

## Analysis and Critical Assessment of the Role Played by the International Labour Organisation in Developing and Securing Core Labour Standards

## Análisis y Evaluación Crítica del Rol Desempeñado por la Organización Internacional del Trabajo en Desarrollar y Asegurar Principios y Derechos Fundamentales en el Trabajo

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**Abstract.** This paper analyses the role and mission of the International Labour Organization (ILO) in promoting core labour standards (CLS) and monitoring its compliance. It also makes a critical assessment to the effectiveness of the methods employed by the ILO to secure the CLS, in a complex context of different degrees of social and economic development, political ideologies, as well as dealing in some occasions with divergent purposes of its social actors (employers, workers and governments) The article discusses the main debates and issues faced by the ILO when interacting with its diverse range of member States. Finally, some final remarks are proposed with the aim of improving the application of the CLS to the new social and economic challenges of today's world.

**Keywords:** Labour, labour relations, core labour standards.

**Resumen.** Este artículo analiza el rol y misión de la Organización Internacional del Trabajo (OIT) en promover los principios fundamentales en el trabajo (PFT) y monitorear su cumplimiento. También hace una evaluación crítica de la efectividad de los métodos empleados por la ILO para asegurar los PFT, en un complejo contexto de diferentes grados de desarrollo social y económico, ideologías políticas, así como tener que lidiar en algunas ocasiones con propósitos divergentes de sus actores sociales (empleadores, trabajadores y gobiernos) El artículo discute los principales debates y problemas enfrentados por la OIT al momento de interactuar con la diversa gama de Estados miembros. Finalmente, son propuestas algunas observaciones con el objetivo de mejorar la aplicación de los PFT en vista de los nuevos desafíos sociales y económicos del mundo actual.

**Palabras clave:** Trabajo, relaciones laborales, principios fundamentales en el trabajo

## INTRODUCTION

During the last century, there has been an expansion of social and economic interdependence between countries. As a consequence, an increasing interest in universal labour standards and work ethics has taken place in our society. According to the public's recognition, the most significant contributor to global labour justice has been without doubt the International Labour Organization (ILO) for some critics the system created by the ILO to develop and secure core labour standards (CLS) has its defects. However, it is the best accepted and most coordinated answer to the global labour issues.

This paper seeks to make a critical analysis and assessment of the role played by the International Labour Organisation (ILO) in developing and securing CLS. To achieve this main theme, the paper will be structured in four parts and centred in ILO's CLS. First, it will analyse the role of the ILO, taking into consideration its virtues and criticisms, plus its main historical developments. Additionally, it will discuss the principle of social justice of the ILO to encourage and promote the active participation and application of the core labour principles to its member states.

Secondly, it will assess several aspects and methods employed by the ILO to secure core standards, such as its supervisory system, the role played by the member states as critical actors of the system, the existing debate with respect to the influence and power that the ILO should exercise to enforce the fundamental labour principles. Additionally, the paper will cover the debate of flexibility when implementing the fundamental principles and the issues that the ILO has to face when monitoring principles and conventions. To end with the role played by the Committee on Freedom of Association to secure what is considered the heart principle of the organization, as well as the most controversial one. Thirdly, it will analyse a number of issues that the ILO has to face when dealing with different identities and backgrounds. The discussion

will cover the impact on the application of labour standards, when taking into account the regional, cultural and economic development differences. Also, it will assess the impact that different market economies, socioeconomic factors and political systems cause in the adoption and compliance of fundamental labour principles.

Finally, it will discuss a brief description of contributing factors, in order to increase the influence of the ILO in securing universal labour standards.

## ROLE OF THE ILO OVER TIME AND MAIN HISTORICAL DEVELOPMENTS OF LABOUR STANDARDS

### The ILO Mission and the Purpose of Setting Universal Labour Standards

According to the literature, the main role of the ILO is to promote social justice. Furthermore, this objective is indicated in the ILO Constitution's preamble, in which the High Contracting Parties were "moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world..." Yet, the ILO's mission to contribute to social justice is not a volatile intention of good will, rather a highly organized and structured set of procedures and rules, which have been developed to achieve its objectives.

