

HUMAN RIGHTS AT THE ILO: REFLECTIONS ON MAKING THE ILO MORE "USER FRIENDLY"

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I first met Judge Buergenthal some 20 years ago when I sought—and received—much appreciated advice concerning my plans for a career in human rights work. In 1976, I had the honor of following in his footsteps as international law professor at the State University of New York at Buffalo, when he moved to warmer climates to pursue his academic career. He has made and continues to make outstanding contributions as a teacher, scholar, judge and now member of the UN Human Rights Committee. His writings have made an important contribution to our understanding of the application of international human rights law in domestic law and the development of the European and the Inter-American human rights systems. I am happy to dedicate this essay to a volume in his honor.

I. INTRODUCTION

Human rights organizations, activists and scholars have given insufficient attention to the activities of the International Labour Organization (ILO) which carries out significant work in the field of human rights. This essay suggests that the ILO is not sufficiently open and accessible to such human rights organizations and activists—to the detriment both of the human rights movement and the ILO. It discusses how the ILO might become more “user friendly” to the human rights movement, enabling participants in that movement to further the social justice aims of the ILO and contribute to the promotion and protection of workers’ rights.

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The ILO is not a human rights organization, but a specialized agency within the UN system devoted to labour matters. Nevertheless—although it is best known as an organization concerned with labour issues—it is more accurate to describe it as a UN agency whose primary concern is “social justice, and the promotion and protection of the human rights and fundamental freedoms most closely linked to that objective.”¹ Charts showing UN organs in the field of human rights, as well as many treatises on human rights and the UN, do not refer to the work of specialized agencies; hence, the human rights work of the ILO is often not drawn to the attention of human rights specialists. Yet, a substantial part of the work of the ILO concerns such human rights issues as discrimination, freedom of association, child labour, the right to work, forced labour and the relationship of workers’ rights to international trade. In promoting workers’ rights and social justice, ILO organs and officials have provided incisive commentary on some of the major current preoccupations of the human rights movement, particularly, the inter-dependence of all rights (civil, political, economic and social), and the relationship of economic development to human rights. The ILO has long provided technical assistance to states, assisting them in implementing the norms they have accepted through ratified treaties—an activity only recently begun by UN human rights organs.

Despite these activities, the ILO is largely neglected by the human rights movement. Human rights activists and scholars have given little attention to the Organization and often confess “I don’t really know much about the ILO’s human rights work”.² Few references to the work of the ILO are included in major texts and casebooks on human rights.

1 *Human Rights Reference Handbook, International Labour Organization*, United Nations, 10 December 1992, p. 50.

2 An exception is Amnesty International which regularly sends a delegation to attend the annual ILO Conference. Its representatives have, however, cited the difficulty for human rights organizations to participate in ILO activities. (See section III of this paper).

Given the extensive work of the ILO in human rights, why is its work in this field so little known? Why does its influence in the field of human rights not seem commensurate with its activities? Perhaps because "labour standards" and "workers' rights" are considered technical matters by human rights organizations rather than human rights issues—and because social rights, in general, receive insufficient attention within the human rights movement. Perhaps also because the perception of the broader aim of the ILO—to promote social justice—has become diffused among the myriad details of the more than 170 ILO conventions which cover not only fundamental human rights but also such technical standards as hours of work in glass factories.

I suggest, also, that one of the main reasons for the lack of interest in the ILO among the human rights movement is its relative impermeability to human rights organizations, scholars and activists—in contrast to its accessibility for those whose primary interest is labour matters. The ILO has the distinction of being a "tripartite" organization with employers' and workers' organizations—and not only governments—participating fully in its activities. This openness to some non-governmental participation does not extend to non-occupational organizations, such as human rights organizations. *It is not "user friendly" to the human rights constituency.* Persons concerned with human rights issues remark that they find it difficult to obtain information concerning ILO human rights work, that they receive little information as to how they might contribute at ILO meetings, including the ILO annual conference, that ILO publications are not directed to or circulated widely among persons concerned with human rights. In short, persons active in the human rights movement perceive that there is no role for them at the ILO.

