lack of Indian delegates to the ILO, but links the question of progressive labour legislation and indeed conditions of labour itself, with the National movement and a representative Legislature.

Examining the development of these themes through a specific look at the amendments of the Factories Act (1922) is important since this act, coupled with the Workmen's Compensation Act (1923) formed a crucial link in the establishment of formal, organised labour in India. Moreover, the discussion for the amendment of this Act was discussed at the very first Labour Conference in 1919 as well as subsequently.

The Factories Act of 1922 (Amendment) was significant particularly due to its changing definition of the factory. Indeed, while the existing Act involved the classification of at least fifty people, which was reduced to twenty with the use of mechanical power, the amending Act included 'all factories using mechanical power and not less than twenty persons', while Local Governments were given the power to reduce this to ten.⁵³ Indeed, the framework of this bill can be situated in Gradualised Protectionism, with the influence of the ILO's recommendations. This was seen at the first labour Conference itself as well as subsequent ones, where India was urged to change its definition of factory to a broader one. Moreover, the amending bill can also be examined by looking at the inclusion of specific factories such as tea, coffee, indigo as well as electrical generating systems.

Further, the amendment raised important issues such as the Hours of Work at a daily and a weekly level. Section 27 of the act set the weekly limit of 60 hours in accordance with the Hours of Work Convention at Washington. Despite these changes however, the act had within it a range of exceptions. These involved the exceptions of categories of workers, more specifically managers or supervisors from the purview of the Act, according to Section V.⁵⁴ At a broader level, Sundaram linked the exceptions within the Factories Act to the problems of

52. Sundaram, 'India in World Politics', p. 86.

53. International Labour Organisation, Official Bulletin, Volume 3, No. 1, Geneva, p. 543, <https://www.ilo.org/public/libdoc/ilo/P/09604/>, Accessed December 2018.

54. International Labour Organisation, Official Bulletin, p 423.

jurisdiction and the national question, with a particular emphasis on the divide between states and provinces/centre. While this argument is itself steeped in the benevolence of Colonialism versus the barbarism of the States, it is important since it allows us an entry point into the question.

There were several ambiguities at the heart of the Factories Act therefore, wherein the act had limited applicability in Indian states, which witnessed the shift of Industry in Punjab and Central India in order to avoid regulation. Further, the limited applicability of legislation becomes an issue not just for Indian legislation but for the ILO too since the applicability of Conventions to the Indian States remains unclear. Therefore, while the States were broadly considered to be a part of British India, the peculiar dynamic meant that not only were legislations less applicable at a material level, where wages and conditions of work were significantly worse, but Employers and the State also used these conditions to reduce the bargaining power of workers.

This dynamic, between the Provincial Government, the Colonial Government and indeed the ILO represents the spectrum of issues which influenced policy towards labour, and legislations in particular in this period. The ILO bulletin of 1921 included official communication between the Indian Government, the Local Governments and the Secretary of State, with specific reference to ensuring the enactment of the Conventions into law. From this communique, the Colonial State's and the Local Government's attitudes to the Hours of Work Convention, Unemployment Insurance and the Employment of Women before and after Childbirth is particularly important.

The opinions regarding hours of work per week seem to be unanimous amongst all three parties, while the Government of India seemed particularly keen in retaining the elasticity of implementation. Thus while it supported a sixty hour work week, the daily limit was recommended to not be enacted into law. Despite these reservations, however, the Factories Act involved a weekly limit of sixty-hours as well as a daily limit of twelve.⁵⁵ The debates around Unemployment Insurance and the Question of Women's Employment after childbirth are important since they reflected differing attitudes. Regarding the Employment of women after childbirth, local governments argued that a provision of maternity benefits including gratuity payments and

55. ILO, Bulletin, 427.

healthcare would seem “*impractical due to the fluctuating nature of India’s Industrial population.*”⁵⁶ While medical assistance was ruled out due to “*customs and prejudices*” of the people. While the local governments reflected these attitudes, provincial legislatures themselves tabled and passed the first maternity benefit bills with the Bombay Bill in 1929 and the Central Provinces Bill in 1930.

The question of a provision against Unemployment raised further furore. While local governments were ambivalent regarding it, the Secretary of State and the Government of India representative were both vehement in rejecting this provision. The argument purposed was that at an industrial level, India didn’t witness any unemployment, and agricultural unemployment was scarce and covered under the famine code.⁵⁷ This question was important since it addressed the question of employment security and placed a greater role on the State as mediating agency. The Colonial State however, was clear in its refusal to address this issue and linked it’s refusal to ratify the Convention in the Central Legislature (1931), on the peculiarity of Indian labour conditions, as distinct from the rest of the world.

The Factories Act in particular and legislation in general must not be situated merely in terms of an adaptation of ILO’s legislations. Several provisions of the act were not only derived from local commissions as well as British legislation but also exceeded the recommendations of the ILO.⁵⁸ This was subsequently observed with regard to the question of Social Insurance, wherein the Workmen’s Compensation Act (1923) not only preceded any ILO legislation on the topic, but also stimulated ILO Conventions.

Legislations and the Limits of the ILO

Within the legal framework, the question of Colonial rule and its conceptualisation of law as opposed to the post colonial framework is important. Therefore, while it is outside the purview of the paper, a brief commentary is mentioned below. As mentioned before, the Colonial State was very reluctant on ratifying and indeed presenting a law outlawing forced labour. This was seen by several observers as a violation of the mandate of the state, since the workers’ delegates and indeed the employers delegates both lobbied for the law, in the

56. ILO, Bulletin, pp. 614-623.

57. ILO, Bulletin, p. 617.

58. ILO, Bulletin, p. 618.

national as well as the international arena.⁵⁹ The Post Colonial scenario however seemed to suggest a different trajectory. The Forced Labour Convention was ratified in full in 1954, while the Indian Constitution contained a provision repudiating forced labour of any kind.⁶⁰ Article 23 strongly asserted the abolishment of forced labour and *Begar* under Fundamental Rights. Similarly, some scholars have argued that the conviction to abolish forced labour could also be found in the Directive Principles of State policy.⁶¹

Despite this overt assertion to abolish Forced Labour, Kamala Sankaran believes that the ILO and the Indian State (through the Constitution) embodied a differential attitude towards rights. While Sankaran traces this development from the Declaration of Philadelphia (1944) to the Declaration of Fundamental Rights (1998), and the relegation of rights at Work to a secondary level behind political and civil rights, the limits of the Organisation in its foundational period are apparent.

For example, while the 1930 Forced Labour Convention, the 1957 Abolition of Forced Labour Convention and the Constitution of India all condemn the use of Forced Labour, they do so with crucial caveats. The over arching ambit of this remains the idea of *Force Majeure*, but the terminology is important. For the ILO there fore, *Force Majeure* served as an exception to Forced Labour not only for natural calamities but also for 'economic development'. While the Indian constitution doesn't mention development, the ambiguity present within the term 'public service' under article 23(ii) is conspicuous.⁶² Moreover, under the Indian Constitution as well as the ILO itself, convict labour is exempted as a variant of forced labour, suggesting the limits on the 'benevolence' of the state and international organisations. Exploring the theme further, the ideological approach and limits of the ILO as an organisation become evident.

5. CONCLUSION

The early years of the International Labour Organisation therefore sparked a range of issues and debates, with specific regard to India. The founding moment witnessed the duality of the organisation, wherein

59. International Labour Organisation: New Delhi Branch, October 1931.

60. Maity, A. (1979), 'Forced Labour in India: A Note', Indian Journal of Industrial Relations, 15(1): 77-92, (June/July 1979).

61. Maity, 'Forced Labour', p. 86.

62. Ibid. p. 85.

India emerged as a founding member (the only non-Independent nation) as well as playing a significant role in the International Labour Conference, the ILO's assembly. Simultaneously, India struggled to attain a position at the Governing Body of the ILO from 1919-1922, throwing open questions of extra-European representation as well as categories of labour.

Further, the organisation served as an important impetus to the Indian labour movement, with specific reference to the All India Trade Union Congress, and was frequently an arena where labour delegates openly aired contrarian opinions, regarding universal labour standards, often cutting at the heart of Colonial rule. Simultaneously however, the ILO and indeed a strand of its labour representatives were steeped in the idea of Industrial Peace as a norm and strongly condemned strike action and militant labour activity. During the AITUC split in 1928, as well as during the Bombay strikes of 1928, the official position condemned the 'agitational methods' of the strikers.⁶³ This extended into the 1940s, wherein the Indian Labour Conference was created in the mould of the International one, supporting the principles of collective bargaining and freedom of association (Core Conventions), while dissuading the agitational methods of strikes. More specifically, the exceptions on categories and types of labour under the Factories Act as well as the definition of the factory itself, suggests the imbibing of the conception regarding the peculiarity of Indian conditions of labour. Viewed through the prism of 'backwardness', this process simultaneously asserted the idea of difference, while also projecting a particular form of organised labour as the norm.