Normally, there are three stages in developing labour regulation, which is applicable to the ILO. The first step of ILO's contribution to the international labour legal framework is to *develop and promote universal* labour standards, in order to ensure that decent work is created along with global economic growth and development. Although it is difficult to reach consensus among 175 member States, the majority of countries has ratified most of the CLS. The second role of the ILO is *monitoring compliance* of the standards by developing reports, supervising and securing conformity of their application with the ILO's committees. The third role is to *apply sanctions and remedies* in the situation of non-compliance

of the standards. This is the most polemic step, as there is no consensus on the nature of sanctions to be applied (Verma, 2004) All this apparatus is supported by a unique and diverse tripartite structure of governments, employers and workers, which secure representativeness and different ideologies along the three main steps.

When assessing the applicability of the ILO's CLS, it is important to bear in mind that it constitutes a soft law instrument, which is actually one of the criticisms of the ILO for not being more effective in re-enforcing the standards. However, this is the case of many of other existing instruments aiming similar purposes such as the OECD guidelines for multinational companies (MNCs) codes of conduct and the UN Global Compact (Kuruvilla and Verma, 2006)

Considering the diverse range of countries, social systems and the tripartite representation, the ILO has done a first-class job in covering the needs of all of them. Hence, CLS as *soft law* instruments seem to be the best way to respond to the global social order. Because of this, when developing the standards, a great effort is put to make them *flexible* and adaptable to the circumstances, context, culture and legal framework of each country, in addition to the challenge to make them significant (Valticos, 1969; Servais, 2004) Furthermore, social justice, as intended by the ILO, is neither a static nor an absolute concept, especially in these times, when a stronger sense of fairness and equality is embedded in the society. Altogether, social justice labour principles are reflected in conventions and deepen in recommendations, which allow a wide range of coverage of the principles in question. The ILO is conscious and flexible that each country may have an imperfect development of industrial organization, which enables the State to modify the law accordingly to its reality and level of development (Servais, 2004) Finally, the actions of the ILO have shown that flexibility is not an approach to be followed when deliberate infractions are committed by member states. This is represented by giving considerable coverage to publish and remedy the questioned matter.

### Main Historical Developments of ILO's CLS

After the foundation of the ILO in 1919, the organization redefined its mission and purpose by launching in 1945 the "Declaration of Philadelphia", '*establishing that labour is not a commodity*' (ILO, 2005a, p.4) Then, near the end of the XX century, the organization launched the "ILO Declaration on Fundamental Principles and Rights at Work (1998)". Although this declaration is not binding in international law terms, is considered one of the most important pieces of work of the ILO, as all the member States, irrespective of the ratification of the conventions contained in the declaration, agreed "*to respect, to promote and to realize*" the principles concerning *the rights to freedom of association and collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of all forms of discrimination at work* (ILO, 2005a, p.5) Some authors have said that the declaration principles represent the renewed basis of fundamental international norms of labour (Alston, 2004) especially in times where the influence of Liberal Market Economies (LME) encourage the deregulation of the market, including the industrial and employment systems. This declaration has gained a worldwide relevance, which has enabled to decentralize from governments the full accountability of compliance of CLS by on boarding other actors such as MNCs, NGOs or the general public, in the promotion and enforcement of CLS.

The *Freedom of Association* principle is at the heart of the ILO's purpose and values, given that several instruments make significant reference to its application such as the ILO Constitution, the ILO Declaration of Philadelphia, the ILO Declaration on Fundamental Principles and Rights at Work, as well as the Universal Declaration of Human Rights (1948) (ILO, 2005b) More than a principle, it is considered a right to organize employers and workers as a pre-requirement to collective bargaining and social dialogue promotion.

Another highly promoted CLS of the ILO is the convention of *Child Labour*, which bans the worst forms of child labour as a matter of urgency (ILO, 2005a) As a consequence of the global concern to solve this issue, this convention holds one of the highest ratification rates (85% of all member States) Unfortunately, according to ILO's estimations, there are 250 million working children; furthermore, almost half of them work in hazardous and exploitative conditions (Palley, 2002) As it will be further explained in the following sections, the major occurrence of child labour is in the developing countries territories of Asia, Africa and Latin America.