The well-organized and formalistic nature of most ILO meetings and activities seem to make it forbidding to activists and scholars alike. And this is unfortunate since the human rights movement is one of the most dynamic contemporary social movements and its failure to support the ILO and to contribute directly to its work is a loss to that Organization and to the cause of human rights, including

workers' rights. Examples from the United States are illustrative: when the United States withdrew from the ILO in the late 1970s, the US human rights movement did not consider it an important issue; the US human rights movement is less active in supporting US ratification of ILO human rights conventions than in supporting UN drafted human rights treaties.³ The neglect of ILO human rights work is also a loss to the human rights movement, since there is much to be learned from the ILO experience.⁴

Since the focus of this essay is on the human rights work of the ILO and the relationship of the human rights movement to the work of the Organization, I have not provided a description of the totality of the work of the ILO, particularly its extensive and important work relating to drafting and adoption of labour standards. Such information is widely available elsewhere. I have chosen rather to describe in some detail, in Part II, the work of the Organization in the field of child labour as an example of ILO work of particular interest to persons in the human rights movement. Its work in that field deserves wider attention. Part II describes ILO standards on child labour and the monitoring of those standards, as well as its programme of assistance to states in eradicating child labour.

Part III focuses on means of enlisting the support of the human rights community in furthering the social justice and human rights aims of the ILO. Michel Hansenne, Director-General of the ILO, used the occasion of the 75th anniversary of the Organization to suggest the possibility of opening participation in ILO activities to "other social actors"—in addition to the ILO traditional constituency of governments, employers' and workers' organizations. His com-

3 As of January 1995, the United States had ratified only 11 of the 175 ILO conventions and only one of the major ILO human rights conventions. This is an embarrassing record; many Western European countries have ratified more than 60 of the conventions. At the date of writing, however, there appears to be increased interest by the US administration in the ratification of other ILO conventions.

4 See, Leary, "Lessons from the Experience of the International Labour Organisation" in Alston, *The United Nations and Human Rights, A Critical Appraisal*, Clarendon Press, Oxford, 1992.

ments are relevant to the central theme of this essay and are discussed in Part III. The concluding section of the paper summarizes the thesis of the essay: (1) the unfortunate neglect of the work of the ILO by the human rights constituency, and (2) the value to the ILO which would follow from facilitating the participation, contribution and support of the human rights constituency in its work.

II. HUMAN RIGHTS ISSUES AT THE ILO: CHILD LABOUR

"ILO action to promote and safeguard human rights takes three main forms: *definition* of rights (especially, though not solely, through the adoption of Conventions and Recommendations); *measures* to secure the realisation of the rights so defined (especially by means of international supervision); *assistance* in the taking of implementing measures (particularly through technical co-operation and advisory services)."⁵

ILO work in the field of freedom of association for occupational organizations—or, as it is more commonly referred to—freedom of association for trade union purposes, is well known and highly praised. The International Labour Conference has adopted conventions and recommendations setting standards relating to freedom of association and has developed effective monitoring systems for such standards. However, ILO member states are committed to freedom of association by virtue of their membership in the Organization, whether or not they have ratified the Freedom of Association conventions. The Governing Body Committee on Freedom of Association is acclaimed for its effective action in protecting workers' rights.

The ILO also carries out important work in other areas which warrant attention by human rights specialists: discrimination in employment,⁶ equal pay for work of equal value, and the link

5 *Human Rights—A Common Responsibility*, Report of the Director-General, International Labour Conference, 75th Session 1988, p.4.

6 See Henrik Karl Nielsen, "The Concept of Discrimination in ILO Convention No. 111", *International and Comparative Law Quarterly*, vol. 43, Part 4, October 1994; Leary

between trade and workers' rights. Since its founding the ILO has emphasized the link between economic competitiveness and workers' rights and is currently engaged in an extensive study of this issue. Its work in the field of child labour is described below as an illustration of the human rights work of the Organization of particular current interest.

Child Labour and the ILO

The use of child labour was one of the horrors of the early Industrial Revolution in Europe which led to demands in the 19th century for the adoption of measures abolishing it. In the late 20th century it still remains a wide-spread practice. The ILO has long been involved in efforts to curb child labour through the adoption of conventions and recommendations and has recently undertaken a major programme for assisting states in their efforts to eradicate it.

