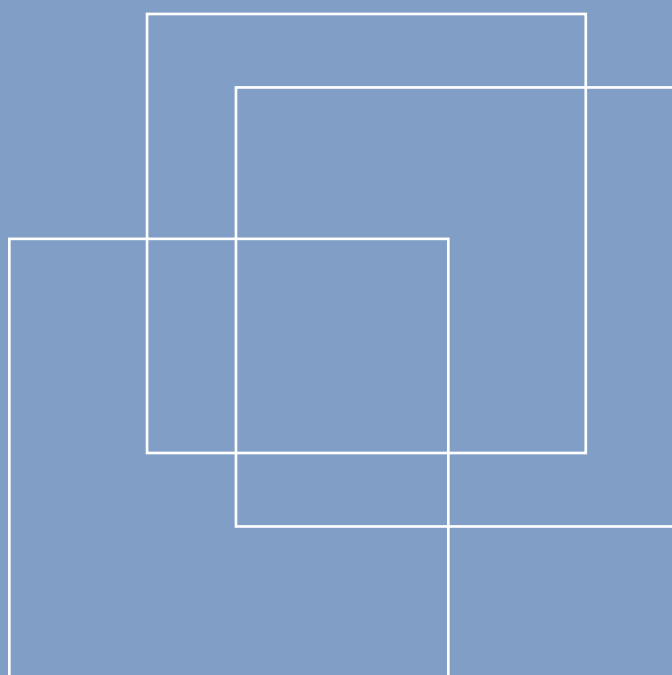




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The International Labour Organization
and Globalization:
Fundamental Rights, Decent Work
and Social Justice

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Abstract

This paper discusses how the ILO reacted to the challenges to its *raison d'être* posed by the end of the Cold War and the new globalization era. It shows that its continued relevance was attained in three main stages: the adoption of the 1998 Declaration, the development of the “decent work” concept and the adoption of the 2008 Declaration. The paper examines the Declaration on Fundamental Principles and Rights at Work, its adoption, its logic, achievements and limitations. It then discusses the definition and the promotion of the “decent work” concept, and its inclusion in the UN system and the international arena. Thereafter, it covers the 2008 Declaration on Social Justice for a Fair Globalization, the intricate process towards its adoption, its objectives, principles and potential. Finally, the paper shows how the ILO has reinforced the notion of “social justice” as a central aim of national and international policies.

Keywords: economic development, globalization, international labour law, international organizations, post-Cold War era, social justice, trade and labour

JEL classification: B17; F13; F16; F53; F66; J53; J83; O17; K33; K38

1 Introduction

The last quarter of the twentieth century was a difficult period for the International Labour Organization (ILO). The post-war settlement between capital and labour, institutionalized under various forms but based on the same principles, in all the Western capitalist countries, broke apart. Wolfgang Streeck summed up this settlement as “an expanding welfare state, the right of workers to free collective bargaining and political guarantee of full employment” (Streeck, 2011, p. 11). It was very much in tune with the ILO’s principles, objectives and methods. Since the mid-1970s, this settlement became difficult to maintain, and it was increasingly questioned. Moreover, the expectations that this model would gradually extend to the rest of the world, especially to newly independent countries did not materialize. The high incidence of informality, especially in developing countries, is probably the most manifest expression of this (ILO, 2018).

More generally, this period marked the end of the Keynesian era in the Western world and the transition to the neoliberal era, which assumed a greater global reach with the end of the Cold War. Daniel Rodgers calls this last quarter of the twentieth century the “age of fracture” in the world of ideas, where “[m]ost striking of all was the range across which the intellectual assumptions that had defined the common sense of public intellectual life since the Second World War were challenged, dismantled, and formulated anew” (Rodgers, 2011, p. 2). His work concerns essentially the US intellectual scene, but his diagnosis can to a large extent be extended to the rest of the world. The new “common sense” itself had a built-in expansionist dimension and very concrete policy implications far beyond the United States. It notably played a central role in establishing a new consensus in development policies, the so-called “Washington Consensus”, with important means in terms of resources and expertise, and in applying a “shock therapy” in Central and Eastern European countries in transition to free-market capitalism. By and large, this “fracture” meant a renewed hegemony of the Utopia of a self-regulating market, so well defined and described by Karl Polanyi in *The Great Transformation* (Polanyi, 2001).

At the international level concerning trade and capital flows, it meant the end of the Bretton Woods era, the “embedded liberalism compromise”, that had been characterized by the combination of an open economy and free trade, on one hand, and capital control for nation states to be able to pursue social goals, on the other hand (Ruggie, 1982). The lessons from the first wave of economic globalization before World War I and of the Great Depression of the 1930s were forgotten.

Finally, with the collapse of the Soviet Union and the start of a new type of economic and financial globalization, defined as a “hyperglobalization” (Rodrik, 2011), the world definitely entered a new era in the 1990s. The demise of the Soviet Union and of the Communist Bloc created a totally different political context – widely unexpected at the time. It meant an entirely new configuration of international relations. From an ILO perspective, those developments could be seen as the victory of its reformist model of social progress, based on tripartism and social dialogue, over its old rival, the revolutionary model which stemmed from the Bolshevik Revolution. But such a success could very well become a Pyrrhic victory.

In general, two objectives are put forward to explain the establishment of the ILO in 1919: (i) to confront the threat of social unrest and the possible extension of the revolutionary movement after the success of the Bolshevik Revolution; (ii) to combine an open global economy and free trade with social progress in the various nation states. Regarding the first objective, with the disappearance of its rival communist

model, the ILO lost the threat that motivated its creation and which provided throughout the Cold War an incentive for the support it received from different components of its tripartite membership; some constituents even questioned the ILO's relevance and its very usefulness in the new situation. With regard to the second objective, its achievement became all the more difficult for the ILO as two major events, almost concomitant with the demise of the Soviet Union, marked the beginning of the new phase of globalization: first, the complete liberalization of capital movements and, second, the establishment of the World Trade Organization (WTO).

In the preceding decades, there had been a progressive undoing of the 1944 Bretton Woods financial architecture, which considered capital control as an essential component of a sustainable international economic order (Helleiner, 1996). Capital flows were progressively liberalized. The two last steps that completed a full liberalization came at the end of the 1980s, first with the European Union abolishing all remaining restrictions on capital movements among residents of member States, and secondly with the amendment of the OECD Code of Liberalisation of Capital Movements, which extended its obligations to short-term capital movements, including all forms of derivative instruments (Abdelal, 2006). In this situation, under the permanent threat of the short-term preferences of financial market actors – a threat which is amplified by the ever-expanding performances of information and communication technology – nation states have lost most of their capacity to pursue their own economic and social choices.

On the trade dimension, the World Trade Organization was established in Geneva in 1995. In the new WTO regime, the priorities of the previous Bretton Woods regime have been reversed: “Domestic economic management was to become subservient to international trade and finance rather than the other way around.” (Rodrik, 2011, p. 76). The central pillar of the new regime was the introduction of a dispute settlement procedure that gave an unprecedented force to international trade law: “As in a domestic court – but unlike in most international bodies – WTO dispute settlement is both compulsory and binding” (ibid., p. 79). This represented a striking and dramatic imbalance with international labour law. The ILO, with the voluntary nature of its “international labour code” and its supervisory system based on the logic of persuasion, appeared in comparison rather weak indeed.

This paper will discuss how the ILO reacted to the challenges to its *raison d'être* posed by globalization and the ideological hegemony of neoliberalism and its increasing impact on policy recommendations and practices. It will explore the measures and policies that the ILO introduced to ensure its continued relevance and how the Organization responded in three main steps. The paper is organized as follows: Section 2 examines the 1998 Declaration on Fundamental Principles and Rights at Work, its adoption, its logic, achievements and limitations. Section 3 discusses the definition and the promotion of the “decent work” concept, and its inclusion in the UN system and the international arena. Section 4 covers the adoption of the 2008 Declaration on Social Justice for a Fair Globalization. The final section concludes by showing how this ILO instrument places the notion of “social justice” back as a central aim of national and international policies.

2 ILO Declaration on Fundamental Principles and Rights at Work

The adoption of the Declaration on Fundamental Principles and Rights at Work (the 1998 Declaration) in June 1998 constituted the initial response of the ILO to the changed global context. This response focused essentially on the standard-setting function of the Organization and was strongly influenced by

the international debate over the liberalization of trade – especially in the framework of the negotiations under the General Agreement on Tariffs and Trade (GATT) Uruguay Round, from 1986 to 1994, and at the WTO after its establishment in 1995. The process started formally at the International Labour Conference (ILC, or the Conference) in June 1994 (see Maupain, 2012, pp. 153–155).

2.1 June 1994: A lucid diagnosis at the 75th anniversary Conference

The 75th anniversary of the ILO in June 1994 provided an opportunity for the Director-General, Michel Hansenne, to review the overall change of context and its implications for the ILO's principles and its capacity and means of action. At the same time, it provided an occasion to reflect on the future of the Organization (ILO, 1994a). This Conference also marked the 50th anniversary of the Declaration of Philadelphia, in which the Organization had defined its aims and purposes and the principles that should inspire the policy of its Members. Despite this double anniversary, the Director-General made it clear in his report that he did not consider the time had come for a new declaration along the lines of the Declaration of Philadelphia of 1944 (*ibid.*, p. 25).

Overall, the report was a lucid assessment of the situation and the ILO's possible role in the future. It acknowledged that the very relevance of the ILO might be questioned, and in this situation, particular attention was paid to its standard-setting function, which was being challenged at the time from various sides, internally and externally, for a variety of reasons (see, for example, ILO, 1995, p. 27/12; Myrdal, 1994; Hepple, 2005, pp. 35–56; Simpson, 2004; Maupain, 2012, pp. 27–31).