### **Motivations of ILO Member States to Implement Core Labour Standards (CLS) - The Case for Social Justice**

Despite that in principle the CLS are widely accepted by most of the countries, they are regularly perceived as a burden in terms of cost, especially to developing economies and precarious employment systems. On the other hand, several researchers have reported that compliance with international labour standards is positively correlated with improved economic performance, growth and productivity (ILO, 2005b) Another benefit of labour standards is that they promote good governance, as they have been regarded as a good method to prevent misallocation of resources and corruption (Valticos, 1969) In essence, the CLS promoted by the ILO have contributed to remedy the world labour market exploitation, as well as to leverage the income distribution, especially in countries where industrial relations practices are active in the country's labour system. Finally, the application of the ILO minimum labour standards enables to reduce the existence of unfair competition, they provide security to industries willing to compete internationally and at the same time they facilitate the transfer of manpower and resources.

## **ASSESSING THE EFFECTIVENESS OF THE ILO METHODS IN SECURING THE CLS**

### **Supervisory System**

As commented in the previous section, since the beginnings of the ILO, monitoring the compliance of the conventions, ratified by its member States has been one of the key roles of the organisation Therefore, the ILO has set up a structure through supervisory bodies, reporting, committees, especial country missions, technical assistance and the open denunciation of the non-compliant countries, to make sure that all the ratified conventions are applicable in the legal framework of each country. The ILO Director-General, Juan Somavia, has declared how important this matter is to the organization: "*Normative action is an indispensable tool to make decent work a reality*" (ILO, 2005b, p.75)

The ILO constitution specifies that once a country has ratified a convention, it has the obligation to submit a report every two years; with the measures that it has taken in law and practice to implement the ratified conventions. These reports are submitted to employers and workers for their critical comments, which represent a good test of transparency. To follow up this task, in 1927 was created the *Committee of Independent Experts*, whose members are appointed by the Governing Body, to assess independently and objectively the compliance of the obligations assumed by the member States (Valticos, 1969; ILO, 2005b) Up to these days, the committee acts effectively in pointing out the areas where States can improve its practices and offers technical and social dialogue assistance. The committee also gives support to countries that wish to align its legislation with the CLS, despite of not having ratified the specific conventions. Additionally, this body examines complaints filed by workers' or employers' associations against non-compliant

States. The ILO's supervisory machinery has been highly recognised to be *"the most sophisticated and its scrutiny the most rigorous and least politicized of any in the UN system"* (Hansenne, 1996, p.2) Critics of the ILO methods may argue that conventions are not fully ratified by the countries; however, the ones considered being core principles, have been ratified for *over 60% of the member States*, which reflects a key factor of effectiveness. Another reason of effectiveness is that when serious problems arise, States are called to *publicly explain their actions* before an international forum. Lastly, given the fact that *violations of CLS are published* in the form of a "Director-General global report" and the general public and organizations made aware of the situation, the governments are encouraged to take corrective measures to change their malpractices (Servais, 1984; Kuruvilla and Verma, 2006) The ILO takes an active role in supporting the changes of practices and legislation, by providing educational and technical assistance through ILO officials, especially in matters related to the CLS (Biffi and Isaac, 2005)

On the other hand, some critics sustain that the effects of the ILO's soft law principles are unbalanced, as the definitions of obligations that countries assume vary greatly (Moran, 2005) However, the writers counter argues that this is exactly the notion of flexibility that the ILO aims upon the different degrees of systems' developments present in its assembly. Finally, critics allege that due to the fact that the recommendations made by the supervisory system are not legally binding, countries that choose not to improve their labour system are left at their free will, and unpunished of their violations (Servais, 1984).

### **The Role of the Member States**

The ILO is the one that governs the formulation and compliance of CLS through social dialogue; however, from the representatives of the tripartite arrangement, is the government of each country the most powerful entity to implement social justice in its domain. In order that the ILO can critically review the implementation of labour standards, each member

State have accepted the inclusion of the ILO's supervisory machinery. The consequence of this interaction is that governments have often modified their legislation and labour system practices in matters that range from technical details to issues of large significance, as a response to the ILO's requests (Valticos, 1969; Hansenne, 1996) Member States are not forced to ratify conventions, but if they do, they have the ethical and moral obligation to comply. Although the supervisory system puts pressure on improvements, the ILO does not have, neither seek to have coercive powers. It is up to governments to react to the moral effect power of the country's social actors and the international community. Therefore, it is important to understand that the application of standards are built one stage after another through the participation of the ILO, employers, workers, governments and social organizations.