These limitations of the Organisation are exacerbated when one tries to analyse the impact of the founding moment to its comparative role today. The founding moment therefore, was a crucial moment wherein the Organisation attempted to bring together antagonistic forces, under its tripartite fold. This compromise however, between the forces of capital and labour, mediated by the state was a fleeting one. Thus, the ILO's role at its mission of ameliorating conditions of work, stands at a severely reduced level in the latter half of the 20th century, with the impetus of Globalisation.⁶⁴

63. International Labour Organisation: New Delhi Branch, November 1929, p. 24.

64. Van der Linden, Marcel (2019), 'The International Labour Organization, 1919-2019: An Appraisal', *Labor: Studies in Working-Class History*, 16(2): 11-41, May 2019.

The guiding thread therefore which examines the role of the ILO in defining, categorising and indeed stimulating forms of labour, globally as well as in India, in its founding phase(1919-35) must also locate the inherent limitations within the Organisation's conception of labour and indeed the role it played in the Early 20th Century.

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100 YEARS OF INTERNATIONAL LABOUR ORGANISATION: ACHIEVEMENTS, ISSUES AND CHALLENGES

Virjesh Upadhyay*

This article examines the ILO's eventful journey of 100 years focusing on its impacts and influence in the world of work in general and India in particular. It highlights the considerable contributions that ILO has made in achieving socio-economic justice and also improving labour standards across the globe. The paper analyses the challenges encountered by ILO, particularly in the post second world war period. It also discusses the contributions of the ILO in terms of employment generation and poverty alleviation. The paper deliberates India's engagement with ILO especially with respect to the freedom of association.

Keywords: *ILO; ILO & India; ILO & Trade Unions; Freedom of Association*

1. INTRODUCTION

Second decade of 20th century witnessed war and destruction at an unprecedented scale. It was necessary for the world community to come up with an institutional framework to ensure long lasting peace across the globe. When the world powers met for peace treaty after end of the First World War, they duly recognised the factors which can help to make a peaceful world. In this context, League of Nations was formed as an international organisation to ensure cordial relations between the nations of the world. Constitution of League of Nations went ahead of just institutional mechanisms. It also recognised the fact that world can expect long lasting peace only if it is based on noble principle of social justice.

Part XIII of the Peace Treaty dealt with issues of labour. It duly mentioned that "Whereas conditions of labour exist involving such injustice, hardship and privation to large no of people as to produce unrest so great that the peace and harmony of the world are imperiled; and an improvement of those conditions are urgently required: as for example by regulation of hours of work, regulation of labour supply, prevention of unemployment, provision of adequate living wages, protection of workers against sickness, disease and injury arising out of employment,

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protection of children young persons and women, provision of old age and injury, protection of their own, recognition of principles of freedom of association, the organisation of vocational and technical education and other measures.”¹ In a sense the treaty recognised the fact that justice for working class can lead to a peaceful world. For this purpose, treaty provided for establishment of a permanent organisation. In this way, International Labour Organisation was founded as a specialised wing of League of Nations under provisions of articles 387 to 427 of the Treaty on 29th October 1919. ILO comprised of:-

- a tripartite conference, the International Labour Conference;
- a tripartite executive body, the Governing Body;
- a permanent secretariat, the International Labour Office, a centre for research, practical activities and publishing.

ILO is characterized by the way it functions – on the basis of tripartism – and its universality and is unlike any other organization. It has been guided, since its inception by the generous principle of social justice, an indispensable condition, according to the Treaty of Versailles, for ‘universal and lasting peace’. The number of Member States rose from 44 in 1919 to 187 in 2019.²

2. FOUNDATION AND EARLY YEARS OF INTERNATIONAL LABOUR ORGANISATION

Growth is a specific organisational goal for any organisation and in some cases it takes precedence over other goals and programmes of the organisation. For a new international organisation, it was necessary that it grew in size and emerge as a credible organisation for the purpose it has been established for. This was duly understood and brought into consideration by Albert Thomas, the first Director General of ILO. For him, social justice was indissolubly linked with peace and vice versa; they could not be imagined as separate entities.³ He was a staunch believer of the unity of social and economic question; both these aspects are interrelated and an integrated approach to

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1. Part xiii of Treaty of Versailles, Volume 1, April 1919, August 1920, Official Bulletin, ILO, Geneva, 1923.
 2. <https://libguides.ilo.org/c.php?g=657806&p=4636553>, accessed on May 31st, 2019 at 06.28 hrs.
 3. Norman F. Dufty (1972), ‘Organizational Growth and Goal Structure: The Case of ILO’, *International Organisation*, 26(3): 480.

both these entities could ensure long lasting peace in this world. He also believed that International Labour Conference cannot only be a discussion platform; this must give the way to economic agreements between its members. Gradually, his ideals and convictions pushed ILO deeper into economic field and at the time of crisis of 1920s and 1930s, it came up with practical suggestions and solutions. When Europe was going through economic crisis in 1930s, ILO came up with 'Economic Resolution' based on Keynesian ideals and provided for increased spending in public works to tackle unemployment. International regulation of currency and credit and coordination and expansion of international trade were other measures suggestions by ILO to overcome the crisis in Europe.⁴ These suggestion bore fruit and situation improved in crisis ridden nations.

After Albert Thomas, H.B. Butler also expanded these ideals. Major boost to socio economic philosophy of ILO came when the acting director of ILO proposed that the new task of coordinating all post-war reconstruction programmes be assigned to ILO. This philosophy of ILO got crystallised at the International Labour Conference of 1944, when Philadelphia Declaration was signed. It vowed to end inequality, poverty and oppression all over the world with the slogan of "poverty anywhere constitutes a threat to prosperity everywhere".

3. ILO AND POST WAR ERA

After the Second World War, global institutional framework witnessed significant transition. League of Nations became obsolete and irrelevant long before the outbreak of Second World War. After the War, United Nations was formed to ensure peace and tranquility across the globe. ILO had to come to terms to respond to the new setup. Philadelphia Declaration put ILO at the centre of socio economic questions across the globe. On the contrary, newly formed UN was not convinced of this position of ILO. San Francisco conference of ILO, subordinated all specialised agencies to Economic and Social Council. Reacting to this, governing body of ILO sought its autonomy in UN structure. Speaking at UN General Assembly in 1946, the Director General of ILO apprised the world community that "We shall pursue objectives which falls under our sphere".⁵

4. Ibid, p. 481.

5. J.H.E. Fried (1947), 'Relations between United Nations and International Labour Organisation', *American Political Science Review*, 41, pp. 965-973.

He also implied that only ILO could determine what falls under its jurisdiction.⁶ Thus, ILO successfully maintained its autonomy under United Nations Organisational set up.

Another challenge to ILO came up when United Nation Organisation for Industrial Development founded in 1965 by United Nations. Initially, ILO tried to convince the UN about irrelevance of this proposed organisation but later when it was formed, it made suitable arrangements to work with the newly formed agency of United Nations.⁷ In this way ILO emerged as a valuable organisation within framework of UN over the years.

Global circumstances changed after Second World War. Retreat of colonialism lead to the emergence of new sovereign countries in Asia and Africa, which were facing acute poverty and abysmal standard of living. ILO was committed to address these socio-economic challenges. When poor and undeveloped countries joined ILO and post war reconstruction was going on in Europe, ILO aimed to help the world by raising the living standards across the globe through industrialisation and increased productivity. This aim of ILO in economic development goes back to 1941 when an Indian delegation drew attention to ILO in unequal economic development in different parts of world.⁸

Only economic development and industrialisation were not the answers to problems faced by developing countries. They also needed expert advice and technical assistance. India was very much interested in this endeavour. Initially, these demands were not taken seriously but when America began to advocate it after 1948 in the hope that rapid industrialisation shall create market for US industries, ILO made a shift towards this and technical assistance became inseparable function of ILO.

Apart from technical assistance, ILO also focused on employment as one the core aspects to achieve socio economic justice. According to ILO Director General Report 1953, "expansion of productive employment is not only a social aim: it can itself represent a substantial factor in economic growth".⁹ So there emerged a need to integrate socio-economic policies to achieve this aim of employment.