Child labour is recognized as a serious human rights problem. The health of children is destroyed by excessive and oppressive work in many countries of the world and their education is cut short by the need to earn income for their families. Although it is often perceived as a problem only in poor countries, it is of renewed concern even in more wealthy countries such as the United States. Closely correlated with poverty, it is often felt that nothing can be done to improve the situation of children working unless poverty is eradicated—a daunting prospect which often leads to immobility in face of the problem.

The ILO is currently devoting substantial resources to the problem of child labour. It has pointed out that it is not opposed to all child labour, but opposed

to work carried out by children, either as paid or independent labour, when this work has become a daily necessity which inevitably deprives the child at the education and social

"The ILO Convention on Discrimination in Employment", *Inter-Rights Bulletin*, February, 1995.

levels; when this work may harm the child's safety and health, such as the work in the coal mines of Colombia, in tanneries where chemical products are used as in Cairo, in glass-making works, in carpet factories in India, Pakistan or Nepal, on farms where insecticides or pesticides are used...also all forms of work which can offend children's morality, such as prostitution, or their dignity, such as the forced labour and debt bondage still very current in Southern Asia.⁷

The two most important ILO activities relating to child labour are

- (1) the monitoring of standards concerning child labour set forth in Conventions Nos. 5 and 138 on minimum age for employment, and in Convention No. 29 Concerning Forced and Compulsory Labour, and
- (2) the International Programme on the Elimination of Child Labour (IPEC).

The adoption of standards incorporated in conventions, open to ratification by ILO member states, is one of the main ILO means for carrying out its aims. Issues concerning child labour have been raised within the ILO in connection with the implementation of Conventions Nos. 5 and 138 on minimum age for employment and Convention No. 29 on forced labour, but, in recent years, ILO supervisory organs have most frequently raised issues concerning such labour in connection with the application of the Forced Labour Convention. It has received many more ratifications than Conventions Nos. 5 and 138.

Convention No. 29 defines forced or compulsory labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." It requires ratifying states to undertake to "suppress the

7 "Fighting Indifference and Inaction", Interview of Claude Dumont by Michel Fromont, *The World of Work*, The Magazine of the ILO, No. 4, June 1993, pp. 6-7.

use of forced or compulsory labour in all its forms within the shortest possible period." ILO monitoring committees have made clear that one of the most frequent violations of forced labour relates to the work of children, considered as "bonded labor".

In 1994, the report of the ILO Committee of Experts on the Application of Conventions and Recommendations (section on Convention No. 29 concerning Forced Labour) contained lengthy comments concerning the prevalence of child labour in Bangladesh, Brazil, Haiti, India, Mauritania, Pakistan, Peru, Sri Lanka, Sudan and Thailand.⁸ The comments (referred to in ILO parlance as "observations") stressed the obligation of those countries, in view of their ratification of the Forced Labour Convention, to undertake efforts to eradicate the bonded labour of children.

In lengthy comments made to India, the Committee cited reports that children in that country were in bondage in agriculture, brick kilns, stone quarries, carpet weaving, handlooms, matches and fire-works, glass bangles, diamond cutting and polishing; that child bondage and forced labour were connected with trafficking, kidnapping, repression, absence of freedom of movement, beating, sexual abuse, starvation, abnormal working hours and hazardous working conditions of children. It referred to reports that children were required to work beyond their physical capacity and for long working hours which interfered with their education. Finally, it asked for a comprehensive report from the government on the situation of children in bondage, on goals, implementation (including surveys, studies, statements, etc.) and noted that the enforcement of the law required the political will of the government to provide the necessary means for effective action.

8 The ILO Committee of Experts on the Application of Conventions and Recommendations is a quasi-judicial organ composed of 19 independent experts who each year examine the application in law and practice of various ILO conventions by states which have ratified them. Its "observations" are published each year in a report to the annual ILO Conference. See *Report of the Committee of Experts on the Application of Conventions and Recommendations*, International Labour Conference, 81st Session 1994, Report III (Part 4A).