The report identified two institutional characteristics of the ILO that were dramatically challenged by the fundamental structural change brought on by the new wave of globalization: “the voluntary nature of the acceptance to be bound by Conventions”; and the “state-centred” nature of ILO standards (ILO, 1994a, p. 56). ILO standards were exclusively directed at governments, while one of the main features of economic globalization was the decreasing capacity of nation states to pursue autonomous economic and social policies. Thus, the ILO's initial answer lay in the field of standard setting. At the 1994 ILC, the ILO set out the path that led to the adoption of the Declaration on Fundamental Principles and Rights at Work in 1998.

2.2 The road to the 1998 Declaration

The process that resulted in the adoption of the 1998 Declaration must be seen in the context of the renewed importance given to human rights in the post-Cold War era, which were increasingly perceived as a core component of democracy. This was a challenge for the ILO. As noted by Bob Hepple, workers' rights and human rights had tended historically to develop on parallel tracks (Hepple, 2005, pp. 21–23 and 2006, pp. 56–59; see also Rosado Marzán, 2016, pp. 207–210). Traditionally, the ILO had defined its purposes in terms of objectives rather than rights: objectives to be achieved rather than rights to be recognized. In the context of the 1990s, the 1998 Declaration can thus be seen as an attempt by the ILO to link formally its standard-setting approach to the human rights framework, which had gained in credibility over the labour rights perspective. As formulated in the title of a colloquium organized in 2006, the inclination of the times had become to talk about “Protecting labour rights as human rights” (Politakis (ed.), 2007).

Moreover, this approach in terms of rights had to face another claim also framed in terms of rights – the “right to development” by developing countries. It was an issue that was very present at the ILC in 1994. The Government delegations of several Asian countries proposed, for example, a “Resolution calling upon the ILO to resist the introduction of the social clause in international trade and to review ILO standards”. It was supported in the end by almost all developing countries. While not adopted, it revealed the perception by developing countries that labour standards could be used for protectionist purposes as well as the tension among ILO constituents over the issue. In his reply to the discussion of his Report to the Conference, Hansenne referred to the conflicting dimension of the debate over the “social clause”, and he outlined the possible way toward a consensus:

I would like to note, first of all, that those who spoke in favour of a guarantee of workers’ rights have never called into question the right to development. [...] I have observed – and this is my second point – that those who advocate the right to development have never maintained that this right could be allowed to undermine the fundamental rights of workers. There is a consensus that countries should try to abolish practices which violate fundamental human rights. (ILO, 1995, pp. 27/11 and 27/12)

The same 1994 Conference provided a first official definition of those “fundamental rights of workers” in the “Resolution concerning the 75th anniversary of the ILO and its future orientation”. The resolution noted “the particular importance of ILO Conventions covering fundamental rights, including Conventions Nos. 87, 98, 100, 29 and 105, and 111” (ILO, 1995, Resolutions, p. 5). The Workers’ Vice-Chairperson of the Resolutions Committee named these Conventions “the human rights Conventions on freedom of association, collective bargaining, forced labour and discrimination” (ILO, 1995, p. 24/30). This list identified officially for the first time “fundamental workers’ rights” at the ILC, although Convention No.138 on the elimination of child labour was not yet on the list.

Just after this anniversary session of the ILC, the ILO Governing Body decided at its session in June 1994 to set up a Working Party on the Social Dimensions of the Liberalization of International Trade. The Office prepared a substantial document for the first meeting of the Working Party in November 1994 (ILO, 1994b). It established the rationale and philosophy underlying what would become the 1998 Declaration, based on the identification of fundamental workers’ rights as “enabling rights”:

[...] the liberalization of trade appears naturally and logically to call at the very least for recognition in the social field of conditions *enabling workers to negotiate freely, both individually and collectively, their conditions of work.*¹

This general principle is easy to translate into specific legal terms since it covers a certain number of ILO Conventions aimed precisely at ensuring the worker’s freedom of determination, both individually and collectively. The collective aspect is obviously related to freedom of association and collective bargaining as laid down in Conventions Nos. 87 and 98, while the individual aspect relates to the prohibition of forced labour which is the subject of Conventions No. 29 and 105. However, the list is not necessarily exhaustive. It could be extended to the prohibition of child labour when it is organized in conditions that are tantamount to slavery. “ (ILO, 1994b, par. 28 and 29)

A few months later, parallel to its own internal undertakings, the ILO received a major boost in the process towards the international recognition of fundamental workers’ rights at the World Summit for Social Development, which took place in Copenhagen from 6 to 12 March 1995. This Summit was convened by the United Nations General Assembly. It had been proposed by the Chile’s Permanent

¹ Emphasis added.

Representative at the United Nations, Juan Somavía, who played a central role in organizing it and who, a few years later, became Director-General of the ILO. The Programme of Action adopted by the Summit identified what it called “basic workers’ rights” (“droits fondamentaux des travailleurs”, in the French version). It endorsed the selection of rights adopted by the ILC in 1994, with the addition of the prohibition of child labour, and linked them explicitly to the ILO Conventions. As its Programme of Action stated:

Governments should enhance work and employment by: [...] Safeguarding and promoting respect for basic workers’ rights, including the prohibition of forced labour and child labour, freedom of association and the right to organize and bargain collectively, equal remuneration for men and women for work of equal value, and non-discrimination in employment, fully implementing the conventions of the International Labour Organization (ILO) [...] to thus achieve truly sustained economic growth and sustainable development. (United Nations, 1996, Programme of Action, p. 59, par. 54(b))

Additional support for the ILO’s initiative came from the Organisation for Economic Co-operation and Development (OECD), with the publication in 1996 of its important and pioneering study on *Trade, Employment and Labour Standards: A Study of Core Workers’ Rights and International Trade* (OECD, 1996). It identified a small set of labour standards, termed “core labour standards”, which were “widely recognised to be of particular importance: elimination of child labour exploitation, prohibition of forced labour, freedom of association, the right to organise and bargain collectively and non-discrimination in employment” (ibid., p. 10). The report also observed that concerns expressed by some developing countries that core standards “would negatively affect their economic performance or their international competitive position” were “unfounded”. Indeed, the report concluded, it was “theoretically possible that the observance of core standards would strengthen the long-term performance of all countries” (ibid., p. 13).

The last and decisive push on the road to the 1998 Declaration came from the World Trade Organization. The tension over the possible link of labour standards and trade was very high at the WTO’s first Ministerial Conference at Singapore in December 1996 (see Tsogas, 1999, pp. 369–370). It found its most conspicuous expression in the withdrawal of the invitation sent to ILO Director-General Hansenne to address the ministers, due to the objections of some prominent developing countries. The US, France and other industrialized countries strongly supported the linking of trade and labour standards, while it was opposed by many developing countries as well as the UK. A compromise was eventually found with the inclusion, in the final Ministerial Declaration, of a paragraph on “Core Labour Standards”, which read as follows:

We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. (WTO, 1996, par. 4)

Although the interpretation of this paragraph gave rise to much controversy, the reference, for the first time, to “core labour standards” in an official WTO document reaffirmed indisputably the particular importance given to those standards at the international level by leading trading countries. This recognition gave a new and substantial support to the ILO and its approach of promoting fundamental

workers' rights. Furthermore, the fact that the ILO was identified as being “the competent body to set and deal with” “internationally recognized core labour standards” and that trade ministers affirmed their “support for its work in promoting them”, provided the organization with an unquestionable legitimacy and a strong incentive to move forward and act.

The road for the incorporation of fundamental workers' rights into the ILO normative system was now wide open. The ILO moved swiftly, and the process was completed with the adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, by the ILC at its 86th Session on 18 June 1998. This Declaration is a concrete response to the challenges posed to the ILO by the voluntary nature of its standard-setting system, in which ILO member States accept on a strictly voluntary basis to be bound by its Conventions.

2.3 The 1998 Declaration: Its logic, achievements and limitations

The 1998 Declaration is a short document². It comprises a preamble, five articles and an annex defining a follow-up mechanism. In spite of the terminology used, it does not introduce new legal obligations for ILO member States; it stays strictly within the framework of the prevailing provisions of the ILO Constitution. As expressly clarified by the ILO's Legal Adviser, Francis Maupain, during the debate, it is “a political statement of a non-binding nature” (ILO, 1998, p. 20/92, par. 325).

2.3.1 The scope and logic of the Declaration

The Declaration identifies a set of fundamental ILO Conventions, states that the principles contained in these Conventions apply to all member States, whether or not they have ratified them, and introduces a follow-up mechanism comprising two arrangements: one to review the efforts made by non-ratifying member States; the other to provide a regular picture of global trends and serve as a basis to assess and prioritize ILO assistance. In addition, the Declaration affirms that the ILO has the obligation to support and assist, by all means and notably technical cooperation, member States in their efforts to achieve the objectives it has defined.

The Declaration identifies a set of principles and rights that have been expressed and developed in Conventions “recognized as fundamental both inside and outside the Organization” (art. 1(b)). They relate, as specified in article 2, to four categories of rights: freedom of association and the right to collective bargaining; the elimination of forced labour; the abolition of child labour; and the elimination of discrimination. The fundamental Conventions are intentionally not specified in the Declaration in order to allow for the possibility of adding further relevant Conventions later when required (as happened with Convention No. 182 on the worst forms of child labour, which was adopted only in June 1999). Thus, there are now eight fundamental Conventions, namely: Conventions Nos. 87 and 98 (freedom of association), 29 and 105 (elimination of forced labour), 138 and 182 (abolition of child labour), and 100 and 111 (elimination of discrimination).

Article 2 also defines the aim of the Declaration. After a number of amendments and sub-amendments during the debate at the ILC, it is phrased in a way which is not very clear at first sight. As noted by Philip Alston (2004, p. 490), it is an “extraordinarily opaque formula”:

² Available at: <https://goo.gl/nB8Xxv>.