6. Ibid.

7. International Labour Conference, 1965, pp.10-11.

8. N.N. Kaul (1956), *India and ILO*, New Delhi: Metro Book.

9. International Labour Conference, Report of Director General, p.52, Geneva: ILO, 1953.

4. ILO'S CONTRIBUTION TO SOCIO ECONOMIC JUSTICE: WORLD AND INDIA

Goal of ILO has been to ensure stability and peace in the world through ensuring socio economic justice to the working class. While the earlier section dealt with the evolution of ILO philosophy and goals, this section aims to take the journey towards steps taken by ILO in promoting socio economic equality around the world, including India. For the purpose of its aim, ILO established and advocated labour standards among its member nations. These standards found expression in the form of Conventions and Recommendations. Conventions and Recommendations are drawn up by representatives of governments, employers and workers and are adopted at the annual International Labour Conference. Out of the Conventions, there are some which aims to protect the weakest section and give fundamental liberty to workers at their working place. These conventions are part of The ILO Declaration on Fundamental Principles and Rights at Work (1998); they are promotional instruments drawn up specifically to strengthen application of the fundamental legal principles for social justice, provided a considerable boost to the ratification campaign.¹⁰ These have been referred as core conventions. They are:-

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

4.1 ILO Quest for Social Justice: Poverty and Employment

Reducing poverty and boosting employment remains as the crucial measures to ensure socio economic equality. ILO has time and again come up with significant suggestions and plans related to poverty

10. <https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/governing-body/lang-en/index.htm>, accessed, May 30, 2019, 20.05 hrs.

and employment. Prevention of unemployment remains one of the goals enumerated in its preamble and the very second Convention of ILO passed in 1919 was aimed towards reducing unemployment. The Recommendation i.e. first Recommendation that followed this Convention provided for use of public expenditure to stabilise the level of employment. This suggestion helped western countries to counter the ill effects of Great Depression. During third decade of 20th century, it came up with studies highlighting defects in national policies and at the 1933 World Monetary Conference, ILO called for coordinated international action which can address both social and economic goals.¹¹ After end of Second World War, setting up of specialised organisations like International Monetary Fund and World Bank, pegged back ILO in its efforts in addressing economic issues. However, it continued to undertake studies focusing on modalities towards attaining maximum employment.¹²

1950s was golden decade of growth and industrialisation in countries like Japan and Germany. There again emerged a situation where full employment seem feasible. At this point of time, issue of development and jobs was taken up by Economic and Social Council of UN. Approach of ECOSOC highlighted major flaws in the working of ILO. Till then, ILOs approach was 'centric' to industrialised economies; however ECOSOC in a report by experts like Theodore Schultz and Arthur Lewis, suggested that case of developing countries are very much different from those of industrialised economies.¹³ It advocated separate approaches to tackle unemployment problems in developing and developed nations. This Approach of ECOSOC led to significant change in approaches of ILO. In 1951, ILO Asian Advisory Committee considered issue of 'Underemployment in Asia: Its Causes and Remedies' which focused on issues and challenges in developing countries. In this quest, it also suggested investment policies and suggestions to boost productivity through modern techniques. During this period, Technical Assistance under United Nations Programme of Technical Assistance, many countries got assistance from ILO.

Decade of 1960s, witnessed launching of World Employment Programme and Adoption of Employment Policy Convention (No.

11. Garry Rodgers, Eddy Lee, Lee Swepston, and Jasmien van Daele (2009), *The International Labour Organisation and Quest for Social Justice 1919-2009*, International Labour Organisation, Geneva, pp.173-203.

12. Ibid.

13. Ibid.

122) in 1964. Decolonisation enabled other countries to join ILO and it became necessary for ILO to shift its focus towards developing countries of Asia and Africa. ILO strived for full employment and came up with many action plans to boost employment round the globe. It formulated Ottawa Plan for Human Resource Development for American Region, Asian Manpower Plan and Jobs and Skills Programmes for Africa. One must note at this point of time that its activities remained limited to academic ones and actual work on ground in developing and underdeveloped countries was not in tune with expectations outlined in these plans.

Employment Programmes were based on the understanding that increased employment shall boost growth, and accordingly it advocated for labour intensive exports. They were launched in countries like Colombia, Sri Lanka and Kenya. Study of these programmes highlighted myriad of problems in developing countries. These included lower capital availability, poor education system, low wages and inadequate arrangements for labour. These programmes were also implemented in countries like Philippines, Dominican Republic and Sudan.

Decade of 1980s was very turbulent in economic terms. Oil shock and economic crisis that followed worsened the situation in developing countries. Even in developed countries, economic perspectives took a shift. Wartime Keynesian model was beating the retreat and ideology of free market was getting prominence over welfare state. These tendencies forced developing countries to adopt Structural Adjustment Programmes. Adoption of market centred approaches brought many changes to world of work; wage rates declined, labour regulation took backseat and in a sense labour became vulnerable to market forces. Overall, 1980s was a period of stagnant per capita income in Latin America and decline in Sub Saharan Africa and has been referred to by some economists as 'lost decade'.¹⁴

In last decade of 20th century, market forces stood triumphant and World Employment Programme faced formal demise. ILO was now in search of new methods and solutions to the economic problems faced by world at large. One must note at this point that during this decade, much of economic development around the world was steered by Bretton Woods institutions, and ILO had to take backseat in major questions of world economy. However, on the question of employment it continued to contribute significantly. It prepared the World Employment Report

14. Ibid.

for the World Summit for Social Development. This report highlighted the grim situation of employment across the globe. As per report, the transition was much painful and disastrous for developing countries in comparison to the developed ones. Contrary to liberal views, the report mentioned that goal of full employment was still feasible and it should not be left behind. ILO in this report came very close to the Indian tradition of integral thought and action. It held that employment problem cannot be solved by increased market flexibility only; there needs to be an integration of complementary macroeconomics, incomes, labour market, product market policies as well as integrated international cooperation and action.¹⁵ When East Asian economies faced crisis towards end of 20th century, ILO was somewhat absent from economic debate but it took this opportunity to advocating strengthening and developing new institutions of social protection.

21st century has seen considerable effect of market liberalisation. Global working community was very much convinced that liberalisation is not the only answer to development, growth and tackling unemployment. There was exhaustive search for a way forward which is still underway. As a counter narrative, the concept of Decent Work was advocated by ILO. According to ILO, "Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men".

Concept of decent work developed mainly through idea of sustainability. World community recognised the fact that ongoing labour practices cannot hold peace and tranquility in world for long and hence these are not sustainable. So there has to be a balanced and integrated approach which was very much close to Indian philosophical thought and traditions. This highlights the fact that excess of euro centric approach has had adverse impacts on the world community.

To promote the concept of Decent Work, ILO came with decent work country programmes. As per ILO "Decent Work Country Programmes (DWCPs) are the main cooperation framework through which the ILO provides support to its member countries. They allow the ILO's own

15. Ibid.

overriding strategic goal – the promotion of Decent Work for All – to be aligned with the national social and economic development priorities of different countries, so helping individual states move towards making decent work a reality in ways that are appropriate for them”.

Second decade of 21st century is very much crucial for world of work. Industrial Revolution 4.0 and new technologies are on the anvil at an accelerated rate. Owing to past experiences, working community is skeptical of the implications of new technology. Hence there is an imperative need to take serious note of existing situation and issues and challenges of future and devise a mechanism to reduce the adverse effects of automation and robotisation. In this context, ILO constituted Global Commission on Future of Work which submitted its report in 2019. The report held that new technologies shall create new jobs. However, it fails to take stock of jobs that will be lost and new jobs that will be created. Report has not dealt with relation between both these phenomenon. Most importantly, how will the transition take place has not been the dealt with in detail.

4.2 India and ILO: Freedom of Association - Issues, Challenges and Need for Social Dialogue

India occupies a special place at ILO. It has been a founding member of this organisation. By virtue of its position as a country of chief industrial importance, it is entitled under ILO Constitution to serve permanently among the government members of the governing body of ILO. Being in such an important position, interaction and engagement between India and ILO and vice versa has a rich history. Their role in achieving decent world for workers has been considerable. Out of the 47 Conventions and 1 Protocol ratified by India, 39 Conventions are in force. Out of 8 core Conventions, India has ratified 6¹⁶, which is comparatively better than many other member countries. These core conventions are:-

- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Minimum Age Convention, 1973 (No. 138) and
- Worst Forms of Child Labour Convention, 1999 (No. 182)

16. This information was given by Shri Bandaru Dattatreya the Minister of State (IC) for Labour and Employment, in a written reply to a question in Lok Sabha on 24-July-2017.

Two core Conventions not ratified by India are Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98). India ratifies Conventions which are in conformity with the law of the land. These Conventions have not been ratified owing to reservations of Department of Personnel and Training, Government of India because their ratification would create legally binding obligations which are inconsistent with Indian laws and practices. Ratification will force DoPT to give certain rights to its employees which are prohibited under statutory rules for government employees, namely to strike work, restrictions of maintaining any political fund, to openly criticize government policies, to freely accept financial contribution and to freely join foreign organizations etc. However government is in touch with ILO and is seeking technical assistance in this regard.¹⁷

Freedom of Association has been duly regarded in Indian Constitution under Article 19 (1)C. ILO has also clearly defined labour standards in this regard. Freedom of Association is a human right that is at the core of ILO values. It is enshrined in the ILO Constitution, the ILO Declaration of Philadelphia and the ILO Declaration on Fundamental Principles and Rights at Work (1998) and it is proclaimed in the Universal Declaration of Human Rights.¹⁸ In fact, freedom of association forms the soul of labour administration across the world as all three partners are equally important in administration and governance of work related to labour.