Critics of the approach of relying on the ratification of conventions, through legislation and its application, declare that this end is not viable in the case of developing countries, which have not developed appropriate governance structures (Alston, 2004) Nevertheless, instruments launched by the ILO such as the 1998 "Declaration on Fundamental Principles and Rights at Work", which is the centre theme of this paper, respond to a more simplistic approach to focus on the core standards, especially for the developing countries. On the other hand, critics say that the principles lack the specific legal requirements existent in the conventions. This can be exemplified by comments made with respect to the principle of freedom of association:

*"Most countries assert general respect for the principle. But when the restrictions are considered (e.g. exclusion of categories of employers and workers, denying the right of organisations to elaborate their own statutes and to international affiliation), it soon becomes apparent that there are so many exceptions that these rapidly empty the principle of its full potential"* (Alston, 2004, p.42)

### **Voluntarism vs. Enforcement**

It is important to mention, that although ratification maybe a performance indicator related to effectiveness, there are several examples where ratification does not relate to enforcement. To overcome this issue, Kucera has developed an index that measures actual implementation and enforcement to the conventions of “Freedom of Association and Protection of the Right to Organise” (C87) and the “Right to Organise and Collective Bargaining” (C98) (Deloach, Das and Conley, 2006) The contribution of this method is that these two conventions are the ones usually referred in most of the committee’s observations, as well as the complaints filed to the ILO.

Some authorities and researchers have argued that the best way to assure the enforcement of the CLS is by applying sanctions (Biffi and Isaac, 2005) As a solution to this issue, it has been referred that a tighter connection between the ILO and the WTO, where the latter would apply trade sanctions to the breaching countries of labour standards, would be a much more effective pressure than mere voluntarism. However, this measure has been opposed by EU members and developing countries like India and China, which sustain that regulating labour standards is the sovereign duty of each State (Verma, 2004) In the same way, by making use of its most extreme powers, the ILO could make the ultimate decision to expel the country from the organization (Kuruvilla and Verma, 2006) Yet, this would be against the principles of social dialogue and would avoid exercising any influence over that country in the future. Overall, the ILO should continue acting by means of “moral suasion”, dialogue, conciliation and co-operation, given that these measures along with the tools of the ILO’s supervisory system have proven to be effective in various degrees. Another action of pressure proposed has been that countries should meet core labour standards, in order to receive fund loans from the International Monetary Fund (IMF)

similarly, as the IMF currently requires countries to have policies in place that promote good governance as a pre-requisite to receive loans (Palley, 2002)

### **Issues Faced by the ILO in Monitoring Principles and Conventions**

Although many supporters of the 1998 Declaration have highlighted that follow up and supervision are some of the strengths of the new regime; the system has room for improvement. Firstly, in terms of reporting, the US Government stated that a global report of each category of fundamental principles would represent a more holistic approach and dynamic global picture (Alston, 2004) However, under the writers’ opinion, the “Global Report”, which acts as the follow up annual report of the 1998 Declaration, closes that gap, as it contains information of the total members States with respect to the core principles. Secondly, authors have denounced that principles lack of clear definition, with regard to the specific obligations that countries need to comply to meet CLS, especially when it is related to the conventions C87 and C98 (Moran, 2005) Nonetheless, the observations made by the Committee of Experts on the compliance of C98 show that almost all the ratifying States apply it quite satisfactorily (Gernigon, Odero and Guido, 2000) Thirdly, Moran (2005) has stated that there is much to be done with respect to reliable sources of information and universal indicators that support the monitoring of each CLS.

In general, there is no agreement on the indicators to measure compliance or non-compliance. Moreover, sometimes the sources of information can be questioned. For instance, there is no certainty of how representative is the information of the economy as a whole, or whether it only considers large firms in the formal sector. Is it comparable across countries and time? Is the data gathering process transparent? For this reason, it is crucial to perform a contextual analysis and agree on key performance indicators when concluding about the level of compliance with CLS.