On the basis of the Committee of Experts' Report, and the failures of the Indian government to answer adequately the allegations, India was further criticized for its use of child labour at the 1994 annual ILO Conference. Governments and employer and worker members of the Conference Committee on the Application of Standards discussed child labour in India with reference to Convention No. 29 in public sessions and included a special paragraph on bonded labour in India, including child labour, in the Conference report.⁹ Inclusion of such a paragraph in the report is regarded as a means of calling attention to an especially serious violation of an ILO convention.

In referring to allegations of the use of child labour in various countries, the Committee of Experts mentioned information brought before the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, information in UNICEF reports, information referred to at the UN Committee on the Rights of the Child, and information in the Report of the Special Rapporteur on the situation of human rights in the Sudan, UN Commission on Human Rights. Since most of the important information which reaches these UN organs originates from human rights groups, the Committee recognized indirectly its dependence on information from such sources. The Committee also referred specifically to information made available to UN organs by some human rights organizations: the Minnesota Lawyers International Human Rights Committee, the International Human Rights Internship Programme, and Anti-Slavery International. It also referred to information provided to the Committee by trade union organizations, but not to any information supplied directly to the Committee or the ILO by human rights organizations.

Recognizing that the problem of the eradication of child labour is not simply a question of enforcing legal commitments but has economic and cultural roots, the ILO has undertaken several practical

9 See Report of the Conference Committee on Application of Standards, *Record of Proceedings*, International Labour Conference, 81st Session, 1994.

efforts to deal with the problem and undertaken research studies on the use of child labour. In 1993 in Islamabad, in collaboration with the government of Pakistan and the UN Centre for Human Rights, it organized an Asian Regional Seminar on Children in Bondage. The participants at the seminar from Bangladesh, India, Nepal, Pakistan, Sri Lanka and Thailand (judges, lawyers, labour officials, members of employers' and workers' organizations, and officials of non-governmental organizations concerned with bonded labour) adopted a Programme of Action Against Child Bondage. Eradicating child labour required, according to participants,

a firm political commitment—a clear and unambiguous declaration against bondage—a comprehensive national policy and programme of action covering legislative reforms, effective enforcement and a system of compulsory and free education, sustained by community mobilization and information campaigns.¹⁰

The Committee of Experts repeatedly referred in 1994 to elements of the Programme of Action in its evaluation of the conformity of states' obligations under the Forced Labour Convention with regard to child labour. Commitment to the Programme of Action provided a means for determining whether states were fulfilling their legal obligations under the Convention.

The International Programme for the Elimination of Child Labour (IPEC) is the main programmatic work of the ILO relating to child labour. It was made possible by the financial assistance of the German government which pledged 50,000,000 marks for a period of five years beginning in 1991. Other donor countries have also contributed to the Programme. The objectives are

to improve the capability of ILO member States to design and implement policies and programmes which would help them deal with the problem of child labour and the protection of

10 Note 8, *supra*, pp. 92-93.

working children; to heighten the awareness of member States and the international community as a whole to the dimensions and consequences of child labour and national obligations under international labour law.¹¹

The Programme aims to develop national-level demonstration activities world-wide to contribute to the prevention, removal, protection or rehabilitation of child labourers.¹² Projects were undertaken by IPEC in ten countries, as of August 1994. Each country had entered into a "memo of understanding" with the ILO to become an IPEC participating government. The memo constitutes the government's commitment to the Programme and allows the ILO to initiate action without obtaining governmental consent for each project in the country.

A major IPEC priority in India has been saving and rehabilitating children who are victims of the debt bondage system. By 1993 IPEC had established 33 programmes in India—nine aimed specifically at helping public institutions or non-governmental organizations working to free and educate children in bondage. It has also funded studies in India on the economic effects of doing away with child labour in dangerous occupations. In areas where there are many carpet manufacturers employing children, IPEC has helped to set up and operate educational centres managed by NGOs.¹³

Human rights and consumer activists in western countries have promoted consumer boycotts of products made with child labour and legislative measures have been proposed in the United States to forbid the importation of products made with child labour. While recognizing the effectiveness of such efforts, the ILO has stressed that the absolute prohibition by legislation of products made with child

11 "Concerted Action for Children", *The World of Work*, The Magazine of the ILO, No. 4-1993, p. 9.