Although India has not ratified the Convention on freedom of association, it promotes them as part of its democratic process. Post liberalisation, this practice has also been affected. Developing countries like India is striving hard to boost business and production for faster growth and economic development. It needs foreign investment for this purpose. Many economists are of the view that rigid and complex labour laws prevents businesses and investment. So, to promote ease of doing business, it is necessary to reform the existing set of laws. These reforms are mainly aimed at taking away rights of workers. Many times government, while bringing about legislative changes, do not take into account views of workers or worker associations. Apart from actions of government, political affiliations of workers' unions and

17. India and ILO, Ministry of Labour and Employment, Govt. of India.

18. https://www.ilo.org/empent/areas/business-helpdesk/WCMS_DOC_ENT_HLP_FOA_EN/lang-en/index. accessed on May 31st, 06.58 hrs.

other sectarian identities like region, language and caste etc. divides workers and workers movement. Now, there is a feeling that new technologies and innovations shall make workers associations obsolete because they will replace humans from industries. So, if there is no human being in industry, there shall be no associations. These issues are often responsible for frequent industrial disputes in India.

ILO recognises that tripartite system needs a revamp. This mechanism is the best answer to reducing and resolving industrial disputes across globe. In order to boost this mechanism, ILO is promoting social dialogue. According to ILO, "Social dialogue includes all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It can exist as a tripartite process, with the government as an official party to the dialogue or it may consist of bipartite relations only between labour and management (or trade unions and employers' organizations), with or without indirect government involvement. Social dialogue processes can be informal or institutionalised, and often it is a combination of the two. It can take place at the national, regional or at enterprise level. It can be inter-professional, Sectoral or a combination of these".

In a sense, social dialogue provides a flexible mechanism to solve issues through consensus. While this concept is bearing fruits in India and other countries of the world, there is a need to align this concept with the concept of industrial family to achieve long lasting peace in industrial relation. While social dialogue is result of realisation of ILO through its vast experience, concept of industrial family is deeply rooted in Indian tradition. Indian scriptures command a person to take care of those doing their work.

Dattopant Bapurao Thengadi, founder of Bharatiya Mazdoor Sangh, was a proponent of this concept. He believed that if there is consensus about the goal, the social partners will certainly feel themselves part of same project and will value each other's contributions. So, if all partners of industry from government to employers is convinced of the fact that they are working for national development and all of them are equally important for nation and market, they will attach value to each other's work and will take care of each other, thus representing a family. Consensus building in such a circumstance will be much easier.

If one looks at both concepts of social dialogue and industrial family, one will realise that while social dialogue aims to build consensus through institutional flexibility, industrial family aims to do the same through internal realisation and awakening which is very much crucial for world of work which is getting more complex by each passing day.

5. CONCLUSION

ILO's journey of 100 years has been a spectacular one in ensuring socio-economic justice, promoting labour standards and guiding member nations in area of work and industry. However, its work is more visible in developed countries than in developing and underdeveloped countries. So there is a need to balance its work in the interest of all member nations.

When it comes to standards, although Conventions and Recommendations remains very significant, but sometimes it is not at all suitable to local circumstances of member nations. Many experts feel that ILO need to reorient its working and need to localise its labour standards for maximum benefit.

In Indian context, one should consider that vast intellect, traditions and customs of India are rich heritages that can be helpful in solving major problems related to labour in India and world. ILO should see this intangible heritages as an opportunity to improve living standards across the world. So they should engage themselves actively in this regard.

New challenges lies ahead as ILO celebrates its centenary, we hope that it will keep serving and guiding the working community well.

ILO AND INDIAN EMPLOYERS

Michael Dias*

This paper provides a concise analysis of the International Labour Organisation's eventful journey of 100 years with focus on the prominent role played by employers, especially Indian employers and their representatives, in shaping and fulfilling ILO's Agenda of Social Justice. It highlights that the major challenge for the ILO in the coming years is to ensure enterprise sustainability and growth in the phase of global competition and at the same time protecting the interests of workers. It notes that the ILO Centenary Declaration adopted during the International Labour Conference 2019 provides a unique and appropriate framework to evolve suitable strategies to achieve decent work and sustainable development, which ensures dignity, self-fulfilment and just sharing of the benefits for all.

Keywords: *International Labour Organisation (ILO); India-ILO Relationship; Indian Employers and ILO*

India, a Founding Member of the ILO, has been a permanent member of the ILO Governing Body since 1922. The first ILO office in India was set up in 1928. It has enjoyed a very long and productive relationship. Hence, the partnership between India and the ILO has developed organically. India has played a prominent role in the ILO's work, sometimes taking advantage of the Organization's capabilities, sometimes influencing its policies and sometimes using it as a platform to promote national goals.

India, while under colonial rule, was well aware of labour issues that plagued its vast population. The formation of a world body in the wake of the First World War focussing on labour, was ideal for a country like India to be a part of. The ILO at the time predominantly consisted of European member nations. Although India during that time was under British rule, Britain encouraged India's membership of the ILO. The Employer Representatives sent from India, to attend the International Labour Conference at the ILO were initially exclusively from the Associated Chambers of Commerce of India and Ceylon. However, this organisation was European dominated, and in 1927, the Federation of Indian Chambers of Commerce and Industry was established,

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which also sent employer representatives to the International Labour Conference (ILC). Mr. G.D. Birla, who was an employer delegate in 1927, was bitterly opposed to European representation in the Indian employers' delegation. This dual pattern of representation lasted until independence.

In 1942, India adopted the ILO's tripartite model which was then called the Tripartite National Labour Conference and thereafter rechristened as the Indian Labour Conference. It provided a forum for the State to enter into consultation with industry and labour together on a single platform.

The first major international conference in independent India was the ILO's first Asian Conference, which was held at New Delhi in October 1947. Prime Minister Nehru in his address supported the ILO's stand on human rights but urged the ILO to give up on its Europe centric standpoint and address the problems faced by Asia. He called for greater activity in all areas of agricultural labour, and above all, sought assistance with industrialization, not out of generosity but as a moral obligation.

During the two decades, after the Second World War, there was a considerable expansion of ILO technical cooperation programmes in India, especially around Vocational Training and Occupational Safety & Health. Productivity growth was seen as the key to successful industrialization and the ILO helped to set up the National Productivity Centre and supported the National Productivity Council. During this period, substantial work was done in the area of developing labour standards. However, it was felt that standards were becoming increasingly unrelated to the conditions prevailing in the developing regions of the world. In fact, this issue of labour standards was sought to be made a pre-condition to trade. Hence, it became a serious bone of contention at a time when the Indian economy had just opened upon to the world. International trade negotiations predicated on labour standards was strongly contested and protested against by the Indian Government, duly supported by employers and industry.

The tough stand of the Government and Indian employers was successful in defeating all efforts to link trade and labour standards. Consequently, it was felt that to meet the challenge of standards, a pragmatic approach would be to strengthen programmes of practical

action at grass-roots, rather than through the elaborate enunciation of norms and standards. Hence, India continued to argue for a focus on development in the ILO's work. Prime Minister, Rajiv Gandhi, in his speech at the International Labour Conference in 1985, demanded that greater attention be paid to the unorganized workers and the informal sector.

The ILO Employer constituents have been represented by the Council of Indian Employers (CIE) which consists of All India Organization of Employers (AIOE), Employers Federation of India (EFI) and Standing Conference of Public Enterprises (SCOPE). The CIE is a Member of the International Organization of Employers (IOE). ILO technical cooperation activities in India are implemented in partnership with the constituent Organizations of CIE.

Mr. Naval Tata represented Indian employers in the ILO for 40 years; his contribution, in all facets of the working of the ILO, has been substantial. He carried over to the ILO the long Tata family tradition of social responsibility at the enterprise level. He summed up his long experience in a five point solution for achieving industrial peace as:

- (i) The right to work should be recognized as a fundamental right;
- (ii) The right to strike should also be recognized if the employer does not agree to voluntary arbitration;
- (iii) Symmetrically, employers have the right to lock-out;
- (iv) State Governments should be obliged to accept the verdict of National Commissions on Labour; and
- (v) In case of violence, labour laws should cease to apply to those concerned.

Hence, the vision and depth of Mr. Naval Tata, even today, is both pertinent and relevant in the field of employment laws and for ensuring harmonious industrial relations at the workplace at the enterprise level.