[The International Labour Conference] Declares that all Members, even if they have not ratified the Conventions in question, have *an obligation*, arising from the very fact of membership in the Organization, *to respect, to promote and to realize*, in good faith and in accordance with the Constitution, *the principles concerning the fundamental rights which are the subject of those Conventions*, namely: [the four categories of fundamental rights]³. (1998 Declaration, art. 2)

The term “obligation” used in this formulation is particularly ambiguous. What type of obligation arises for member States from the Declaration, due to their membership in the Organization? And what exactly does the distinction between “principles” and “rights” mean?

The Legal Adviser provided numerous explanations and clarification during the Conference debates that helped to understand the scope and the logic of the Declaration (ILO 1998, pp. 20/1–20/112, in particular par. 325). The “obligations” of member States rest on the internal mechanics of the Declaration, which distinguish between “principles” and “rights”. This is based on a broader distinction between “values”, “principles” and “rights”. “Values” refer to “concepts of moral order which are widely shared”; three examples can be found in the ILO Constitution and the Declaration of Philadelphia: “freedom, equality of opportunity, and solidarity”. “Principles” are viewed as “the translation or manifestation of those values into action in a concrete context”: the principle of freedom of association, for example, is a concrete manifestation of freedom. And the concept of “rights” constitutes “an active acknowledgment in law” of the principles (*ibid.*, par. 73). Member States, by joining the Organization, endorse the values, principles and rights set out in the Constitution; and in ratifying fundamental Conventions, they bind themselves to implement the rights defined in those Conventions. In other words, article 2 implies that the Declaration does not impose on member States any obligation contained in any of the fundamental Conventions which they have not yet ratified; the reference to those Conventions is a means to clearly identify the principles which member States pledge “to respect, to promote and to realize” by joining the Organization. The Declaration does not create any new formal or legal obligations for member States beyond the already existing ones; but its underlying strategy is of course to trigger, through its promotional nature, an increasing number of ratifications of the fundamental Conventions.

To support this strategy and, more generally, to support the realization of the objectives set out for member States, the Declaration recognizes a parallel and complementary obligation for the ILO, which is the subject of article 3. It recognizes the obligation on the Organization to assist member States in their efforts: (i) to ratify and implement the fundamental Conventions; (ii) to respect, promote and realize the principles embodied in those Conventions, for those member States “not yet in a position” to ratify them; and (iii) to create a climate favourable for economic and social development.

Finally, the Declaration provides in article 4 for “a promotional follow-up”. It comprises two arrangements described in the Annex. The first provides for an annual review by the ILO’s Governing Body of the efforts of the countries that have not yet ratified the fundamental Conventions. The second establishes an annual global report treating the four categories of rights in turn. The reports will be submitted to the Conference for tripartite discussion. The follow-up of the Declaration is strictly promotional; it is in no way complaint-based or punitive, and it does not fall under the traditional ILO supervisory machinery.

³ Emphasis added.

2.3.2 Questions and criticisms

The Declaration and its follow-up raised many questions and caused various reactions among international labour jurists, some seeing it as a positive response to the new international context, others being sceptical or even highly critical (for a general overview, see La Hovary, 2009, online version, intro., par. 4 and 5). The most extensive criticism came from Philip Alston, who saw three major flaws with the Declaration: first, the hierarchy introduced among ILO standards with the identification of “core labour standards”, undermining the status of the other standards; second, the excessive reliance on principles rather than rights; and third, the strictly promotional nature of the monitoring (Alston, 2004). In addition, Alston highlighted the role of the United States in the process leading to the adoption of the Declaration and their particular interest in an instrument of non-binding nature (*ibid.*, p. 467).⁴

Alston’s highly critical assessment triggered vigorous replies from Langille (2005) and Maupain (2005). For Maupain, who was the ILO jurist behind the design of the Declaration, the Declaration has a coherence from a philosophical point of view. It relates to the fact that “the concept of ‘social justice’ [...] cannot be defined so much in terms of a pre-defined product as in terms of fair processes which are themselves inseparable from its proclaimed values of human dignity, freedom and dialogue” (Maupain, 2005, p. 448). He then points to what he calls the “functional coherence” of the fundamental workers’ rights category, which relates to “their impact on the achievement of other rights [...]. As ‘enabling rights’ or process rights, they ‘empower’ workers with the tools that are necessary for the conquest of other rights” (*ibid.*, p. 448).

A note in Maupain’s article explains the implicit logic behind the Declaration’s conception. Maupain shows why the Declaration is a pragmatic response to the difficulties inherent in the ILO’s normative approach, especially acute in the post-Cold War era and the globalization context, and he points to the strategy pursued:

It should be recalled that the logic of the ILO voluntary approach to standards is based to a large extent on the assumption that [...] ratification would have its best chance through the mobilization of those concerned at the national level. But this in turn begs the question whether “those concerned” have a “voice” and are ready to use it in that connection. It is hoped that this will increasingly be the case with the Declaration and its impact on the ability of workers and employers to organize collectively. (Maupain, 2005, p. 459, n. 85).

In other words, regarding standards – but this is also true more generally – the strength of the ILO depends on the strength of workers’ organizations at national level and on the quality of the social dialogue taking place between workers’ and employers’ organizations.

It is important to place the Declaration in the context of its adoption and be aware of the difficulties it had to go through during the process. Basically, governments and employers wanted to be sure that no new legal obligations were introduced; workers were concerned by the possible weakening effect of the adoption of a soft law instrument on the guarantees embodied in the existing Conventions; and, above all, there was the North-South confrontation over the issue of trade. The Declaration would most likely

⁴ At the time, the United States had ratified only one fundamental convention out of seven (C105 on the abolition of forced labour); now, with its ratification of C182 on the worst forms of child labour, it has ratified two out of the eight.

not have been adopted without the introduction of the last article, article 5, which some considered a stain on the document:

[The International Labour Conference] Stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up. (1998 Declaration, art. 5).

A literal reading of this paragraph means that the provisions of the Declaration would be invalidated when they called into question the “comparative advantage” of a country. Different interpretations were given on how this paragraph should be understood; but it remained undoubtedly ambiguous, until it was clarified by the 2008 Declaration.

At first sight, the 1998 Declaration seems to have been adopted by a comfortable majority, with 273 votes in favour, none against and 43 abstentions. However, it was passed by a very narrow margin of only 9 votes over the necessary quorum of 264, corresponding to half of the number of delegates entitled to vote. So, although there was no vote against the Declaration, the very high level of abstentions shows at the very least a lack of enthusiasm of many ILO Members for the Declaration. The tight vote highlights the balance of power among ILO Members at the time and shows the strong reluctance to respect, promote and put into practice fundamental workers’ rights when trade issues were at stake and the right to development might be questioned.

2.3.3 Achievements and limitations

The 1998 Declaration had tangible effects in the following years, some clearly positive, others more questionable (see La Hovary, 2009, pp. 223–285). Its most obvious success is the spectacular increase in the ratification rate of the fundamental Conventions. By December 2011, this ratification rate stood at over 90 per cent – not too far from the goal of universal ratification set by the Director-General in 2008.⁵ The adoption of the Declaration gave a decisive impetus to the campaign for the ratification of the fundamental Conventions, which the ILO had launched in 1995 as a follow-up to the Copenhagen Summit: since 1995, the rate of ratification has increased by 68 per cent (ILO, 2012, par. 31 and p. 80). The Declaration also generated important resources from donor countries, notably the United States, in support of ILO technical cooperation activities assisting countries in their efforts to implement the fundamental principles and rights at work.

From a global perspective, the Declaration succeeded in clarifying the notion and the content of fundamental workers’ rights and in establishing them as a shared reference at the international level. In the context of the global economy and the importance of trade issues, the WTO Singapore Ministerial Declaration of 1996 provided an indirect support to the ILO Declaration, as it stated explicitly that the ILO was the “competent body” to set and deal with the internationally recognized core labour standards” (WTO, 1996, par. 4). Overall, the Declaration improved the visibility and status of the ILO on the international scene. This resulted in a sharp increase in the number of references to fundamental workers’ rights and core labour standards in documents of other international organizations, bi- and

⁵ The situation has not changed substantially since then: as of December 2011, 1,326 ratifications of the eight fundamental conventions registered, out of a total of 1,464 needed to reach universal coverage (with 183 member States); as of December 2016, 1,365 ratifications, out of a total of 1,496 required (with 187 member States).

multilateral trade agreements, codes of conduct of multinational enterprises (MNEs), and international framework agreements between global union federations and MNEs.

However, those successes have to be put in perspective. In particular, the high level of ratification of fundamental Conventions needs to be contrasted with the crucial issue of their implementation in national laws and practice. This is frequently not the case, especially in countries with low institutional capacities and those where the informal economy is predominant. The 2012 report recalls for example that, in Africa and South-Asia, the proportion of the workforce in the informal economy is as high as 90 per cent (ILO, 2012, p. 39). Furthermore, the ratification rate itself is not the same for all the Conventions corresponding to the four categories of fundamental rights. C87 and C98, covering freedom of association and collective bargaining, are the least ratified. And going beyond the ratification rate and looking at the proportion of the world population covered, the situation is not as bright: “over half of the world’s population is in countries that have not ratified either of the freedom of association and collective bargaining Conventions” (ibid., pp. 17). Countries as important geopolitically and economically as China, India and the United States have ratified neither of them; Brazil has not ratified C87, and Mexico has failed with C98. Regarding technical cooperation to assist countries, either to ratify the Conventions or to implement their principles, there is also a marked difference between the four categories of rights. From 2000 to 2011, freedom of association and collective bargaining got only 9 per cent of the resources provided by donor countries for technical cooperation, while the bulk of them (83 per cent) went to the elimination of child labour (ILO, 2012, p. 60).

This relatively weaker position of the right to freedom of association and collective bargaining among the four fundamental rights is a cause of concern regarding the very logic on which the Declaration is built. The concept of fundamental workers’ rights as enabling rights relies widely on the collective rights embodied in the freedom of association and collective bargaining Conventions. They are the rights that specifically enable workers – through collective action – to claim “their fair share of the wealth they have helped to generate” (preamble, par. 5).