12 For detailed information see *IPEC Programme Document*, International Programme on the Elimination of Child Labour, ILO, Geneva, 1992.

13 "Child Labour", *The World of Work*, The Magazine of the ILO, No. 4-1993, p. 13.

labour may be too blunt an instrument and may have negative effects: children may be driven from work in the export sector into the less regulated informal sector, immediate loss of support for families may occur without any cushioning of the effect of such loss. A well-thought out programme of gradual replacement of child labour, coupled with an emphasis on opportunities for schooling, should accompany efforts to restrict imports, according to the ILO.

What does the ILO approach to child labour add to the substantial UN work and the efforts being carried out in various countries to restrict importation of goods made with child labour? The efforts are complementary and contribute to the elimination of the practice. At the ILO, the issue of child labour has been raised particularly in the context of a highly developed monitoring system for the application of ratified conventions. It thus emphasizes the *legal* commitment of ratifying states to eradicate child labour—in addition, as described above, through research and pilot projects the ILO has recognized the economic and cultural complexity of the problem and is providing practical assistance to states in eliminating the work of children.

III. MAKING THE ILO MORE “USER-FRIENDLY” TO HUMAN RIGHTS ORGANIZATIONS

The ILO is referred to as a “tripartite” organization since employers’ and workers’ organizations—but not other non-governmental organizations—participate fully in its activities, including the drafting and monitoring of conventions. The participation of trade unions in ILO activities has been one of the most positive aspects in the work of the ILO, particularly in the development of effective monitoring systems for the implementation of conventions and, in providing information concerning violation of ILO conventions.

Despite the openness of the ILO to non-governmental participation by employers’ and workers’ organizations, little has been done by the Organization to facilitate the contribution of other non-governmental groups. Human rights organizations, as mentioned

earlier, have less easy access to ILO activities than to other UN human rights sessions—as well as less knowledge of ILO human rights work. Representatives of non-governmental organizations may attend ILO meetings, including the Annual Conference if they meet certain requirements; however, the brief information provided to such organizations by the ILO does not specify whether they may make oral or written interventions or in what manner they may contribute to ILO work.¹⁴

Large numbers of representatives of human rights organizations, human rights activists and scholars regularly attend meetings of the UN Human Rights Commission and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities where they make numerous interventions and lobby for improved human rights procedures. They are credited with the most substantial progress which has been made in UN human rights activities.¹⁵ None of this activity by human rights activists and scholars occurs at the ILO. Only very rarely do human rights organizations attend the public sessions of the ILO Conference Committee on Application of Standards or make interventions at the Conference concerning human rights issues. Even more rarely do they demonstrate any concern over the drafting or adoption of ILO conventions.

14 Information concerning the representation of non-governmental organizations at ILO meetings may be obtained through the Office for Inter-Organization Relations of the ILO. Such organizations may apply to be placed on the ILO's Special List to receive ILO periodicals and announcements of major meetings if they demonstrate that their organization's objectives are in harmony with the spirit, aims and principles of the ILO and if they submit documentation concerning their organization. If the organization has consultative status with ECOSOC it is not necessary to provide the extensive documentation. Request for attendance at the annual Conference must be made one month prior to the opening of the Conference.

15 While non-governmental organizations attend UN human rights meetings and frequently make interventions, they are often also frustrated by their inability to have more influence on UN human rights activities. Participation by NGOs in UN human rights activities leaves much to be desired. Erskine Childers and Brian Urquhart have pointed out that "The [Human Rights] High Commissioner should also recommend how to end the frustration of the NGO community over access to and adequate participation in the UN's human rights machinery," Childers and Urquhart, *Renewing the United Nations System*, Ford Foundation, N.Y., 1994, p. 111.