Mr. Naval Tata was succeeded by Mr. I.P. Anand who was on the ILO Governing Body between 1986 and 2006. In his memoirs, Mr. I.P. Anand states - "At no stage, in my active career, during the Thapar years, had I imagined being considered as a successor to Naval Tata at the Governing Body of the ILO, even though I had been selected and

nominated for several important events in Pakistan, Japan, Indonesia and Sri Lanka on topical matters after due nomination by the AIOE/EFI from time to time.” In his autobiography, *A Crusader’s Century – In Pursuit of Ethical Values*, Mr. I.P. Anand has emphasized – “I was glad that the issues raised by me as early as 1986 on the SMEs (Small and Medium Enterprises), relevance for promotion of entrepreneurship as an adjunct to the educational system, as also field training in pursuance of worldwide poverty eradication, which needed ground action, stood prominently in the new concept of the Decent Work Agenda.”

Mr. Anand has gone on to share his experiences in the field while working on the project for elimination of child labour in the sports goods industry. The experiment facilitated the movement of child labour from workplaces to sending the children to school along with skilled training to sustain the sports goods industry. This was evident by the fact that FIFA (Federation of International Football Association) continues to patronize the Indian sports goods industry. His contribution in supporting India’s development, poverty eradication and social development amongst several other issues, indeed, is commendable. He raised issues of deep concern to common citizens who were small enterprise owners and are an integral part of the informal economy; those entrepreneurs who had no voice till then on the international platform, found the same in his leadership. His work at the Turin Training Centre and the Institute of Labour Studies, both under the aegis of the ILO are a testimony to his contribution. He believed that social dialogue and inclusive social development, among co-partners of the ILO, was the bedrock to the concept of the Decent Work Agenda.

The ILO, today, is a recognized instrument and vehicle of social change and economic growth with environment preservation. Its work and focus is in keeping with the needs of the current century for lasting world peace. It is engaged in action for skills, on a war footing and has carried conviction with its stakeholders. The initiatives taken by the ILO have effectively addressed issues of poverty and employment growth.

Subsequent to Mr. I.P. Anand, Indian Employers were represented at the ILO by Mr. Y.K. Modi during the period 2008 to 2017; during this period, there was enormous focus on issues related to violence and harassment in the world of work, as also with regard to the future of

work. There was emphasis on safe and healthy working conditions as fundamental to decent work.

Currently, the Indian Employers' Representative, on the ILO Governing Body, is Mr. Rajeev Dubey, elected in June 2017. He is the current Employer, Titular Member; recently while addressing the Plenary Session, he said - "This is the Age of Disruption- disruption from the forces of politics, economics, technology, demographics and climate. It is in this context that the ILO has a critical role to play in addressing the core issues of employment generation and the promotion of a just and equitable ecosystem conducive to productive activity and prosperity." He further complimented ILO for putting the spotlight on climate change and its potentially devastating impact in the absence of proactive measures for prevention, mitigation and adaptation.

Thereafter, he dealt with two major potential consequences of climate change:

- i) Migration of large numbers of people across, and within, political boundaries.
- ii) A redefinition of business strategies, technologies and ecosystems and the consequent need for creation of new skills and competencies.

In recent years, ILO has played a major role in influencing policy makers on labour law reforms. They have facilitated focused group discussions amongst employers to make policy recommendations to government. Contract labour too has been a contentious issue in India for quite sometime. Even though regulated, there needs to be proactive measures on the part of employers. The ILO India office has collaborated with the Employers Federation of India to formulate a Contract Labour Quality Management System; it is an audit tool that employers may use to assess the deployment of contract labour in their organizations and to ensure statutory and other compliances are fully met. Therefore, it does take into account the level of mandatory compliances, but along with that, the tool also analyses in depth the quality of work; ethics and care provided in a systematic manner by the Principal Employer. In respect of Occupational Safety and Health (OSH) and Responsible Business Conduct (RBC), EFI has 11 Master Trainers; trained and certified by ITC-ILO under auspices of Walt

Disney Project which ILO deployed in six nations recently to improve the business behaviour of supply chain intermediaries. EFI, between October 2018 and May 2019, has trained 600 junior and middle level managers in the two areas of OSH and RBC in MSME sector.

The ILO India office, in collaboration with SCOPE, initiated a Study on Women in Leadership and Management in the Public Sector Undertakings. A key message that swept across the study was that organizations should recognize women on their own right as resource and a talent pool. Hence, employers need to be more pro-active in their approach rather than to respond to grievances. Currently, the Bureau for Employers' Activities of the ILO is actively engaged with the AIOE in facilitating a review of the proposed Labour Codes and making policy recommendations to the Government.

The challenges ahead for ILO collaboration with employers is to ensure enterprise sustainability and growth in the face of global competition while protecting the interests of workers. There is much work to be done to bridge the lack of trust between the constituents/stakeholders in this regard; the absence of a vibrant tripartite social dialogue forum is acutely felt, most particularly, as the future of Work itself is a challenge with precarious conditions of service and AI (Artificial Intelligence) augmenting human capability and capacity. Hence, we need to ensure that using AI in a way that is for the benefit of humanity and not to its detriment, is the challenge ahead. With the global slowdown and the advent of the fourth industrial revolution in the form of technology such as AI and robotics, there is a sense of urgency to create more and more jobs at a rapid rate. Thus, the common perception in India, at present, is to create work, only thereafter, could the ILO's objectives of providing decent work be realized. In this regard, the ILO Centenary Declaration for the Future of Work, 2019, effectively captures the agenda of the Organization ahead. Indeed, it is in keeping with its fundamental philosophy and ethos.

At the recently concluded 108th Session at Geneva in June 2019, the Declaration and Resolution submitted for adoption by the Conference states:

Considering that the experience of the past century has confirmed that the continuous and concerted action of governments and

representatives of employers and workers is essential to the achievement of social justice, democracy and the promotion of universal and lasting peace;

Acknowledging that such action has brought historic advances in economic and social progress that have resulted in more humane conditions of work;

Considering also that persistent poverty, inequalities and injustices, conflict, disasters and other humanitarian emergencies in many parts of the world constitute a threat to those advances and to securing shared prosperity and decent work for all;

Recalling and reaffirming the aims, purposes, principles and mandate set out in the ILO Constitution and the Declaration of Philadelphia (1944);

Underlining the importance of the ILO Declaration on Fundamental Principles and Rights at Work (1998) and the ILO Declaration on Social Justice for a Fair Globalization (2008);

Moved by the imperative of social justice that gave birth to the ILO one hundred years ago, and the conviction that it lies within the reach of the governments, employers and workers of the world to reinvigorate the Organization and shape a future of work that realizes its founding vision;

Recognizing that social dialogue contributes to the overall cohesion of societies and is crucial for a well-functioning and productive economy;

Recognizing also the importance of the role of sustainable enterprises as generators of employment, and promoters of innovation and decent work;

Reaffirming that labour is not a commodity;

Committing to a world of work free from violence and harassment;

Underlining also the significance of promoting multilateralism, particularly in shaping the future of work that we want and in dealing with the challenges of the world of work;

Calling upon all constituents of the ILO to reaffirm their unwavering commitment and to reinvigorate their efforts to achieve social

justice and universal and lasting peace to which they agreed in 1919 and 1944; and

Desiring to democratize ILO governance by ensuring a fair representation of all regions and establishing the principle of equality among member States.

Adopts this ... day of June of the year two thousand and nineteen the present ILO Centenary Declaration for the Future of Work.

To conclude, the above ILO Centenary Declaration has effectively laid down the ground rules for decent work in the years ahead; these are futuristic and proactive for employment growth and sustainability viz.:

1. Harnessing the fullest potential of technological progress and productivity growth, including through social dialogue, to achieve decent work and sustainable development, which ensure dignity, self-fulfillment and a just sharing of the benefits for all;
2. Supporting the role of the private sector as a principal source of economic growth and job creation by promoting an enabling environment for entrepreneurship and sustainable enterprises, in particular micro, small and medium-sized enterprises, as well as cooperatives and the social and solidarity economy, in order to generate decent work, productive employment and improved living standards for all;
3. Ensuring that diverse forms of work arrangements, production and business models, including in domestic and global supply chains, leverage opportunities for social and economic progress, provide for decent work and are conducive to full, productive and freely chosen employment;
4. Effective workplace cooperation is a tool to help ensure safe and productive workplaces, in such a way that it respects collective bargaining and its outcomes, and does not undermine the role of trade unions.