The increased international recognition of fundamental workers’ rights also poses problems. In particular, although there is widespread reference to those rights, to the Declaration or to core labour standards defined by the ILO, those references, e.g. in trade agreements, rarely entail the ILO’s intervention and the use of its monitoring system. This raises again the question of the actual implementation. Moreover, for many actors, internationally and nationally or locally, the identification and the international recognition of a limited set of fundamental workers’ rights have provided the opportunity to set aside or disregard the other workers’ rights. This confirmed the concerns expressed by many jurists and observers regarding the possible effects of the Declaration, who insisted on the indivisibility and interdependence of all human rights; notably, Alston who recalled that the Vienna World Conference on Human Rights in 1993 stated unanimously that “[a]ll human rights are universal, indivisible and interdependent and interrelated” (Alston 2004, p. 460, n. 9).

By and large, with its achievements and limitations, the Declaration on Fundamental Principles and Rights at Work has re-oriented the ILO in terms of normative action and on how it combines its standard-setting tools and its other means of action. The Declaration on Social Justice for a Fair Globalization of 2008 followed the same approach as the 1998 Declaration, and it addressed some of the limitations and extended its scope. While implementing the follow-up of the 1998 Declaration,

especially through technical cooperation, the ILO made another important turn in developing, shortly after the adoption of the 1998 Declaration, the decent work concept.

3 The Decent Work Concept

The decent work concept was introduced by Director-General Juan Somavía in 1999. It was built on what had been achieved with the adoption of the 1998 Declaration. Somavía's strategy for the ILO was resolutely proactive and outward looking, aiming to raise ILO's status in the international arena. He was the first ILO Director-General from a developing country, Chile, and this made him, from the outset, especially sensitive to development issues. He also did not directly come from the realm of social and labour issues, but from the United Nations (UN) system and, among other things, had twice served as President of the UN Economic and Social Council (ECOSOC). He always kept a strong inclination towards the UN system and sought to consolidate the position of the ILO within it.

Throughout his terms of office as Director-General, Somavía strove to increase the visibility of the ILO and reinstall it as a major actor on the international scene. His main vehicle of communication and policy guidance was the concept of "decent work", set as an objective and translated into a development programme: the Decent Work Agenda. This policy eventually led to the restatement of the ILO's mandate and objectives in the Declaration on Social Justice for a Fair Globalization, adopted by the ILC at its 2008 Session.

3.1 The introduction of the decent work concept

Somavía was elected in March 1998. When he took office a year later he came prepared with his own programme and budget proposals for the upcoming biennium. In his Declaration of Loyalty⁶ on 22 March 1999, he presented what he called "a clear sense of direction" for the ILO, a vision of where he believed the Organization should be heading. It was structured around "four strategic objectives":

- (i) promote and realize fundamental principles and rights at work;
- (ii) create greater opportunity for men and women to secure decent employment and income;
- (iii) enhance the coverage and effectiveness of social protection for all;
- (iv) strengthen tripartism and social dialogue. (ibid.)

Somavía then introduced the notion of decent work as the new primary goal of the ILO: "I believe that the central purpose of the ILO today, is to promote opportunities of decent work for all. The four strategic objectives must converge on this overarching goal" (ibid.).

A few months later, in June 1999, the Report of the Director-General to the Conference, simply entitled *Decent Work*, gave a more elaborate description of the concept and developed the logic behind its adoption (ILO, 1999). It identified two main problems that the ILO had to overcome. The first was the Organization's tendency to "generate a widening range of programmes" without clear operational priorities and a lack of focus (ibid., p. 2). This is in part due to the richness of the ILO's mandate itself: "That mandate, as eloquently expressed in the Declaration of Philadelphia, is to create the conditions of 'freedom and dignity, of economic security, of equal opportunity' in which 'all human beings, irrespective of race, creed or sex, can pursue both their material well-being and their spiritual

⁶ Available at: <https://goo.gl/45NdsG>.

development” (ibid., p. 3). The pursuit of such a vision tends to overstretch the Organization’s capacity and limited resources, leading to fragmentation and lack of effectiveness. The second problem related to the consequences which the changes of the 1990s, including the “end of the Cold War” and the “impact of globalization”, had brought for the ILO’s constituents and which had “led to a greater fragility of consensus among the ILO’s tripartite membership”. “An ILO without internal consensus,” the report emphasized, was “an ILO without external influence” (ibid., p. 3).

The first step to address these “persistent problems” should be the definition of “a clear, common purpose”. This common purpose, the new goal of the ILO, was encapsulated in the concept of decent work:

The primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity.

This is the main purpose of the Organization today. Decent work is the converging focus of all its four strategic objectives: the promotion of rights at work; employment; social protection; and social dialogue. It must guide its policies and define its international role in the near future. (ibid., p. 3).

Thus, the decent work concept was introduced as the new primary goal of the ILO with a three-fold objective to (i) reorganize the Office to make it more efficient; (ii) rebuild a consensus among ILO’s constituents; and (iii) provide a clear message to enhance the ILO’s role on the international scene (for more details on the concept of decent work, see Somavía, 2000, and Ghai (ed.), 2006). The concept of decent work also had two major policy implications. As pointed out by Amartya Sen in his address to the Conference in June 1999 (Sen, 2000, pp. 120–122), the objective of decent work marked an explicit concern of the ILO for *all* workers, including those outside the formal labour market, the unregulated wage workers, the self-employed and homeworkers. This represented a major shift for the Organization.

Furthermore, the decent work concept, with its firmly stated orientation towards development and as a vehicle for a new consensus among ILO Members, provided a way out of the North-South confrontation over trade issues and the possible introduction of a social clause in international trade. Decent work made it possible to reconcile the two types of conflicting rights in the context of the economic globalization of the 1990s: workers’ rights and the right to development. This policy dimension of the new concept, later framed as a programme, the Decent Work Agenda, was extensively used by Somavía in the following years to reassert the ILO’s position on the international scene.

3.2 Decent work: From a social clause to a fair globalization

It has been said that Somavía was inspired by the success of an earlier concept, “sustainable development”, introduced by the report of the World Commission on Environment and Development, better known as the Brundtland Commission Report, and published in 1987. There are striking similarities between the two concepts and the two approaches. The concept of sustainable development was formally recognized within the UN system in 1992, after it had been introduced in the Brundtland Commission Report, and became a crucial element in framing the international development agenda. The decent work concept might not have such an exceptional future; nevertheless, there are some similarities in the way it was promoted and, finally, broadly recognized internationally.

The process went relatively fast. Ironically, it was again the WTO that provided the decisive impetus at its Third Ministerial Conference, held in Seattle in 1999. This conference was the scene of two

important events for the course of globalization: massive protests against the WTO and the failure to launch a new round of trade negotiations.

The Seattle protests revealed the existence of a wide range of organizations and people around the world who rejected globalization, and the “Battle of Seattle” is often viewed as the starting point of the anti-globalization movement. At the same time, they have tended to overshadow what has happened in the Convention Center itself. The Conference was supposed to launch a new round of multilateral trade negotiations, which did not happen. There were several areas of disagreement among governments, essentially along the North-South divide (aside from agriculture, mainly a US-EU divide). One of them, perhaps the most contentious, was again the issue of trade and labour standards. While the trade union movement was still pushing for a social clause, a number of developing countries resolutely rejected any linkage between trade and core labour standards. They considered that the issue had been settled once and for all in 1996 in Singapore (see Charnowitz, 2000, pp. 159–163; for an ILO overview of the Conference, ILO, 2000a, par. 7–19).

The Director-General submitted a written statement to the Ministerial Conference in which he presented the new ILO perspective, well summarized in its title: “Decent work for all in the global economy” (Somavía, 2000, pp. 1–14)⁷. It referred to the major challenges globalization posed to the multilateral system and stated: “There is a growing recognition that unless questions of unfairness and inequality are addressed by the global community, the process of international integration may be rejected by increasing numbers of countries and people.” (ibid., p. 1). Evidence was mounting that globalization was “widening inequalities between industrialized and developing countries. In particular, the least developed countries have remained largely excluded while the gains enjoyed by the rest of the developing world have been small” (ibid., pp. 1-2). Somavía then detailed the new approach of the ILO, with the recent adoption of decent work for all as the Organization’s primary objective, and he called for a multilateral initiative “to address the social impact of globalization” (ibid., pp. 13 and 14).

In view of the profound disagreements among the delegations, the WTO talks were suspended, and the Ministerial Conference closed without agreeing on a new round of trade talks. In the meetings following Seattle, the matter of trade and labour standards, traditionally the most hotly debated topic within the WTO, was no longer considered all that crucial, having been replaced by an acrimonious and protracted controversy over the issue of development. In the aftermath of Seattle, it was the ILO that seized the initiative on the social impact of globalization. The failure of the WTO Conference and the context in which it had taken place opened a new opportunity for ILO action in the international arena. The concept of decent work offered a way out of the controversy over the social clause and a solution to the dilemma of workers’ rights versus the right to development. The emerging tension over the social consequences of globalization showed the way forward as outlined by Somavía in his Seattle statement: the need to address the social dimension of globalization.

The ILO swiftly and resolutely took action. The Governing Body marked the shift in orientation symbolically as soon as March 2000. The Working Party on the Social Dimensions of the Liberalization of International Trade, which had been established in 1994, decided to modify its name to Working Party on the Social Dimension of Globalization, in order to better reflect the real direction in which its mandate had evolved (ILO, 2000b, par. 17). In November 2001, the Working Party agreed to the proposal of the Director-General to set up a World Commission on the Social Dimension of

⁷ The press release published by the ILO on 1 December 1999 is available at: <https://goo.gl/qQdveP>.