To an extent—but only to an extent—the slack is taken up by the workers' organizations which have been a positive force on ILO human rights activities. However, some of the workers' organizations with representation at the ILO—and employers' organizations as well—are government dominated, and thus would not generally share the same concerns as human rights organizations. Workers' organizations often have a more narrow focus than human rights organizations, even in the field of workers' rights. Human rights activists are more likely to be interested in problems arising within the informal labour sector than those of trade union representatives whose concern is focused largely on organized union activities. In view of their own preoccupations, trade unions often are not concerned with the human rights of migrant workers. An important ILO Convention (No. 169) has been adopted concerning indigenous peoples, but members of indigenous groups have pointed out that trade unions sometimes side with government agencies against the rights of indigenous peoples.¹⁶ Human rights organizations have, in general, been more sensitive to the problems and rights of the indigenous.

Human rights organizations are also more likely to be concerned about issues relating to women and work than has traditionally been the case with trade unions. One of the most notable aspects of the 1993 Vienna Conference on Human Rights was the attention which it drew to human rights issues concerning women—largely due to the opportunity which that gathering provided for women's groups to present a common voice to the assembled governments concerning their preoccupations. The result has been a greatly increased concern with women's issues within United Nations human rights organs. While the ILO has adopted conventions on discrimination in employment and equal pay for equal work and is developing standards

16 At the August 1994 meeting organized by *Human Rights Internet* described later in the text, the General Secretary of Public Services International (PSI), the international trade secretariat federation for public sector trade unions, referred to the interest and concern of his organization for the rights of indigenous peoples and the support of PSI in promoting and protecting indigenous rights through the enforcement of Convention No. 169, while also pointing out that this is a new concern for his organization.

relating to part-time work (an issue of particular concern to women), as well as undertaking research relating to women and work, it is not giving the priority to women's issues in its overall work program exemplified by the UN human rights organs.

The ILO Convention on Discrimination in Employment (No. 111) is an important ILO human rights convention, but it prohibits discrimination in employment only on a limited number of grounds, unlike the open-ended illustrative, but not restrictive, provisions on discrimination in the two main UN human rights Covenants.¹⁷ In 1988, Francis Blanchard, then ILO Director-General, commented that measures might be considered to widen the scope of the Convention so as to make it cover all "distinctions, preferences or exclusions in employment and occupation on any grounds which are not objectively justified."¹⁸ He suggested this might be done by means of a protocol to the Convention. No action has apparently been taken to follow up on Blanchard's suggestion, but the supervisory bodies have adopted an extensive interpretation of the Convention and a number of recommendations on discrimination that relate to other types of discrimination have been adopted by the ILO. Human rights organizations would likely prove to be more interested in bringing the ILO Convention into conformity with other international standards on discrimination than have proved to be the ILO constituencies.

Suggestions have been made recently, most notably by the ILO Director-General in his 1994 report to the annual Conference, that the participation of other "social actors", in addition to employers' and workers' organizations, should be encouraged at ILO meetings. In 1994, the ILO celebrated its 75th anniversary; the anniversary provided the opportunity not only for an assessment of the past experience of the ILO but for examining new means of promoting social

17 The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

18 *Human Rights—A Common Responsibility*, Report of the Director-General, International Labour Conference, 75th Session, 1988, p. 24.

justice in the circumstances of the late 20th century. Michel Hansenne, ILO Director-General, suggested a number of adaptations of ILO activities to enhance its influence and efficacy in his report to the Conference in the anniversary year:¹⁹

[I]f discussions under ILO auspices are to explore issues without being unduly inhibited by preconceptions or conflicts of interest, if they are to profit from the widest possible range of knowledge and experience, they must be opened up more frequently to circles beyond those usually associated with the ILO. Experts from government departments and institutions other than labour ministries, from international organizations dealing with economic and social matters, from non-governmental organizations with different specializations, and from universities and research institutes, joining those from the ILO's traditional constituents, can contribute significantly to the critical examination of existing policies and the generation of fresh ideas...This in no way implies diluting the tripartite character of the representative organs responsible for determining ILO policy. It is rather a means of enriching the ILO's contribution to the knowledge and thinking of its tripartite constituents on the complex issues confronting them.²⁰

Hansenne's reference to the possibility of opening the Organization to wider circles, through the inclusion of university and research institutes and international organizations concerned with economic matters, and other social actors in its informal deliberations appears to be an excellent suggestion for increasing the relevance and influence of the ILO.²¹ While human rights organizations are not specifi-

19 *Defending Values, Promoting Change, Report of the Director-General, International Labour Conference, 81st Session, 1994.*

20 *Id.*, p. 77.