INDIA AND ILO: 1919-2019
A PHOTO JOURNEY



Indian Delegates, International Labour Conference 1st Session, 1919



Indian Delegation, International Labour Conference 7th Session, 1925



Indian Delegation, International Labour Conference 10th Session, 1927



Indian Delegation, International Labour Conference 11th Session, 1928



ILO Office in India started functioning at Delhi in 1928



Indian Delegation, International Labour Conference 14th Session, 1930

AAE/MS

22.10.31.

Dear Mahatma,

Perhaps some of my Indian friends, for instance, that good leader Joshi or Mr. Erulkar, who represents Indian employers on our Governing Body, may have talked to you about the International Labour Organisation and myself.

The International Labour Organisation, as you know, was set up by the Treaty of Versailles. Its object is to raise the standard of living and improve the condition of work of all those who earn their daily bread by their labour and, more especially, the wage-earner. It has now been working for ten years. All the Indians who have shared in the Organisation firmly believe in it, and though political circumstances may sometimes have prevented the Organisation from being as fully useful as it might be, its good intentions and its will to succeed have been universally recognised.

I do not want to speak about myself. My friends, both those mentioned above and Mr. Sastri, will tell you how firmly I believe in the principle of the independence of all peoples and my earnest desire to see them live in

The Mahatma Gandhi,
Indian Round Table Conference,
St. James' Palace,
LONDON, S.W.

2.

peace and fraternity on the basis of each respecting the independence of others.

It has been one of my greatest desires to meet you, to talk with you about the future of India, especially from the point of view of the protection of the worker. In all sincerity and earnestness I ask you to accept my invitation to come to Geneva and to visit the International Labour Organisation. No doubt our friends at the League of Nations will also have much pleasure in meeting you. In any case, I can send you this pressing invitation on behalf of the Office, as well as in my own name.

Should you not find it possible to come to Geneva, I should not hesitate to go to London, if you will state the period during which my visit might be made.

I wish in conclusion to express the high esteem in which I hold you and my most sincere admiration.

at

Mr. Albert Thomas, ILO Director General's Letter to Mahatma Gandhi,
22 October, 1931 (Mahatma Gandhi was on his way to attend the
First Round Table Conference in London)



Dr. B.R. Ambedkar as the Labour Minister was mainly responsible for institutionalising Indian Labour Conference in 1942. This tripartite body was modelled on the International Labour Conference of ILO



Shri Jawaharlal Nehru, Prime Minister of India, addressing the First ILO Asian Regional Conference, New Delhi, 1947



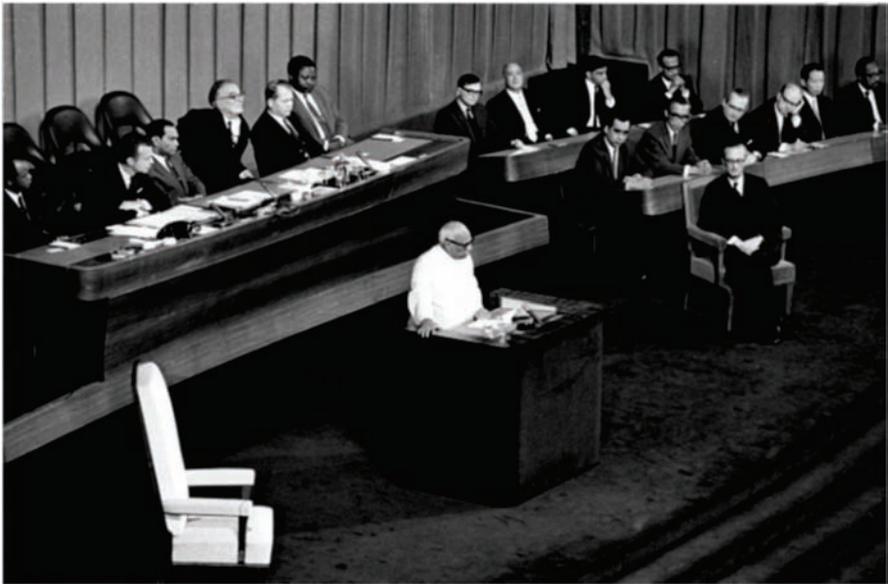
**Shri Jagjivan Ram, Labour Minister of India and President of the Conference,
addressing the International Labour Conference 33rd Session, 1950**



**Shri Naval H. Tata, Employers' Vice-President,
at the International Labour Conference 39th Session, 1956**



Indian Delegation with Shri G.D. Ambekar, Workers' Vice President of the Conference, International Labour Conference 46th Session, 1962



Shri V.V. Giri, President of India, addressing the International Labour Conference 54th Session, 1970



Shri V.V. Giri (left), President of India, with with Mr. C. Wilfred Jenks (centre), 6th ILO Director General, and Mr. David A Morse (right) at the International Labour Conference 54th Session, 1970



Mr. Kanti Mehta, Workers' Vice-President, at the International Labour Conference 59th Session, 1974



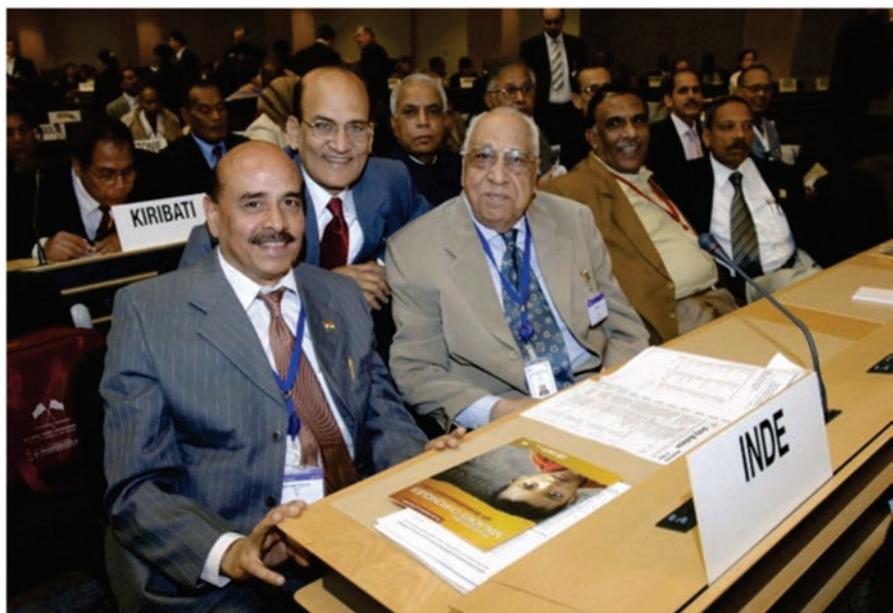
Shri Ravindra Varma, Labour Minister of India and President of the Conference (centre), with Mr. Francis Blanchard (right), 7th ILO Director General and Mr. M. Julio César Turbay Ayala, President of Colombia (left), at the International Labour Conference, 65th Session, 1979



Shri Rajiv Gandhi, Prime Minister of India, addressing the International Labour Conference 71st Session, 1985



Shri N.M. Adyanthaya, Vice-President of the ILC and Workers representative (right) with Mr. Juan Somavia, Director-General of the ILO (left), 95th International Labour Conference, 2006



Indian Delegates at the 95th International Labour Conference, 2006



Shri Mallikarjun Kharge, Labour and Employment Minister of India, addressing the 100th Session of the International Labour Conference, 2011



Shri Bandaru Dattatreya, Labour and Employment Minister of India, addressing the 104th Session of International Labour Conference, 2015



Shri Narendra Modi, Prime Minister of India with Mr. Guy Ryder, Director General of International Labour Organization (ILO), New Delhi, July 06, 2016



Shri Bandaru Dattatreya, Labour and Employment Minister of India, handing over the Instruments of Ratification of core ILO Conventions No. 138 and 182 on Child Labour to Mr. Guy Ryder, DG, ILO, at the International Labour Conference 2017. Smt. M. Sathiyavathy, Secretary, Ministry of Labour & Employment is on the right



Indian Delegation, 106th Session of International Labour Conference, 2017



**Shri Santosh Gangwar, Labour and Employment Minister of India
with Mr. Guy Ryder, Director General, ILO, 107th International Labour
Conference, 2018**



Shri Heeralal Samariya, Secretary, Labour and Employment addressing the 107th Session of the International Labour Conference, 2018



Shri Santosh Kumar Gangwar, Labour and Employment Minister of India, addressing the Plenary of Centenary Session of ILO, June 2019



Shri Santosh Kumar Gangwar, Labour and Employment Minister of India releasing the Report of the Global Commission on the Future of Work during the Inauguration of the Centenary Celebrations of International Labour Organisation in India, V.V. Giri National Labour Institute, February 08, 2019

ILO CENTENARY DECLARATION FOR THE FUTURE OF WORK, 2019

ILO Centenary Declaration for the Future of Work Adopted by the International Labour Conference at its One Hundred and Eighth Session, Geneva, 21 June, 2019