Globalization, composed of “eminent personalities” from governments, business, academia and civil society from different parts of the world and with very different political orientations. The mandate of the Commission was to prepare “a major, authoritative report on the social dimension of globalization, including the interaction between the global economy and the world of work”, with the objective to reinforce the capacity of the ILO and to “strengthen its presence and voice in global debates on social and economic policy” (ILO, 2001).

The Commission issued its report, *A Fair Globalization: Creating Opportunities for All*, in February 2004 (World Commission, 2004; for an overview of its modus operandi, see pp. 154–158). The report argued that, while globalization had many benefits, it was also generating profound imbalances and was not sustainable in its current form. It called for changing the direction of globalization by giving it a strong social dimension, and it offered a series of proposals for making the process more inclusive and fair. One of the proposals was of particular importance to the ILO, the Commission considered that decent work should not be just an ILO goal, but should become a global goal, to be pursued through coherent policies within the multilateral system. “This”, the Commission stated, “would respond to a major political demand in all countries and demonstrate the capacity of the multilateral system to find creative solutions to this critical problem” (ibid., p. xiii).

The report was widely disseminated and elicited mixed reactions. To its critics, it was “long on sweeping assertions and short on hard facts” (*Financial Times*, 26 February 2004). It also created disappointment among jurists, some of whom had expected innovative proposals on normative issues and a wider coverage of labour standards, rather than what they considered to be no more than a list of good intentions (see Alston and Heenan, 2004; Supiot, 2005, p. 1004). Nevertheless, the report of the World Commission contributed significantly to reasserting the ILO’s position on the international scene and to publicizing its new orientation towards a fair globalization. As in the case of the proposals of the Brundtland Commission, the next step was to integrate the outcomes of the World Commission into the machinery of the UN system. This was achieved in the two years that followed the publication of the report.

3.3 Decent work in the UN system

The recognition and integration of decent work as a global goal within the UN system were pretty swift (for an overview from the ILO point of view, see Jenkins, Lee and Rodgers, 2007, par. 20–25). In December 2004, the UN General Assembly (UNGA) adopted a resolution (A/RES/59/57)⁸ that took note of the report of the World Commission “as a contribution to the international dialogue towards a fully inclusive and equitable globalization” and requested the Secretary-General to take it into account in his comprehensive report that was prepared for the high-level follow-up review of the outcome of the Millennium Summit.

This request to the UN Secretary-General was of “strategic importance” for the ILO (Jenkins, Lee and Rodgers, 2007, par. 22). The ILO’s goal of decent work had been poorly reflected in the Millennium Development Goals (MDGs)⁹, a series of eight time-bound targets to be achieved by 2015, which had been set out to implement the UN Millennium Declaration¹⁰ adopted at the Millennium Summit in

⁸ Available at: <https://goo.gl/zF9xst>.

⁹ Available, for example, at: <https://goo.gl/zwniAe>.

¹⁰ Its text is available at: <https://goo.gl/sJg16u>.

September 2000. But the first high-level review of the implementation of the Declaration, which took place at the 2005 World Summit in September 2005, presented an opportunity to remedy this situation. The meeting was attended by 150 Heads of State and government, who adopted a “historic outcome document” in which they reaffirmed their commitment to achieve the MDGs by 2015.¹¹ This outcome document (A/RES/60/1)¹² included a paragraph (par. 47) that was crucial for the ILO, which is as follows:

We strongly support fair globalization and resolve to make the goal of full and productive employment and decent work for all, including for women and young people, a central objective of our relevant national and international policies as well as our national development strategies, including poverty reduction strategies, as part of our efforts to achieve the Millennium Development Goals. These measures should also encompass the elimination of the worst forms of child labour, as defined in International Labour Organization Convention No. 182, and forced labour. We also resolve to ensure full respect for the fundamental principles and rights at work.

This was the recognition of decent work for all as a global goal at the highest level on the international scene and the successful achievement of Somavía’s strategy. After this highly symbolic endorsement, the next step involved the concrete integration of the decent work goal into the UN system. This took place at the UN ECOSOC in Geneva in July 2006, when the Ministers and Heads of Delegations adopted a Ministerial Declaration on “Creating an environment at the national and international levels conducive to generating full and productive employment and decent work for all, and its impact on sustainable development”.¹³ It was viewed by the ILO as “a groundbreaking Ministerial Declaration”, which specifically requested the entire UN system to mainstream the goals of full and productive employment and decent work for all in their policies, programmes and activities (Jenkins, Lee and Rodgers, 2007, par. 25).

In his report to the UNGA in August 2006, the Secretary-General recommended the incorporation of the commitments agreed on at the 2005 World Summit into the MDGs, including a new target under Goal 1: “to make the goals of full and productive employment and decent work for all, including for women and young people, a central objective of our relevant national and international policies and our national development strategies” (A/61/1, par. 24)¹⁴. This recommendation concerned altogether four new targets, and, by November 2007, the relevant expert group had selected the appropriate indicators and incorporated them into a new MDG Framework. It included, under Goal 1 (eradicate extreme poverty and hunger): “Target 1.B: Achieve full and productive employment and decent work for all, including women and young people”, with four indicators for monitoring progress¹⁵. It became effective on 15 January 2008. Decent work was from now on an integral part of the UN development agenda.

Finally, with the incorporation of decent work under MDG 1, the ILO had secured its institutional position in the framework of the UN development agenda. More generally, the ILO was increasingly identified as the international organization concerned with the social dimension of globalization. This became very apparent after the 2008 financial crisis, when the ILO was invited to attend the G20

¹¹ See: <https://goo.gl/x6KfhH>.

¹² Its text is available at: <https://goo.gl/8hkw8q>.

¹³ See: <https://goo.gl/ZZ7As1>.

¹⁴ Available at: <https://goo.gl/6PXSgb>.

¹⁵ See: <https://goo.gl/Zc2PiY>.

Summit held in Pittsburgh in September 2009. Since then, the ILO has been among the few international organizations – and the sole UN agency – regularly invited to attend the summits of this group.

Nonetheless, this undeniable achievement raised the crucial question of the ILO’s capacity to play its new role and discharge its mandate in the context of globalization. In addition, the ILO was facing a strange paradox: while the decent work concept had met with increasing international recognition, its internal status remained fragile. Decent work was a goal set and actively promoted by the Director-General, but it had never been formally stated as a purpose of the Organization in an authoritative document adopted by the ILC. Those were, in fact, the two main issues that the Declaration on Social Justice for a Fair Globalization was intended to address.

4 ILO Declaration on Social Justice for a Fair Globalization

The Declaration on Social Justice for a Fair Globalization (the Social Justice Declaration) is built on the same logic as the 1998 Declaration, but extended its scope to encompass all the dimensions of the decent work concept. Some fifteen years after the end of the Cold War, when the new wave of globalization started to show its flaws and appeared to have an uncertain future, it seemed that the time had come for the ILO to restate its mandate. The Organization had defined fundamental workers’ rights, which were widely recognized internationally, and it had now an explicit goal, decent work, which had become a global goal in the UN development agenda. The time seemed ripe to consider the adoption of a new declaration along the line of the Declaration of Philadelphia, which would have been the final recognition of the decent work concept, an ILO Declaration on Decent Work.

4.1 A dual objective: A new message and a more efficient organization

The process that led to the adoption of the ILO Declaration on Social Justice for a Fair Globalization by the ILC on 10 June 2008 was a very long, intricate and uncertain one.¹⁶ It was constantly marked by conflicting objectives and concerns and may be seen as a perfect illustration of how difficult consensus building could be in the international and tripartite framework of the ILO. The initiative for the Declaration came from the Office, which proposed to restate the message of the Organization in the contemporary context of globalization and around the decent work concept. The Workers’ group supported the approach, the Government group was also ready to do so (some even actively, notably among European countries), while the Employers’ group was more reluctant and did not want to give a formal status to decent work. However, a broad dissatisfaction existed with the way the Office worked, and there were calls for improvement of its efficiency. The Industrialized Market Economy Countries (IMEC)¹⁷ group, which comprised the major contributors to the Organization, was particularly critical. This finally meant pursuing a dual objective: a new message and a more efficient organization.

¹⁶ Like the 1998 Declaration, the Social Justice Declaration was conceived by Francis Maupain. He played a central role at each step of the project. In an article published just a year after its adoption, he provided an excellent account of the whole process as well as a good guide to the text of the Social Justice Declaration (Maupain, 2009).

¹⁷ The IMEC group is a legacy of the Cold War, which basically comprises all the industrialized countries of the former West plus the post-Cold War EU countries. It includes most of the main contributors to the ILO budget.

4.1.1 A long and intricate process towards its adoption

The process started as early as November 2004, when the Office suggested to the Governing Body to make available to all ILO Members and its constituents, as a follow-up to the World Commission report, “guidance and assistance” on how they should conduct their social policy in the widely different context of globalization in order to achieve the “permanent objectives of social progress, as restated around the Decent Work Agenda” (GB291/WP/SDG/1, par. 24 and 25). After the Office was given the go-ahead to explore the idea (GB292/2(Add.)), it presented its proposals in a document under a title which summarized the very objective of the proposed exercise: “Strengthening the ILO’s capacity to discharge its core missions and promote decent work for all at the outset of the twenty-first century” (GB294/2/1(Add.)).

The emphasis given in the title on strengthening the ILO’s capacity already indicated that, in addition to its external orientation, the project was assuming a second objective and would also be concerned with the internal functioning of the Organization. The text highlighted that the item had been proposed in view of a “general discussion” at the 2007 ILC, but that the possible adoption of an “authoritative document” – in the form of conclusions, a declaration or even a recommendation - should not be excluded (*ibid.*, par. 8(i) and 8(ii)). The proposal was placed on the agenda of the 2007 ILC for “general discussion” with a revised title which notably omitted the reference to decent work: “Strengthening the ILO’s capacity to assist its Members towards its objectives in the context of globalization.” However, in an unusual procedure, this decision was subject to the establishment of a process of tripartite consultation and to the Office preparing a document to reply to the questions raised during the discussions (GB294/PV, par. 42 and 43).

