

International Labor Organization: Returning to the Core Business of Defending Workers

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KEY TAKEAWAYS

The focus of the International Labor Organization should be to champion the “freedom of workers to flourish.”

This is best done not via heavy regulation but by promoting basic rights and protections and allowing nations to apply them to their unique circumstances.

The U.S. should expand its ILO representation of workers and employers to better reflect the modern economy and press the ILO to eschew tangential political agendas.

The International Labor Organization (ILO) is one of the oldest multilateral organizations in the United Nations system. The primary products of the organization are nearly 200 conventions to codify labor standards on a variety of topics, promulgating those standards, and assisting countries in improving work conditions.

The United States generally supports the mission and goals of the ILO, but membership is not directly aligned to U.S. domestic interests, which is reflected in the rareness of U.S. ratification of ILO conventions. Where the ILO does contribute to U.S. values and priorities is helping improve labor standards and conditions abroad and promoting standards to combat labor-related abuses like child labor, human trafficking, and forced labor. The United States should focus the ILO on these activities, broaden representation of

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its workers and employers in the organization to reflect their increasingly diverse roles in the modern economy, and defend the historical approach of the ILO deliberations that, while slow, ensures broad consensus.

Historical Relations between the U.S. and the ILO

The ILO was founded in 1919 by the Treaty of Versailles as an affiliated agency of the League of Nations focused on promoting the economic welfare and human rights of workers and to promulgate international standards across a host of labor-related issues, including maximum hours, workplace injuries, and unemployment compensation. Led by Western governments, the ILO was in part an effort to “diffuse the appeal of Bolshevism”¹ and in part to coordinate adoption of international labor standards in response to domestic calls without losing competitive advantage to countries that did not adopt such standards. The standards were drafted and codified in numerous conventions that jointly comprise the international labor code.

The United States never joined the League of Nations and was not among the founding members of the ILO even though the organization’s founding conference was in Washington and the president of the American Federation of Labor (later merging with the Congress of Industrial Organizations to become the AFL-CIO) presided over the conference at which the ILO constitution was drafted. President Franklin Roosevelt convinced Congress to authorize ILO membership in 1934 once he obtained legal advice that joining a specialized agency of the League of Nations did not contravene congressional opposition to the U.S. joining the League itself. The congressional authorization for the ILO specifically stipulated that “membership of the United States would not impose or be deemed to impose any obligation or agreement upon the United States to accept the proposals of that body as involving anything more than recommendations for its consideration.”² The International Labor Conference unanimously voted to extend an invitation to the U.S. to join the organization days after the congressional authorization and the U.S. formally joined the ILO on June 22, 1934.³

In 1946, the ILO became the first specialized agency of the United Nations, migrating from the defunct League of Nations. Congress authorized the President to accept the amended Constitution of the International Labor Organization on in 1948.⁴

In its first few decades, the U.S. assumed a leadership role in the organization and a substantial portion of its financial costs.⁵ The relationship soured in the 1970s due to increased anti-American and anti-Western bias, increasing focus on political issues outside its remit such as ILO condemnation of

Israeli occupation of the Palestinian territories, and the granting of observer status to the Palestinian Liberation Organization in 1975. The U.S. withheld funding from the ILO several times in the early 1970s and informed the ILO in a 1975 letter that failure to reform would lead the U.S. to withdraw. Then Secretary of State Kissinger outlined four reasons for U.S. withdrawal:

(1) The erosion of the tripartite principle and the presence of a growing bloc of Workers' and Employers' delegates "wholly under the domination of government"; (2) the "appallingly selective concern" in the pursuance of human rights in the ILO; (3) the "utter disregard" which the ILC [International Labor Conference] had repeatedly shown for "due process" when it came to the passing of resolutions against Israel without a prior inquiry having taken place; and (4) undue politicization of the ILO inasmuch as it had become "increasingly and excessively involved in political issues which are quite beyond the competent mandate of the Organization".⁶

The Carter Administration concurred with the reasoning of the previous administration and followed through on the threat after the 1977 ILC failed to adopt U.S. reform proposals.⁷ The ILO holds the dubious distinction of being the first major international organization from which the U.S. withdrew.⁸