The International Labour Conference, meeting in Geneva at its One Hundred and Eighth Session on the occasion of the Centenary of the International Labour Organization (ILO),

Considering that the experience of the past century has confirmed that the continuous and concerted action of governments and representatives of employers and workers is essential to the achievement of social justice, democracy and the promotion of universal and lasting peace;

Acknowledging that such action has brought historic advances in economic and social progress that have resulted in more humane conditions of work;

Considering also that persistent poverty, inequalities and injustices, conflict, disasters and other humanitarian emergencies in many parts of the world constitute a threat to those advances and to securing shared prosperity and decent work for all;

Recalling and reaffirming the aims, purposes, principles and mandate set out in the ILO Constitution and the Declaration of Philadelphia (1944);

Underlining the importance of the ILO Declaration on Fundamental Principles and Rights at Work (1998) and the ILO Declaration on Social Justice for a Fair Globalization (2008);

Moved by the imperative of social justice that gave birth to the ILO one hundred years ago, and the conviction that it lies within the reach of the governments, employers and workers of the world to reinvigorate the Organization and shape a future of work that realizes its founding vision;

Recognizing that social dialogue contributes to the overall cohesion of societies and is crucial for a well-functioning and productive economy;

Recognizing also the importance of the role of sustainable enterprises as generators of employment and promoters of innovation and decent work;

Reaffirming that labour is not a commodity;

Committing to a world of work free from violence and harassment;

Underlining also the significance of promoting multilateralism, particularly in shaping the future of work that we want and in dealing with the challenges of the world of work;

Calling upon all constituents of the ILO to reaffirm their unwavering commitment and to reinvigorate their efforts to achieve social justice and universal and lasting peace to which they agreed in 1919 and 1944; and

Desiring to democratize ILO governance by ensuring a fair representation of all regions and establishing the principle of equality among member States,

Adopts this twenty-first day of June of the year two thousand and nineteen the ILO Centenary Declaration for the Future of Work.

I

The Conference declares that:

- A. The ILO marks its Centenary at a time of transformative change in the world of work, driven by technological innovations, demographic shifts, environmental and climate change, and globalization, as well as at a time of persistent inequalities, which have profound impacts on the nature and future of work, and on the place and dignity of people in it.
- B. It is imperative to act with urgency to seize the opportunities and address the challenges to shape a fair, inclusive and secure future of work with full, productive and freely chosen employment and decent work for all.
- C. Such a future of work is fundamental for sustainable development that puts an end to poverty and leaves no one behind.
- D. The ILO must carry forward into its second century with unrelenting vigour its constitutional mandate for social justice by further developing its human-centred approach to the future of work,

which puts workers' rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies.

- E. The growth of the Organization over the past 100 years towards universal membership means that social justice can be achieved in all regions of the world and that the full contribution of the ILO's constituents to this endeavour can be assured only through their full, equal and democratic participation in its tripartite governance.

II

The Conference declares that:

- A. In discharging its constitutional mandate, taking into account the profound transformations in the world of work, and further developing its human-centred approach to the future of work, the ILO must direct its efforts to:
- (i) ensuring a just transition to a future of work that contributes to sustainable development in its economic, social and environmental dimensions;
 - (ii) harnessing the fullest potential of technological progress and productivity growth, including through social dialogue, to achieve decent work and sustainable development, which ensure dignity, self-fulfilment and a just sharing of the benefits for all;
 - (iii) promoting the acquisition of skills, competencies and qualifications for all workers throughout their working lives as a joint responsibility of governments and social partners in order to:
 - address existing and anticipated skills gaps;
 - pay particular attention to ensuring that education and training systems are responsive to labour market needs, taking into account the evolution of work; and
 - enhance workers' capacity to make use of the opportunities available for decent work;
 - (iv) developing effective policies aimed at generating full, productive and freely chosen employment and decent work

- opportunities for all, and in particular facilitating the transition from education and training to work, with an emphasis on the effective integration of young people into the world of work;
- (v) supporting measures that help older workers to expand their choices, optimizing their opportunities to work in good-quality, productive and healthy conditions until their retirement, and to enable active ageing;
 - (vi) promoting workers' rights as a key element for the attainment of inclusive and sustainable growth, with a focus on freedom of association and the effective recognition of the right to collective bargaining as enabling rights;
 - (vii) achieving gender equality at work through a transformative agenda, with regular evaluation of progress made, which:
 - ensures equal opportunities, equal participation and equal treatment, including equal remuneration for women and men for work of equal value;
 - enables a more balanced sharing of family responsibilities;
 - provides scope for achieving better work-life balance by enabling workers and employers to agree on solutions, including on working time, that consider their respective needs and benefits; and
 - promotes investment in the care economy;
 - (viii) ensuring equal opportunities and treatment in the world of work for persons with disabilities, as well as for other persons in vulnerable situations;
 - (ix) supporting the role of the private sector as a principal source of economic growth and job creation by promoting an enabling environment for entrepreneurship and sustainable enterprises, in particular micro, small and medium-sized enterprises, as well as cooperatives and the social and solidarity economy, in order to generate decent work, productive employment and improved living standards for all;
 - (x) supporting the role of the public sector as a significant employer and provider of quality public services;
 - (xi) strengthening labour administration and inspection;

- (xii) ensuring that diverse forms of work arrangements, production and business models, including in domestic and global supply chains, leverage opportunities for social and economic progress, provide for decent work and are conducive to full, productive and freely chosen employment;
 - (xiii) eradicating forced and child labour and promoting decent work for all and fostering cross-border cooperation, including in areas or sectors of high international integration;
 - (xiv) promoting the transition from the informal to the formal economy, while giving due attention to rural areas;
 - (xv) developing and enhancing social protection systems, which are adequate, sustainable and adapted to developments in the world of work;
 - (xvi) deepening and scaling up its work on international labour migration in response to constituents' needs and taking a leadership role in decent work in labour migration; and
 - (xvii) intensifying engagement and cooperation within the multilateral system with a view to strengthening policy coherence, in line with the recognition that:
 - decent work is key to sustainable development, addressing income inequality and ending poverty, paying special attention to areas affected by conflict, disaster and other humanitarian emergencies; and
 - in conditions of globalization, the failure of any country to adopt humane conditions of labour is more than ever an obstacle to progress in all other countries.
- B. Social dialogue, including collective bargaining and tripartite cooperation, provides an essential foundation of all ILO action and contributes to successful policy and decision-making in its member States.
- C. Effective workplace cooperation is a tool to help ensure safe and productive workplaces, in such a way that it respects collective bargaining and its outcomes, and does not undermine the role of trade unions.
- D. Safe and healthy working conditions are fundamental to decent work.

III

The Conference calls upon all Members, taking into account national circumstances, to work individually and collectively, on the basis of tripartism and social dialogue, and with the support of the ILO, to further develop its human-centred approach to the future of work by:

- A. Strengthening the capacities of all people to benefit from the opportunities of a changing world of work through:
 - (i) the effective realization of gender equality in opportunities and treatment;
 - (ii) effective lifelong learning and quality education for all;
 - (iii) universal access to comprehensive and sustainable social protection; and
 - (iv) effective measures to support people through the transitions they will face throughout their working lives.
- B. Strengthening the institutions of work to ensure adequate protection of all workers, and reaffirming the continued relevance of the employment relationship as a means of providing certainty and legal protection to workers, while recognizing the extent of informality and the need to ensure effective action to achieve transition to formality. All workers should enjoy adequate protection in accordance with the Decent Work Agenda, taking into account:
 - (i) respect for their fundamental rights;
 - (ii) an adequate minimum wage, statutory or negotiated;
 - (iii) maximum limits on working time; and
 - (iv) safety and health at work.
- C. Promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all through:
 - (i) macroeconomic policies that have those aims as their central objective;
 - (ii) trade, industrial and sectoral policies that promote decent work, and enhance productivity;

- (iii) investment in infrastructure and in strategic sectors to address the drivers of transformative change in the world of work;
- (iv) policies and incentives that promote sustainable and inclusive economic growth, the creation and development of sustainable enterprises, innovation, and the transition from the informal to the formal economy, and that promote the alignment of business practices with the objectives of this Declaration; and
- (v) policies and measures that ensure appropriate privacy and personal data protection, and respond to challenges and opportunities in the world of work relating to the digital transformation of work, including platform work.