The Office produced the requested document as a report of the Director-General for information (GB295/16/5(Rev)). It was articulated around two main questions, which in fact defined the new orientation of the project by giving it a dual objective:

- (i) The first is to know whether, as has been suggested on various sides, the time has come for the ILO to reaffirm its *raison d’être* and the relevance of its message in a radically changed context and, if so, how this should be done.
- (ii) The second is to ask ourselves how – concretely – the ILO can help all its Members to implement individually and collectively these goals in the context of globalization, not only by helping them to overcome the constraints, but also to help them take advantage of the potential that globalization represents. (*ibid.*, par. 5).

The ground was prepared for the general discussion at the 96th Session of the ILC in May–June 2007. The discussion took place in the Committee on Strengthening the ILO’s Capacity on the basis of a report which presented the background, the various issues and options, and the possible forms that an “authoritative document” might take (ILO, 2007a). The Committee concluded its work with the adoption of a resolution, which called for a second discussion, at the next session of the ILC, for “arrangements to facilitate the widest consultations among the constituents” and for a report from the Office “to include the elements of a draft text of any authoritative document for consideration” (see ILO, 2007b).

There were, as requested, numerous formal and informal consultations among ILO constituents between the two sessions (see, for example, ILO, 2008a). However, on the eve of the ILC discussion in 2008, several conflicting perspectives and uncertainties prevailed regarding the scope of a possible “authoritative document”. The state of affairs as well as the elusive character of the whole project were reflected by the extremely long title of the report: “Strengthening the ILO’s capacity to assist its Members’ efforts to reach its objectives in the context of globalization: Continuation of the discussion on strengthening the ILO’s capacity and possible consideration of an authoritative document, possibly in the form of a Declaration or any suitable instrument, together with any appropriate follow-up, and the form they may take”.¹⁸

4.1.2 From an “authoritative document” to a “Declaration”

The report’s endless title signified well the vague situation at the outset of the second discussion. The main title encompassed the two complementary objectives of the project, one strictly internal and the other with an external orientation: (i) internal reform of the Organization; and (ii) restating the mandate and objectives of the Organization in the context of globalization and providing guidance to inspire the policy of its Members. While the first objective was essentially concerned with ILO governance practices and managerial issues, the second objective might be compared to that of the Declaration of Philadelphia in 1944, when the Organization had last restated its aims and purposes. During the long process that led to the last step at the Conference, there was a permanent tension between the two objectives. At the outset of the final discussion, the name of the committee that dealt with the item, “Committee on Strengthening the ILO’s Capacity”, shows that the consensus was more about the first objective than the second.

A process of rebalancing took place during the discussion within the Committee and in the Drafting Group (see ILO, 2008b). However, the tension between the two objectives was present throughout the tripartite drafting process and the clarity of the message contained in the Declaration suffered greatly from it. Moreover, until now its implementation has essentially focused on the first internal objective and largely disregarded the second one, oriented towards the outside.

Some have compared the 2008 Declaration to the Declaration of Philadelphia, but there is a major difference between them: the way they were drafted. The latter was discussed at the ILC in Philadelphia in April-May 1944, on the basis of a text, a “Proposed Declaration concerning the aims and purposes of the International Labour Organisation”, prepared by two senior ILO officials, Edward Phelan and Wilfred Jenks, respectively Acting Director and Legal Adviser (ILO, 1944a, pp. 185 and 186). After a lengthy discussion at the Conference, the text was referred to a Drafting Committee. It held three meetings and, “after examining closely a number of proposals for rearranging the provisions of the proposed Declaration and simplifying the text, unanimously decided to propose to the Conference that the Declaration should be adopted substantially in the form in which it was referred by the Conference to the Drafting Committee” (ILO, 1944b, p. 187). The process was not as simple in Geneva on May-June 2008. The initial situation was already totally different as the Office had prepared a “Draft authoritative Text for consideration of the Conference”. Its form was still unspecified and it had no title; this text was already a revised version, in light of informal consultations, of an annotated preliminary text, “Draft elements of an authoritative text” (ILO, 2008a, respectively pp. 1–6 and pp. 42–48). After

¹⁸ See: <https://goo.gl/jRwR9X>.

an initial discussion had taken place in the Committee, the text was again referred to a Drafting Group, but things did not unfold as in the case of the Philadelphia Declaration.

The Drafting Group was chaired by the Chairperson of the Committee and composed of fifteen Government members of different regions, eight Employer members and eight Worker members (see ILO, 2008b, par. 3). The Group worked on the basis of the Office's "Draft authoritative text" and with all the inputs and amendments available in writing. The discussion took place for three full days and, paragraph by paragraph, almost every word was discussed. Some issues gave rise to more intense negotiations than others, but the wording was always carefully chosen and agreed upon in a spirit of compromise (see *ibid.*, par. 119–134). After an agreement had been reached on the overall revised text, there were still two outstanding issues: the Committee had received two submissions for the resolution that was supposed to accompany the authoritative text; and the text itself still did not have a form nor a title.

With regard to the resolution, the first submission was from the Latin American and Caribbean group and underlined the promotional nature of the authoritative Text and insisted that it should not create additional supervisory mechanisms or imply increased costs. This request was easily incorporated (*ibid.*, par. 265). The second submission – from the European Union member States and the IMEC group – gave rise to a longer discussion and more tension in the Drafting Group. It emphasized that the resolution, as a prerequisite for the adoption of the "possible Declaration" by EU and IMEC countries, would have to "enhance governance and capacity building within the ILO" (ILO, 2008b, par. 229). This meant, in particular, for the Director-General, "as a matter of priority", to submit to the Governing Body concrete proposals on a detailed series of governance and capacity building measures listed in the resolution, with a view to improving the ILO's efficiency (*ibid.*, 260–264). Eventually, these measures were incorporated in the operative paragraph of the draft resolution (ILO, 2008c).

The diverging concerns regarding the authoritative text and the tension between the internal and external objectives of the whole project had clearly re-emerged. For some, the internal reform objective had obvious priority and, as for the United States, had to be the "primary focus of the follow-up to this non-binding promotional Text" (ILO, 2008b, par. 302). Diverging concerns and tensions also re-emerged on the issue of the title.

While the Committee agreed rather easily that, due to the importance of the authoritative text, it should be issued in the form of a Declaration, its title remained a highly contentious question. Many in the Committee expressed the view that "Decent Work" should figure in the title, but this was not the view of the Employers' group. As was unambiguously stated by the Employer Vice-Chairperson of the Committee, "'Decent Work' should not be there" (*ibid.*, par. 256). Early on, the employers had set down a "red line" not to be crossed with regard to decent work, which, they insisted, should not be defined internationally but only "at the national level" (ILO, 2007b, par. 155). The employers did not want to give recognition, even symbolically, to the concept by mentioning it in the title of the Declaration, and they were adamant on this point.

Here, again, the tension between the two objectives of the Declaration came to the forefront (ILO, 2008b, par. 267–273; for a good summary see Maupain, 2009, p. 824, n. 2). The employers recalled that the main objective of the Committee's work was "Strengthening the ILO's capacities". There was no intention on their part "to denigrate Decent Work", but they wanted to reiterate that it was "a concept to be determined by each State". Furthermore, they pointed out that decent work was a very recent

concept, while the Declaration had a long-term perspective and should not be linked to the policy of the Organization at a given time. By and large, they urged that “the title should not be limited in time”, and they insisted on “the need of a consensus, which should not be undermined after so many efforts, on all sides, to draw up a text that would be acceptable to everyone” (ILO, 2008b, par. 256, 267 and 270). The firm arguments of the employers triggered a long debate in the Drafting Group, in which it appeared that it was difficult for some of its members, notably the Workers’ group, to abandon the idea of having “decent work” in the title of the Declaration. A turning point came when the Government member of Japan noted that there was no easy or obvious translation of “decent work” in Japanese, it just did not translate directly. The Government member of China said it was also the case in Chinese.

The Worker Vice-Chairperson of the Committee finally came up with a compromise, including two possible formulas: “Social justice for a fair globalization – an ILO Declaration” and “The social dimension for a fair globalization – an ILO Declaration” (ibid., par. 271). In the discussion, a preference for the first formula emerged, and the Government members of Japan and China confirmed that “social justice”, unlike “decent work”, translated easily in their respective languages. Finally, the Drafting Group decided to consider “both these formulas, particularly the first, as an excellent basis with a view to a consensus” (ibid., par. 272). Both formulas were then submitted to the different groups for consultation. After conferring with other groups, the Workers’ group proposed the following title to the Committee: “ILO Declaration on social justice for a fair globalization”. The Committee adopted this title by consensus (ibid., par. 285–296).

Finally, the ILO Declaration on Social Justice for a Fair Globalization was unanimously adopted by the Conference on 10 June 2008 (ILO, 2008d).¹⁹ Immediately afterwards, since there were no objections, the Conference also adopted the Resolution on strengthening the ILO’s capacity to assist its Members’ efforts to reach its objectives in the context of globalization. Thus, both the internal and external objectives of the project had been achieved, and, as Maupain observed: “Ultimately, [the] diverging concerns balanced each other out, opening the way towards a Declaration with unprecedented scope: its reformulation of the ILO message is as sweeping as the Declaration of Philadelphia; but, unlike the latter, it is also operational, including provisions for follow-up and continuous monitoring of impact” (Maupain, 2009, p. 830).

4.2 The Social Justice Declaration: A possible new foundation

As shown by Maupain (2009), the Social Justice Declaration – as it is now being called – provides all the elements of a new foundation for the ILO entering its second centenary. A Declaration is not a simple statement regularly adopted by the ILC; in fact, before 2008, there had only been four ILO Declarations. As recalled in the report for the 2007 discussion (ILO, 2007a, par. 157), in ILO and UN practice, a Declaration was defined as a “formal and solemn instrument, suitable for rare occasions when principles of lasting importance are being enunciated”.²⁰ In the Drafting Group, welcoming the last minute come-back of “social justice” in the title, the US Government member expressed the general feeling of the Group by stating that “referring to social justice was of particular relevance with respect

¹⁹ The text of the Declaration is available at: <https://goo.gl/BqahWT>.