21 Hansenne also made a number of other interesting suggestions for adjustments in ILO work such as increased use of "soft law" in developing labour standards, the adoption of a procedure for monitoring ILO standards on discrimination similar to the procedure of the Governing Body Committee on Freedom of Association, and methods for linking labour standards and international trade.

cally mentioned, given the ILO work in that field, they could appropriately be considered as "non-governmental organizations with different specializations" whose work is relevant to ILO concerns.

Also in the anniversary year 1994, *Human Rights Internet*, a human rights documentation center headquartered in Ottawa, Canada, organized, together with the ILO and several international trade secretariats, a workshop for persons attending the August meeting of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities in Geneva. The workshop entitled "The ILO, Trade-Unions and Human Rights Defenders," was intended to fill the gap in knowledge of the ILO among human rights organizations and activists and to provide an opportunity for suggestions concerning better access to ILO procedures by human rights NGOs.

Many of the participants at the workshop knew little about ILO human rights work nor ILO procedures and very little about how the human rights movement might participate in ILO activities. Some, however, including the representative of Amnesty International had attended a number of sessions of the annual Conference. The work of the ILO was described to participants by two ILO officials and by representatives of the trade union secretariats. Members of international human rights organizations and human rights activists referred to some of the problems they had experienced in participating in ILO activities:

(1) Non-governmental organizations at the ILO must work through trade unions, employers' organizations or governments to present information relating to workers' rights rather than providing information directly in their own name to ILO organs, as they do to UN human rights bodies. Since trade unions and governments have their own objectives which may not coincide with those of human rights organizations, this procedure is not satisfactory.

(2) Obtaining status as an NGO at the ILO and permission to attend the annual ILO Conference is perceived as a

burdensome and complex procedure. Efforts should be made to inform NGOs of time limits and possibilities to attend meetings.

(3) IPEC (the ILO child labour programme) was praised by participants, but it was regretted that there is no direct NGO participation at the international level. (Governments at the national level contact NGOs for participation or are contacted by the NGOs).

(4) There is no forum or organized method by which human rights NGOs may present their concerns regarding workers' rights and ILO activities. While ILO officials are helpful when approached for information, or when they are provided with information by human rights organizations, there is little possibility within the formal and long-established procedures of the ILO for NGOs to make their views known on subjects of common concern.

What adjustments could be made by the ILO to facilitate the contributions of human activists and scholars to its work? The organization of the 1994 workshop—co-sponsored by a major human rights organization, the ILO and trade union secretariats—is a positive step in that direction. Such opportunities should be increasingly undertaken, initiated either by the ILO or the NGOs, but in any event actively supported by the ILO. The ILO Human Rights Coordinator and the representative of IPEC who were active participants made a substantial contribution to bridging the gap between the Organization and the activists. It would be helpful if a similar workshop for NGOs—and for interested academics—were organized immediately prior to the annual Conference to familiarize them with the country situations to be brought up before the Conference Committee on Standards, the drafting of new standards at the Conference and other issues on the agenda.

Officials carrying out programmes such as IPEC or concerning women and work might organize workshops on their fields of

concentration open to NGOs with similar concerns. The focus should not only be on providing information, but also on receptivity to the suggestions of the NGOs concerning the ILO programmes. In particular, a forum should be provided where ILO officials and representatives of women's organizations could exchange views concerning ILO activities relating to women and work.

There seems to be no valid institutional reason for denying human rights organizations the opportunity to present prepared statements in their own name directly to members of the Committee of Experts or the Conference Committee on Standards regarding issues arising before the Committee. The 1994 Committee of Experts report mentioned comments made by the Minnesota International Human Rights Committee, the International Human Rights Internship Programme and the Anti-Slavery Society to UN human rights organs. It seems anomalous that these same organizations could not directly present statements in their own name to the ILO Committees and that the ILO would not permit a practice which is common in UN human rights organs.