### **Machinery for the Protection of Freedom of Association**

As it was previously mentioned, freedom of association is at the heart of the ILO's values. On top of that, a great deal of the complaints filed by the ILO is related to this principle, as well as to C98. For these reasons, and with the purpose to be more effective in re-enforcing supervision, in addition to applying sanctions and remedies to protect this principle, the ILO created an independent machinery in the year 1950. The system consists of two bodies: the "Committee on Freedom of Association" and the "Fact-Finding and Conciliation Commission on Freedom of Association" (Valticos, 1969) With respect to the actions of the committee, Guy Ryder, General Secretary of the International Confederation of Free Trade Unions (ICFTU) commented: *"We have probably made more frequent use of this Committee than of any other, and we have seen results"*; he adds: *"If something happens to you, a complaint can be examined without having to wait for a long cycle of resolutions and permissions. In many ways, this Committee is a model of what international supervision should be."* (ILO, 2002, p.4) similarly, Basile Mahan Gahé, General Secretary of the "Dignité" trade union confederation, imprisoned more than 10 times in Côte d'Ivoire commented: *"I really owe my life to the Committee on Freedom of Association"* (ILO, 2002, p.4)

The ICFTU estimates that only during 2003, 129 union members were murdered and around 300,000 workers in Asia and Africa were dismissed, just because of their trade union activities (ILO, 2005b) An example of the influence of the committee in "saving lives", as one extreme, is the case of the 2,000 trade unionist released from prison during the last decade, after the committee reviewed their cases. Another exemplary case happened in Indonesia, where several complaints were made by the ICFTU against the Indonesian Government through the committee, for interferences in trade union activities, continuous restrictions in collective bargaining and strike action, as well as the harassment, imprisonment,

disappearance and assassination of trade unionists. The intervention of the committee and ILO meant significant progress to the freedom of trade union activists and industrial action, besides substantial improvements to the labour system of the country, by ratifying for example, eight core conventions (ILO, 2005b) This meant quite an example to Indonesia's neighbouring countries, which most of them are behind in the respect and application of fundamental human rights and labour principles.

Other type of violations that the committee looks after are related to restrictions of workers that remain excluded from legal protection or are denied with the right to organize, such as agricultural, public, domestic or migrant workers, plus restrictions to exercise the right to strike (ILO, 2000) Overall, Latin America is the region which has filed the largest number of complaints, accounting 44% of the total files between 1951 and 2001, as it is shown in **Figure 1**. The recurrence and reasons of lack of compliance of developing countries will be further explored in the following sections. Overall, the actions and intervention of the committee have been remarkable in securing "in the best possible way" and with a fair degree of effectiveness, two out of the eight core universal conventions.

### **ISSUES FACED BY THE ILO WHEN DEALING WITH DIFFERENT NATIONAL IDENTITIES**

One of the key considerations of developing and enforcing international soft law and standards is to recognise that many breaches in norms, which may seem basic for developed societies, are caused by economic under-development and labour market irregularities. On top of this, differences in labour system's developments are influenced by the type of ideology, ruling political party, socioeconomic factors, power and national governance structures. In this section, we will explore the incidence of all these elements and the role of the ILO in facilitating social justice, as well as overcoming national differences.

### Regional and Cultural Differences

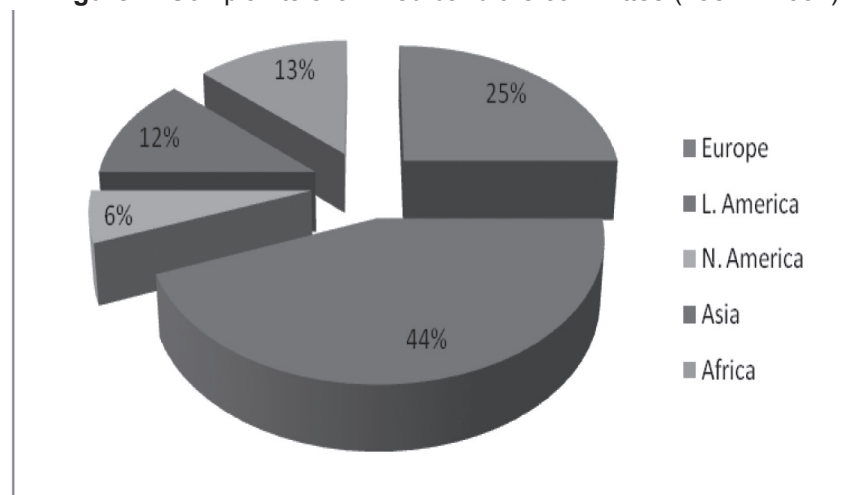
It is important to set the labour principles debate within the national context of each State; otherwise it will inevitably produce a division and polarization between countries and consequently, will fail to achieve its full potential as a strong multilateral initiative to create significant social justice (Verma, 2004).