²⁰ “Use of the terms ‘Declaration’ and ‘Recommendation’: Memorandum by the Office of Legal Affairs”, E/CN.4/L.610, 2 April 1962, <https://goo.gl/y1U7MB>.

to the Text of the future Declaration, which followed in the wake of the Declaration of Philadelphia” (ibid., par. 272).

Like the Declaration of Philadelphia, the Social Justice Declaration restates the mandate of the Organization in a renewed context, and it concerns the Organization as well as its Members.²¹ However, unlike the Declaration of Philadelphia, the Social Justice Declaration has a long operational section and is supplemented by a follow-up whose aim is “to address the means by which the Organization will assist the efforts of its Members”. By and large, the former is a concise text structured around just five paragraphs, while the latter is long, not always logical and somehow repetitive. This reflects the difference between, on the one hand, a text drafted by two authors and basically unchanged after a lengthy tripartite discussion and, on the other hand, a text produced collectively by a tripartite, cross-regional drafting group. Furthermore, the contexts were dramatically different.

A few weeks before the Battle of Normandy, in the consensual climate around the principles and objectives of Franklin D. Roosevelt’s Four Freedoms speech from 1941 and only a few months after his proposal of a Second Bill of Rights in January 1944, the Declaration of Philadelphia was adopted at a time when there was an obvious and strong sense of common purpose among a smaller and more homogenous ILO membership. After the end of the Cold War, with the impact of globalization and the dramatic changes in the world of work, uncertainties regarding a common sense of purpose were prevalent among ILO’s constituents at the beginning of the twenty-first century. The advantage of a text resulting from a long process of discussions and consultations and, finally, produced by a tripartite drafting group is that it can ensure lasting support for the outcome document and its objectives. This was well reflected at the ILC in 2016, when the first evaluation of the impact of the Declaration took place. The opening statements in the Committee dealing with the issue have clearly shown that in 2016 there was still a strong and lasting support among ILO’s constituents for the Social Justice Declaration, even in a context that has considerably changed (see ILO, 2016b, par. 8-31). However, the drawback of producing a text through a careful, word by word, tripartite and cross-regional discussion is obviously the length, the complexity and the relative opacity of the final product.

The Social Justice Declaration starts with a long preamble, which reaffirms the relevance of the ILO mandate in the context of globalization and the key role the ILO can play in helping “to promote and achieve progress and social justice in a constantly changing environment” (ILO, 2008d, par. 3). To respond to contemporary challenges, the Organization is called upon “to intensify its efforts and to mobilize all its means of action to promote its constitutional objectives” (ibid., par. 6). This is followed by the main parts of the Declaration: a first section, which sets the “Scope and principles”; and a second section, which defines the “Method of implementation”. The second section is complemented by an annex, the “Follow-up to the Declaration”, essentially addressing “Action by the Organization to assist its Members”.

4.2.1 Scope and principles of the Declaration

The Social Justice Declaration is built around the “four equally important strategic objectives of the ILO”, through which the Decent Work Agenda is expressed: employment, social protection, social dialogue and tripartism, and fundamental principles and rights at work. Interestingly, the Declaration

²¹ The text of the Declaration of Philadelphia is available at: <https://goo.gl/Twt6zw>.

of Philadelphia was also based on “four principal objectives”: freedom, equality, economic security, and dignity. But while in 1944, the objectives were broadly defined in terms of values, in 2008 the objectives were defined in concrete terms and in close relation to one another. In fact, two of the objectives – employment and social protection – are objectives per se; the other two – social dialogue and tripartism as a method and fundamental principles and rights at work as prerequisite – are objectives by themselves as well as means to achieve all four objectives. If the Declaration does not define decent work directly, owing to the consistent opposition by the employers, it does define the four strategic objectives, the relationship between them and the general principles to be pursued for their achievement.

The first objective, “promoting employment by creating a sustainable institutional and economic environment”, concerns “individuals”, who should be enabled “to be productively occupied for their personal fulfilment and the common well-being”; but it also refers to all public and private enterprises, which should be “sustainable”, as well as societies, which should achieve “economic development, good living standards and social progress” (ILO, 2008d, Section I A (i)).

The second objective calls for “developing and enhancing measures of social protection – social security and labour protection”. It includes a range of measures to be “adapted to national circumstances”: the extension of social security to all, with its coverage to meet the “new needs and uncertainties” brought about by the rapid changes in various aspects of modern life; “healthy and safe working conditions”; policies with regard to wages and earnings, hours and other conditions of work “to ensure a just share of the fruits of progress to all and a minimum living wage to all employed” (ibid., Section I A (ii)).

Regarding the third objective, “social dialogue and tripartism” are explicitly conceived as “the most appropriate methods” for: adapting the implementation of the strategic objectives to the needs of each country; translating economic development into social progress, and vice versa; facilitating consensus building on relevant national and international policies; and ensuring the effectiveness of labour law and institutions (ibid., Section I A (iii)).

The fourth objective, “respecting, promoting and realizing the fundamental principles and rights at work”, reproduces the language of the 1998 Declaration and emphasizes the “particular significance” of these fundamental principles and rights, as “both rights and enabling conditions that are necessary for the full realization of all the strategic objectives”. In addition, it singles out freedom of association and the right to collective bargaining, as “particularly important” to enable the attainment of the four strategic objectives. And it clarifies the ambiguous formulation of the article 5 of the 1998 Declaration by making a clear distinction between, on the one hand, the unquestionable respect for fundamental principles and rights at work and, on the other hand, the appropriate use of labour standards in trade: (i) “the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage”; and (ii) “labour standards should not be used for protectionist trade purposes” (ibid., Section I A (iv)).

These four strategic objectives, the Declaration states, form a coherent and indivisible package: they are “inseparable, interrelated and mutually supportive”. All of them have to be promoted jointly: “The failure to promote one of them would harm progress towards the others.” This represents an important shift in ILO’s normative approach: an attempt to go beyond what Alain Supiot has described as a “self-service” approach to standards, in which countries could pick and choose among a variety of available standards those that they found most palatable (Supiot, 2004, online version, p. 2). A first step in this had been taken with the 1998 Declaration, which had identified a small set of principles and rights that

all Members, because of their membership in the Organization, had “to respect, to promote and to realize”. The Social Justice Declaration went beyond this. It formulated the “four equally important strategic objectives of the ILO” which all Members had to promote as part of an “ILO global and integrated strategy for decent work”. Furthermore, the Declaration adds that “gender equality and non-discrimination must be considered to be cross-cutting issues” in the strategic objectives (ILO, 2008d, Section I B).

While the four strategic objectives are to be promoted as a whole, how Members achieve them is a “question that must be determined by each Member”, with due regard to: (i) the national conditions and needs, as well as “priorities expressed by representative organizations of employers and workers”; (ii) “the interdependence, solidarity and cooperation” among all Members of the ILO; and (iii) “the principles and provisions of international labour standards” (ibid., Section I C).

Thus, the Declaration sets out three general principles to achieve the four strategic objectives. First, it combines a universal goal, the pursuit of a comprehensive package – the Decent Work Agenda – with specific ways to achieve the objectives that compose it, depending on national circumstances and according to national choices determined through a process of dialogue. Second, it introduces a principle of solidarity and cooperation among ILO member States, by which the rich countries should support developing countries in their efforts to achieve the four strategic objectives. Third, the international labour standards should serve as a reference and a guide for the achievement of the strategic objectives.

Ultimately, even though the Declaration does not formally define decent work, it clearly establishes the ILO’s conception of decent work, with its four equally important objectives, or components, and the general principles for their promotion and achievement.

4.2.2 Implementation and action by the ILO

The operational part, the section on “Method of Implementation” and the annex on the “Follow-up”, is an essential component of the Declaration. It provides guidance for Members to achieve the principles and objectives agreed upon in the first part of the Declaration and presents a comprehensive framework for mobilizing all the ILO means of action to support their efforts.

By and large, the Declaration identifies as a key responsibility for ILO Members “to contribute, through their social and economic policy, to the realization of a global and integrated strategy for the implementation of the strategic objectives”, which encompass the Decent Work Agenda. With regard to the implementation of the Decent Work Agenda at the national level, it will “depend on national needs and priorities”, and it will be “for member States”, in consultation with representative organizations of workers and employers, “to determine how to discharge that responsibility”. The Declaration then provides some concrete steps to be taken (ibid., Section II B).

To define what is required from the Organization to assist its Members, the Declaration first sets out the main objectives to be pursued. The ILO is requested to “review and adapt its institutional practices to enhance governance and capacity building” in order to “make best use of its human and financial resources” (ibid., Section II A). The “Follow-up to the Declaration” then develops the detailed steps to be taken in pursuit of these broad objectives and lists a series of objectives, measures, new procedures and possible innovative initiatives to be taken by the ILO (ibid., Annex, Section II).

Among the proposed measures, the introduction of “a scheme of recurrent discussions by the International Labour Conference” deserves particular attention (*ibid.*, Annex, Section II B). The Declaration introduces here a key knowledge and governance tool, which is intended to help the Organization to “understand better the diverse realities and needs of its Members with respect to each of the strategic objectives, respond more effectively to them, using all the means of action at its disposal”, standards-related action, technical cooperation, and the technical and research capacity of the Office (*ibid.*). Under the scheme of recurrent discussions, the reports prepared by the Office are discussed at length in a dedicated technical committee of the Conference, resulting in the adoption of formal resolutions and conclusions.