The ILO and its constituencies may be legitimately concerned that non-governmental presentations (especially if oral presentations were permitted) could take an undue amount of time during ILO meetings. At the present time, the length and repetitiousness of NGO interventions in UN human rights organs has been noted. However, the ILO has devised an effective system for channeling the contributions of occupational non-governmental organizations to its work. It could undoubtedly devise a method to permit human rights organizations to make legitimate interventions without disrupting the effective work of its organs. The alternative is a failure of the Organization to profit from the support, as well as the contribution, of an important segment of public opinion concerned with workers' issues.

Traditionally, the labour movement and the human rights movement have not worked together despite common concerns.²² The

22 See Leary, "The Paradox of Workers' Rights as Human Rights" in Lance Compa, (ed.), *Workers' Rights as Human Rights*, (forthcoming), University of Pennsylvania Press.

human rights movement has been slow to understand that workers' rights are human rights; the labour movement has tended to be self-contained. Both these attitudes are changing and the change bodes well for future work at the ILO. Although their preoccupations are not always identical, as has been mentioned earlier, there are enough common concerns to warrant increased working together. As one of the major constituencies within the ILO, the labour movement should welcome increased participation of human rights organizations in the work of the Organization.

The contribution of the NGOs to the ILO could be facilitated if an ILO official or officials devoted more time to contacts with human rights organizations. An ILO official who knows the human rights community well has been named Human Rights Coordinator but he carries other major responsibilities in the Organization and has little time available to do more than provide essential information concerning ILO's activities to the relevant UN human rights bodies. Time is lacking for his increased attention to initiating projects to assist NGOs.

In the 1994 report of the Director-General proposing the organization of more informal meetings to consider ILO issues which would be open to social actors other than the ILO traditional constituencies, he emphasized that he was not proposing fundamental change in the ILO structure. The suggestions made above for encouraging increased participation by human rights organizations also do not necessitate any major changes in the ILO structure. They could be carried out with relatively minor efforts, but they necessitate the will to do so. It is evident that the influence and relevance of the ILO could be enhanced by the increased participation of the human rights movement in its activities.

IV. CONCLUSION

The ILO has properly emphasized its contributions in the field of human rights. The late Wilfred Jenks, former Director-General of the

ILO and outstanding international law scholar, was the first to call attention to the relationship between the ILO's commitment to social justice and human rights. A logical corollary of the perception of the ILO as an important actor in the field of human rights would be to encourage the participation of the human rights movement in ILO activities. As pointed out in the essay, the ILO has made insufficient efforts in this regard. Satisfied with the admittedly substantial contribution made to its work by the occupational non-governmental organizations of employers and workers, it has not considered it necessary to widen the scope to other non-governmental organizations directly concerned with human rights.

In a recent analysis of the UN system, Erskine Childers and Brian Urquhart commented on the importance of the participation of NGOs in human rights work:

The High Commissioner [for Human Rights] should also recommend how to end the frustration of the NGO community over access to and adequate participation in the UN's human rights machinery. The United Nations cannot evade its responsibility, under the Charter and International Bill of Rights, not only to governments but to peoples of member-states in issues affecting the fundamental liberties and socioeconomic well-being of citizens. The credibility as well as the performance of its human rights machinery critically depends upon NGOs having due access in all human rights bodies *without exception*. (underlining mine)²³

Human rights organizations could make a substantial contribution to the work of the ILO in promoting the ratification of ILO conventions by member States, in providing information to ILO monitoring committees and collaborating within the ILO with the occupational organizations concerned with workers' rights. Opening the Organization to facilitate participation of such organizations

23 Erskine Childers with Brian Urquhart, *Renewing the United Nations System*, Dag Hammarskjöld Foundation, Uppsala, Sweden, Ford Foundation, N.Y., 1994, p. 111.

would not require fundamental changes in the ILO structure, but it would require a commitment to such participation by the ILO as an organization and some necessary changes to make it possible. It should be done.