One of the unfortunate divisions created in all international organizations, in which the ILO governing body has constantly had to settle is the divide between the rich and poor countries, which match with the North-South hemispheres correspondingly. The wealthy countries back up their arguments to promote high labour standards, referring to a moral need and a fair trade cause. Whereas, the lower-wage countries appeal that

such arguments are nothing less than a form of labour protectionism, and that any enforcement of labour standards is an intrusive measure to exercise their right of sovereignty (Verma, 2004; Kuruville and Verma, 2006) On the other side, researchers have sustained that lower labour standards do not create a real competitive advantage. Furthermore, scholars have found a relationship between low labour standards (or costs) and inward foreign direct investment, rather than a connection between labour standards and trade (Kuruville and Verma, 2006).

According to **Figure 1**, which accounts for the number of complaints reviewed by the ILO Free Association Committee, there are marked differences between the North and South hemispheres, where the latter accounts for 69% of cases. Correspondingly, a

**Figure 1.** Complaints examined band the committee (1951 – 2001)



Source: ILO 2002

Continent	N° of cases
L. America	939
Europe	527
Africa	278
Asia	264
N. America	134
<b>Total</b>	<b>2.142</b>



model developed by Deloach et al. (2006) helps to explain such differences, by predicting that higher labour productivity countries will choose and develop a system of higher levels of labour standards. Furthermore, they point out that less developed countries should not be expected to develop the same degree of labour norms as the developed countries; given that the increase of costs to sustain the upgraded labour system would produce a reduction in the social welfare system, which is unbearable in a context of scarcity and poverty. Then, if the social and economic differences are so clear between the North and South, why does not the ILO promote regional rather than universal labour standards? According to Valticos (1969) this would be a mistake, given that in a world which has become increasingly interdependent, a regional approach would only increase the difference between the regions; in other words, in the region of the developing countries there would be “sub-standards” for “sub-human people”, which is under all circumstances unacceptable.

One of the most polemic principles of the CLS is the abolition of child labour. It is controversial, due to the fact that the problem of child labour correlates with the stage of development of the country (Palley, 2002) and as a consequence, polarizes the North-South divide again. For this reason, it is very complex for developing countries to apply this convention, if other conditions have not been met. To put it more simply, how can a family “survive” in a poor country, if the income of the working adults is insufficient to cover the basic needs of food, shelter and education, in a context where the welfare benefits are minimum or inexistent and there is not even a schooling infrastructure to educate the children? Although the worldwide community agrees in eradicating this irregularity, it cannot be done without improving minimum institutional conditions, as well as other labour market deficiencies.

Another important aspect in the application of CLS is the influence of the cultural dimension. It is a critical aspect to understand how neighbouring countries, even with similar levels of developments

have a different approach to the same problems (Servais, 2004) Overall, country’s systems have been built over the support of institutions that foster a wide range of interest: state intervention vs. enterprise independence, strong social policies vs. individualistic approach, social partners’ participation vs. exclusion of social partners, industry-wide trade union agreements vs. individual contracts approach, etc.

To conclude, the multiple interests of social actors and institutions shape the culture of the State and consequently, the approach to CLS. The only way to converge to a successful compliance of universal CLS, no matter the region, is to begin with improving fundamental basic needs and building a consistent governance structure of the developing countries.

#### **Differences in Market Economy Ideologies and Socioeconomic Factors**

One of the reasons of why the ILO has had to put most of its efforts in ensuring the compliance of conventions 87 and 98 is because certain ideological and political beliefs of governments associate the presence of trade unions as a blocker to an efficient economic system and development (Deloach, Das and Conley, 2006) However, this belief is antagonist to the spirit of conventions 87 and 98.