The Follow-up emphasizes the importance for the ILO to strengthen its research and technical assistance capacities. On research, the Follow-up singles out the “understanding of how the strategic objectives interact with each other” and how they “contribute to social progress, sustainable enterprises, sustainable development and the eradication of poverty in the global economy”. Concerning technical assistance, it states that the ILO should provide “all appropriate assistance within its mandate” to support Members’ efforts “to make progress towards the strategic objectives through an integrated and coherent national or regional strategy” (*ibid.*, Annex, Section II C).

In this regard, the idea of “a framework agreement and national agreements for the promotion of Decent Work in member States”, proposed in the report for the Conference in 2007 (ILO, 2007a, par. 71 and Box 3.2), might assume a particular significance. It is a new normative approach that was initially developed for the extension of social security by an independent group of experts led and coordinated by Alain Supiot (see Supiot (ed.), 2006). It would be a contractual mechanism containing two parts: first, a framework agreement that defines the general principles and method for the adoption by member States of an integrated and coherent national strategy for decent work; second, national agreements concluded between the ILO and the member States concerned, as well as with other possible partners, for the adoption and implementation of a national strategy for decent work. Under such a formal agreement there would be a reciprocal commitment between the parties: the member State adopts and implements a national strategy for decent work and the ILO provides technical and financial assistance for the implementation of the strategy. In addition, other actors, like international financial institutions, other UN agencies, regional development banks or national development agencies may be also parties to the agreement, notably in the context of the implementation of the 2030 Agenda for Sustainable Development.

This new approach summarizes well the overall logic of the Social Justice Declaration. It combines firm guiding principles of universal character with a flexible mode of implementation, sensitive to national circumstances and priorities; it draws on the different means of action of the ILO; and it represents a way to mobilize additional resources to assist member States to develop a national strategy for decent work, in the framework of the solidarity and cooperation among all Members provided for by the Declaration.

5 Conclusion

The notion of social justice entered ILO’s history at its very inception, at the Paris Peace Conference in 1919, when the original Constitution of the ILO was being drafted as part XIII of the Treaty of Versailles. It did not appear in the initial text prepared for the Conference, but it was introduced by an

amendment in the course of the discussions and then assumed a prominent place in the first paragraph of the Preamble: “Whereas the League of Nations has for its object the establishment of universal peace, and such a peace can be established only if it is based upon social justice” (Phelan, 1934, p. 132). Albert Thomas, the first ILO Director, afterwards made social justice the central aim of the Organization. In a manner that somehow foreshadowed the current situation, he shifted the emphasis from international trade to social justice. As summarized by Edward Phelan: “He rejected the theory that [the ILO] existed mainly to secure equitable conditions of commercial competition, and he laid the major emphasis on the idea of the pursuit of social justice.” And he had a clear and extensive definition of social justice, as noted again by Phelan: “Social justice is not easy to define. To Albert Thomas, it meant much more than the removal of social injustice. It meant a positive policy through which the individual might attain his political, economic and moral rights. This was the doctrine he believed could alone give the Organization a real unity and personality, which could guide it safely where narrower doctrines would inevitably lead it to a division along lines of national interest.” (Phelan, 1949, p. 242).

In 1944, the Declaration of Philadelphia reinforced the centrality of social justice for the ILO. It gave it a precise and comprehensive definition, in the vein of Albert Thomas’ approach: “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunities”; and it considered that it should be “the central aim of national and international policy” (Declaration of Philadelphia, art. II (a) and (b)). In the beginning of the twenty-first century, social justice came back to the forefront with the adoption by the ILC of the Declaration on Social Justice for a Fair Globalization. In adopting the Social Justice Declaration, the ILO has reconnected with its long history and given a new life to the original belief of Albert Thomas that social justice “could alone give the Organization a real unity and personality” (Phelan, 1949, p. 242).

The Social Justice Declaration of 2008 is an ambitious document. It restates the ILO’s constitutional mandate in the contemporary context characterized by dramatic changes in the global economy, the world of work and the geopolitical landscape. Furthermore, the Declaration provides a comprehensive and coherent framework for its concrete implementation by ILO Members, and includes specific recommendations designed to make the Organization more efficient. The Declaration defines a new approach to ILO’s normative function and shows how to combine it with the Organization’s other means of action. The 1998 Declaration had prepared the ground, the Social Justice Declaration widened and systematized the way international labour standards could be used: in a positive manner rather than a punitive one – an approach which is in line with the Declaration of Philadelphia that viewed social justice as a precondition for development.

The immediate implementation did not fulfil this ambition. The process that led to the adoption of the Declaration and the accompanying resolution clearly showed that there were serious doubts among many constituents about how the Office worked. In this context, a broad and ambitious vision of the Declaration and its follow-up seemed impossible; on the contrary, the focus was narrowed down to its internal reform dimension. As of today, the major achievement of the Declaration has been the introduction of the scheme of recurrent discussions by the ILC, which has produced some concrete results in the normative area: the Social Protection Floors Recommendation, 2012 (No. 202); the Protocol of 2014 to the Forced Labour Convention, 1930 (Po. 29) and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203); and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) (ILO, 2016a, p. 34, par. 114).

Even though the Social Justice Declaration has produced such results, its full potential has by far not been tapped. It was adopted on 10 June 2008, at a time when globalization could be seen as producing a mix of benefits and drawbacks. Since 2008, the social costs and the perils inherent in the current form of globalization have become more obvious and more dramatic in their consequences, from an economic, political as well as environmental point of view. Globalization and the related Utopia of a self-regulating market are producing more and more destructive effects.

Just three months after the adoption of the Declaration, the worst financial crisis since 1929 unfolded. To avoid the financial crisis developing into an economic crisis similar to the Great Depression of the 1930s, governments spent huge amounts of money to bail out major banks and to keep the global financial market functioning as well as boosting expenditure generally so as to raise aggregate demand. They did avoid a great depression, limiting the crisis to a Great Recession, but they got out of the exercise with a significantly increased sovereign debt. Governments, which had already had little room for manoeuvre to pursue their own economic and social policy before the crisis, had even less space to do so after the crisis. Paradoxically they became even more dependent on the financial markets and the decisions made by their actors, whom they had saved from bankruptcy.

All countries are now in a somewhat worrisome situation. In industrialized countries, inequalities have risen dramatically, poverty has increased, societies have become more and more polarized, and threats to social cohesion and even to democracy are growing. Globalization is obviously not the sole cause of this situation; nevertheless its role has been significant whether in terms of financial globalization or the impact of international trade. There is evidence that in the 1980s and 1990s trade had relatively little negative impact on employment and wages in industrialized countries, the major effect being technological change (Autor, Dorn and Hanson, 2016). But at the turn of the new century the effect of global trade became important and more and more visible.

The spectacular rise of China's share in manufacturing exports, especially after it had entered the WTO in 2001, created what Autor et al. (2016) call a "China trade shock" in industrialized countries' labour markets. This "shock" was the strongest in local labour markets that were historically specialized in labour-intensive manufacturing, and had employment consequences in specific geographical locations. There is strong evidence that the negative impact of trade exposure on employment has engendered intense political responses and a polarization of politics in the US (Autor, Dorn and Hanson, 2016 and Autor et al., 2016). However, China's advantage may soon be over, as "[r]apidly rising real wages indicate that the end of cheap labor in China is at hand" (Autor, Dorn and Hanson, 2016, p. 39), and China has to find another comparative advantage in the global economy. At the same time, it will increasingly have to confront the challenges of growing inequalities, polarization of society, threats to social cohesion and environmental sustainability. Whereas China overwhelmingly based its comparative advantage on industrial manufacturing and became the "global factory", many other emerging countries specialized in primary commodities – for example Brazil in iron ore, Indonesia in rubber and Russia in oil and gas (ibid., p. 7). However, their initial economic successes resulting from globalization, once praised, appear now much more fragile than expected. Overall, poverty is still widespread in the developing world and the informal economy continues to grow. Furthermore, precariousness has increased everywhere and non-standard forms of employment have become a contemporary feature of labour markets all over the world (ILO, 2016c).

In recent years, international migration has continued to grow rapidly, millions in the South are ready to place their lives at risk in an effort to escape poverty, lack of prospects or unbearable situations

including war in their own countries and to reach societies in the North, which have themselves been destabilized by the effects of financial and economic globalization. At the same time, political polarization is growing. Using Karl Polanyi's words, which notably refer to the 1930s, globalization has produced, in the North as well as in the South, a "countermovement" which takes a great variety of forms. This "countermovement" produces increasingly radical responses and can be seen as "the manifestation of the weaknesses and the perils inherent to the self-regulating market system" (Polanyi, 2001, p. 152). Furthermore, climate change and the various negative impacts of human activities on the environment – a common threat affecting all societies throughout the world – pose in totally new terms the question of economic development and how to ensure "a just share of the fruits of progress to all".

In 2008, after having suffered somewhat of an eclipse during the 1990s and the beginning of the 21st century, social justice suddenly came back to the forefront with the adoption by the ILC of the Declaration on Social Justice for a Fair Globalization. With the emergence of new threats and growing concerns regarding the global economy, the environment and the future of work, putting social justice back as a central aim of national and international policy seemed increasingly appropriate. Moreover, the title of the resolution adopted by the Conference in June 2016, when the evaluation of the impact of the Declaration took place, made explicit the actual significance of the 2008 Declaration: "Advancing Social Justice through Decent Work".²² In other words, the Declaration complements the ILO historical definition of social justice enshrined in its Constitution, and provides principles and objectives, concrete areas for action and guidelines to pursue it in today's context.

While the ILO is approaching its second centenary, this renewed consensus around the aim of social justice could be of particular importance and gives the Organization a new impetus. The Social Justice Declaration provides a clear message and a positive aim around which ILO members have found a renewed sense of common purpose: advancing social justice through decent work. It clearly establishes the ILO's conception of decent work and the related principles of implementation, and it lays out precise areas of action and guidelines to achieve concrete results in national contexts. Yet the full potential of the Declaration remains to be tapped.

²² See: <https://goo.gl/StrVPj>.

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