IV

The Conference declares that:

- A. The setting, promotion, ratification and supervision of international labour standards is of fundamental importance to the ILO. This requires the Organization to have and promote a clear, robust, up-to-date body of international labour standards and to further enhance transparency. International labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises, and be subject to authoritative and effective supervision. The ILO will assist its Members in the ratification and effective application of standards.
- B. All Members should work towards the ratification and implementation of the ILO fundamental Conventions and periodically consider, in consultation with employers' and workers' organizations, the ratification of other ILO standards.
- C. It is incumbent on the ILO to strengthen the capacity of its tripartite constituents to:
 - (i) encourage the development of strong and representative social partner organizations;
 - (ii) engage in all relevant processes, including with labour market institutions, programmes and policies, within and across borders; and

(iii) address all fundamental principles and rights at work, at all levels, as appropriate, through strong, influential and inclusive mechanisms of social dialogue,

in the conviction that such representation and dialogue contribute to the overall cohesion of societies and are a matter of public interest, and are crucial for a well-functioning and productive economy.

- D. The services that the ILO offers to its member States and social partners, notably through development cooperation, must be consistent with its mandate and based on a thorough understanding of, and attention to, their diverse circumstances, needs, priorities and levels of development, including through expanded South-South and triangular cooperation.
- E. The ILO should maintain the highest levels of statistical, research and knowledge management capacities and expertise in order to further strengthen the quality of its evidence-based policy advice.
- F. On the basis of its constitutional mandate, the ILO must take an important role in the multilateral system, by reinforcing its cooperation and developing institutional arrangements with other organizations to promote policy coherence in pursuit of its human-centred approach to the future of work, recognizing the strong, complex and crucial links between social, trade, financial, economic and environmental policies.

ILO CONVENTIONS: RATIFICATIONS FOR INDIA

47 Conventions and 1 Protocol

- Fundamental Conventions: **6 of 8**
- Governance Conventions (Priority): **3 of 4**
- Technical Conventions: **38 of 178**
- Out of **47** Conventions and **1** Protocol ratified by India, of which **39** are in force, **5** Conventions and **0** Protocol have been denounced; **4** instruments abrogated

| Number | Convention | Date | Status | Note |
|---------------|---|-------------------|---------------|---|
| C001 | Hours of Work (Industry) Convention, 1919 (No. 1) | 14 July, 1921 | In Force | |
| C002 | Unemployment Convention, 1919 (No. 2) | 14 July, 1921 | Not in force | Denounced on 16 April, 1938 |
| C004 | Night Work (Women) Convention, 1919 (No. 4) | 14 July, 1921 | Not in force | Abrogated Convention - By decision of the ILC at its 106 th Session (2017) |
| C005 | Minimum Age (Industry) Convention, 1919 (No. 5) | 9 September, 1955 | In Force | |
| C006 | Night Work of Young Persons (Industry) Convention, 1919 (No. 6) | 14 July, 1921 | In Force | |
| C011 | Right of Association (Agriculture) Convention, 1921 (No. 11) | 11 May, 1923 | In Force | |
| C014 | Weekly Rest (Industry) Convention, 1921 (No. 14) | 11 May, 1923 | In Force | |

| | | | | |
|-------------|---|--------------------|--------------|---|
| C015 | Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15) | 20 November, 1922 | Not in force | Abrogated Convention - By decision of the ILC at its 106 th Session (2017) |
| C016 | Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16) | 20 November, 1922 | Not in force | Automatic Denunciation on 8 October, 2016 by convention MLC, 2006 |
| C018 | Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) | 30 September, 1927 | In Force | |
| C019 | Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) | 30 September, 1927 | In Force | |
| C021 | Inspection of Emigrants Convention, 1926 (No. 21) | 14 January, 1928 | Not in force | Abrogated Convention - By decision of the ILC at its 107 th Session (2018) |
| C022 | Seamen's Articles of Agreement Convention, 1926 (No. 22) | 31 October, 1932 | Not in force | Automatic Denunciation on 8 October, 2016 by convention MLC, 2006 |
| C026 | Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) | 10 January, 1955 | In Force | |
| C027 | Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27) | 7 September, 1931 | In Force | |
| C029 | Forced Labour Convention, 1930 (No. 29) | 30 November, 1954 | In Force | |

| | | | | |
|-------------|--|-------------------|--------------|---|
| C032 | Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32) | 10 February, 1947 | In Force | |
| C041 | Night Work (Women) Convention (Revised), 1934 (No. 41) | 22 November, 1935 | Not in force | Abrogated Convention - By decision of the International Labour Conference at its 106 th Session (2017) |
| C042 | Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) | 13 January, 1964 | In Force | |
| C045 | Underground Work (Women) Convention, 1935 (No. 45) | 25 March, 1938 | In Force | |
| C080 | Final Articles Revision Convention, 1946 (No. 80) | 17 November, 1947 | In Force | |
| C081 | Labour Inspection Convention, 1947 (No. 81) <i>Excluding Part II</i> | 07 April, 1949 | In Force | |
| C088 | Employment Service Convention, 1948 (No. 88) | 24 June, 1959 | In Force | |
| C089 | Night Work (Women) Convention (Revised), 1948 (No. 89) <i>P089 - Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948 ratified on 21 Nov 2003 (In Force) Has ratified the Protocol of 1990</i> | 27 February 1950 | In Force | |

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| C090 | Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) | 27 February, 1950 | In Force | |
| C100 | Equal Remuneration Convention, 1951 (No. 100) | 25 September, 1958 | In Force | |
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| C108 | Seafarers' Identity Documents Convention, 1958 (No. 108) | 17 January, 2005 | Not in force | Automatic Denunciation on 8 October, 2016 by convention C185 |
| C111 | Discrimination (Employment and Occupation) Convention, 1958 (No. 111) | 3 June, 1960 | In Force | |
| C115 | Radiation Protection Convention, 1960 (No. 115) | 17 November, 1975 | In Force | |
| C116 | Final Articles Revision Convention, 1961 (No. 116) | 21 June, 1962 | In Force | |
| C118 | Equality of Treatment (Social Security) Convention, 1962 (No. 118) <i>Has accepted Branches (a) to (c)</i> | 19 August, 1964 | In Force | |
| C122 | Employment Policy Convention, 1964 (No. 122) | 17 November, 1998 | In Force | |
| C123 | Minimum Age (Underground Work) Convention, 1965 (No. 123) <i>Minimum age specified: 18 years</i> | 20 March, 1975 | In Force | |

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| C127 | Maximum Weight Convention, 1967 (No. 127) | 26 March, 2010 | In Force | |
| C136 | Benzene Convention, 1971 (No. 136) | 11 June, 1991 | In Force | |
| C138 | Minimum Age Convention, 1973 (No. 138) <i>Minimum age specified: 14 years</i> | 13 June, 2017 | In Force | |
| C141 | Rural Workers' Organisations Convention, 1975 (No. 141) | 18 August, 1977 | In Force | |
| C142 | Human Resources Development Convention, 1975 (No. 142) | 25 March, 2009 | In Force | |
| C144 | Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) | 27 February, 1978 | In Force | |
| C147 | Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) | 26 September, 1996 | Not in force | Automatic Denunciation on 8 October, 2016 by convention MLC, 2006 |
| C160 | Labour Statistics Convention, 1985 (No. 160) <i>Acceptance of Article 8 of Part II has been specified pursuant to Article 16, paragraph 2, of the Convention.</i> | 1 April, 1992 | In Force | |
| C174 | Prevention of Major Industrial Accidents Convention, 1993 (No. 174) | 6 June, 2008 | In Force | |
| C182 | Worst Forms of Child Labour Convention, 1999 (No. 182) | 13 June, 2017 | In Force | |

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| C185 | Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) | 9 October, 2015 | In Force | |
| | Amendments of 2016 to the Annexes of the Convention No. 185 | 8 June, 2017 | In Force | |
| MLC, 2006 | Maritime Labour Convention, 2006 (MLC, 2006) <i>In accordance with Standard A4.5 (2) and (10), the Government has specified the following branches of social security: maternity benefit; invalidity benefit and survivors' benefit.</i> | 9 October, 2015 | In Force | |
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| | Amendments of 2016 to the MLC, 2006 | 8 January, 2019 | In Force | |
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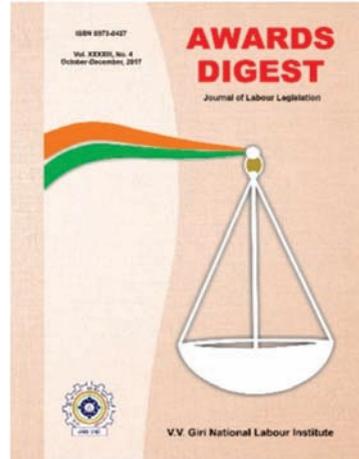
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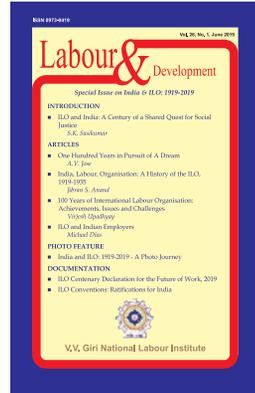
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