Some economists argue that the artificial raise of standards, as the CLS proposed by the ILO, is a mistake and will distort negatively the performance of the labour market (Alston, 2004) Other supportive arguments of the latter make reference to theories of efficient allocation of resources, in which firms are expected to transfer their production to low-wage countries, in order to make use of the competitive advantages that the free-market has to offer (Verma, 2004) The problem with this approach is that corporations may be taking advantage of a precarious labour system and thus affecting unfairly the workers’ conditions of the developing countries. On the other hand, the position of the ILO of defending the application of CLS is consistent with the notion of “fair trade” norms between States.

It was commented previously the impact of regional

differences and culture, but does the market ideology matter when applying the ILO CLS? The answer is yes, and this is proved by the different degree of respect and commitment to CLS from Liberal Market Economies (LME) and Coordinated Market Economies (CME) especially to the principles of freedom of association, collective bargaining and right to strike. In general, the LME countries defend free-market principles, in order to obtain growth. However, according to this ideology, the presence of unions is an obstacle to the desired “flexibility”; although, it may not be openly expressed. The attitude of some of these States has been inconsistent to their discourse of raising the bar of CLS, given that they have preferred to abstain themselves to ratify core conventions or have discouraged union association and collective bargaining (Biffi and Isaac, 2005) by developing policies that promote individualistic agreements and direct employee involvement and participation. For instance, the US, has only ratified 12 conventions and has not ratified conventions 87 and 98 (Kuruville and Verma, 2006) Similarly, the Australian industrial relations system reflects a number of anomalies to honour these conventions, such as several types of industrial actions are considered to be unlawful and a violation of contract, not all the unions are recognised and the employers, there are employees who are excluded from unfair dismissal procedures, among others. Although several attempts have been made and the ILO to correct these kinds of practices of the Australian system, regrettably, they have proved to be unsuccessful. Even more, the Australian Minister for Workplace Relations openly declared against to modify the legislation: *“In requesting the government to amend federal legislation, the ILO needs to realise that it is the federal Parliament, elected and the Australian people, who decide Australian law—not the ILO”* (Biffi and Isaac, 2005, p.6) The case of other LME English speaking countries like the US, Canada, New Zealand among others is similar in principle.

In spite of the open unwillingness of some member States to correct practices that are not viable with the CLS, the ILO continue to make progress with these

countries, at least band denouncing publicly the breaches of conduct and promoting social dialogue.

### **National Governance, Politics and Power**

A political ideology and the way that power is employed and those in control influence the approach towards labour standards as strongly as national institutions and economic ideologies do.

The most remarkable cases of the influence of political ideologies against the exercise of strike actions and the decline of union density are the implications that caused in the labour system of the United Kingdom, the political approach of the Thatcher administration towards the labour movement (Piazza, 2005) It is believed and scholars like Lyddon (2007) that *“the defeated 12-month long miner’s strike of 1984-85 was the most important in a series of catastrophes for unions and their members and a psychological turning point in the confidence of the trade union movement”*. To put it more simply, the whole period of government of Mrs. Thatcher is considered as *“the battle the British trade unions lost to Thatcherite neo-liberalism”* (Aligisakis, 1997) Correspondingly, the USA had a similar unfortunate event like the decision of President Ronald Reagan of breaking the Air Traffic Controllers (PATCO) strike. This was considered an overwhelming defeat for organized labour, which is believed to be the *“the most important single event in determining the subsequent fate of strikes in the US”* (McCartin, 2007) After this event, employers felt encouraged to use the legal right that they had in the labour legislation to permanently replace strikers, which was rarely used until the 1980s. No doubt, that after events like these ones marked the beginning of a series of de-regulations of the labour market, in favour of the enterprise and employers, as well as changes in the legislation meant to weaken the trade unions powers. As a consequence, workers felt threatened to lose their jobs, and their right to exercise universal labour standards, especially related to conventions 87 and 98, was seriously undermined. Unfortunately, the ILO’s request to change the UK and US legislation were not heard and the conservative parties, and no

significant changes have been done up to these day.

On the contrary, most of the CME countries of the EU have developed a more supportive approach towards these conventions, due to the influence of Social Democratic and Labour coalitions' governments during the XX century. Although the committee of freedom of association declared that the EU States are not "clean skins", their transgressions are not as serious as the ones of the developed English speaking countries (Biffi and Isaac, 2005)

### **SOME PROPOSALS TO IMPROVE THE EFFECTIVE APPLICATION OF CLS**

Under the writers' opinion, the ILO has played a good role in securing and developing CLS. Still, the system can be improved with the cooperation of all social actors involved. Some of these improvements have already been mentioned in the previous sections, such as modifications in the information sources and measurements of the follow up system among others. On top of this, some recommendations are:

First, involve more actively to employers and social actors, so that Corporate Codes of Conduct, which incorporate CLS, can be more extensively applied in the labour market. In spite that it may not reach the majority of the labour workforce, it contributes to social dialogue and debate. Second, bring the international labour principles discussions to the context of national debate (Verma, 2004) If the public, social stakeholders and media are involved in this debate, there will be a greater chance of success in changing misalignment to fundamental principles. Third, include a social clause in all trade agreements. Although this may be a disputed measure, humans and institutions need enforcement through penalties to react upon non-compliant behaviours. At the same time, the WTO should play a more active role in combining trading interest and social justice as part of its agreements. Fourth, improve the reach of the ILO actions and methods, with respect to the increase of new forms of working and fragmentation of the labour market, e.g. subcontracting, temporary

and part-time workers (ILO, 2000) Finally, given that new pressures of the market have made competition fiercer, there is a need to improve the coverage of the increasing informal sector workers, especially in the developing countries, where these workers are treated as second class employees and managed band sub-standard labour norms.

The global employment systems are evolving, and the ILO has an opportunity to continue developing core labour standards if acts accordingly to the new challenges of globalization and greater interdependence.

### **CONCLUSIONS**

There are few world organizations like the ILO, who have grown successfully throughout the years in terms of achievements, recognition and values; yet all the complexities that it has to deal in terms of issues, diversity of social actors, and multiplicity of cultures, ideologies and politics.

Firstly, the ILO complies with its role and mission in (1) developing and promoting universal labour standards, (2) monitoring compliance of the standards and (3) applying sanctions and remedies to the possible extent. The first role is where the ILO gets the maximum acknowledgement, band developing dozens of conventions and recommendations, in addition to highland significant instruments such as the Declaration of Principles. The second role has proven to be critical, especially through the action of its Committee of Experts and the Committee on Freedom of Association, band enforcing and encouraging to modify misalignments in the States' legislation and practices. However, some critics claim that the lack of empowerment of the ILO to file sanctions legally binding to the non-compliant States is one of its major weaknesses.

Secondly, there are several elements to take into consideration when assessing the effectiveness of the ILO methods in securing the CLS. To start with, the majority of the states have ratified the 8 core conventions. Additionally, methods of public

exposure are applied to enforce compliance of the ratifications. Given that the ILO governance is through a participative decentralized system, the ILO has to rely on “moral suasion” dialogue, conciliation and co-operation as last resource to re-enforce the labour standards. With respect to monitoring, there are criticisms against lack of specific definition of CLS, reliable sources of information, as well as international measures to monitor standards. On the other hand, the actions of the Committee on Freedom of Association have made a major contribution to social justice, especially in cases of trade unionists persecutions within developing countries territories.

Thirdly, the ILO has had to deal with several complexities to influence the usage of CLS, in a context of different national identities. The divide between developed and developing countries creates an extra challenge when agreeing a common ground of minimum standards; but despite the differences in culture and development, the vision where all countries make their maximum effort to insert CLS remains unquestionable, as is reflected in the unanimous Declaration of Fundamental Principles. Additionally, different market economy ideologies, political orientation and socioeconomic factors influence the level of support of States to embed in their social and labour system the ILO’s principles and standards.

Finally, some considerations and recommendations could improve even more the application of universal labour principles, particularly when the ILO has to respond effectively to the challenges of more complex employment systems, globalization and greater interdependence.

The trend is that the ILO will maintain its governing structure and influence of global peace through social dialogue, while at the same time will continue renewing its methods to promote social justice among its member States. However, it is uncertain if at some point in time in history, it will be necessary to develop an international regime legally binding, which can act centrally and interconnected

with national legal structures, to ensure that workers’ rights receive the same level of consideration and respect, no matter its origin within the orb, as the EU has started to develop for its member States. Our estimate is that it will.

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