The U.S. rejoined the ILO in February 1980 after President Jimmy Carter determined that U.S. concerns had been sufficiently addressed.⁹ To direct U.S. participation in the ILO, President Carter established the President's Committee on the ILO—a tripartite federal advisory committee chaired by the Secretary of Labor. The committee is supported by the Department of Labor's Bureau of International Labor Affairs and has seven members:

The Secretary of Labor (chair), the Secretary of State, the Secretary of Commerce, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, and one representative each from organized labor and the business community, designated by the Secretary. The labor and business members are the presidents of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and the United States Council for International Business (USCIB), respectively, as the most representative organizations of U.S. workers and employers engaged in ILO matters.¹⁰

The committee mirrors the ILO's tripartite governance structure—unique within the U.N. system—wherein governments, labor, and employers jointly represent Member States in the organization in a 2:1:1 ratio; i.e., each country's

delegation is comprised of one representative from a worker group, one from an employer group, and two from the national government. Although each nation has four representatives under this structure, the labor and employer representatives are supposed to operate independently of the government. The President's Committee, while not impeding this independence, allows U.S. participants to discuss issues of shared concern on a regular basis.

ILO Governance

The ILO has three main governing parts:

1. The International Labor Conference is the main body of organization. Each of the 187 member state delegations meet annually for the ILC to discuss social and labor practices, craft and adopt ILO conventions and recommendations, examine the reports of governments on their compliance with ratified conventions, and vote on resolutions guiding ILO policy and activities, including the biennial budget and program of work.¹¹

2. The Governing Body is the executive council of the ILO and meets three times a year (including a very short and largely pro-forma convocation at the conclusion of the annual ILC). The Governing Body “takes decisions on ILO policy, decides the agenda of the International Labour Conference, adopts the draft Programme and Budget of the Organization for submission to the Conference, and elects the Director-General.”¹² There are 56 titular members of the Governing Body (28 from governments, 14 from employers, and 14 from labor) and 66 deputy members (28 from governments, 19 from employers, and 19 from labor). As one of 10 states of “chief industrial importance,” the U.S. government is automatically granted a titular seat, a formulation carried over from the ILO's League of Nations provenance that benefits the United States.¹³ Other members are elected by the ILC every three years on an individual basis.

3. The International Labor Office is the bureaucracy of the organization. The bureaucracy is headed by the Director-General who oversees approximately 2,700 employees in the Geneva headquarters and over three dozen field offices around the world. The current Director-General is Guy Ryder of the United Kingdom, who was first elected in 2012 and is serving his second five-year term.¹⁴

The U.S. is the largest financial contributor to the ILO, providing 22 percent of the assessed dues (as with most other U.N. organizations) plus substantial voluntary contributions.¹⁵ In fiscal year 2019, U.S. contributions totaled \$96.3 million,¹⁶ approximately 24.6 percent of annualized reported income for 2018–2019 ILO biennial budget of \$784 million.¹⁷

As the largest donor to the ILO, the U.S. has an outsized interest in making sure that ILO funds are used effectively and as intended. Director-General Guy Ryder initiated a reform and restructuring plan that has streamlined the organization, although “certain bureaucratic inefficiencies and entrenched interests remain.”¹⁸ Reflecting the interests tied to its substantial financial contributions, the U.S. often raises concerns and objections during ILO budget deliberations. For instance, in the 2019 Finance Committee meeting, the U.S. delegate stated:

The United States appreciated the Director-General’s thoughtful development of the budget proposal before the Committee, and looked forward to continuing to contribute constructively to the development of the detailed programme proposals that would accompany the budget. Nevertheless, the United States maintained a policy of zero nominal growth and, despite its strong support for the mandate, mission and work of the ILO, it was unable to support the budget proposal before the Committee.¹⁹

The U.S. is typically alone in objecting to the ILO budget.

U.S. Interests in and Concerns at the ILO

There is no compelling direct national interest served by U.S. membership in the ILO, but there are secondary interests that benefit from U.S. membership and justify continued engagement.

Myriad Conventions. All ILO member states are obligated to respect and pursue the objectives laid out in the ILO constitution, including regulation of working conditions and freedom of association. However, ratification of ILO conventions is voluntary. Of the 190 ILO conventions, the United States has ratified only 14, of which 12 remain in force.²⁰ Currently, the United States has ratified only two of the eight “fundamental” ILO conventions, one of four priority governance conventions, and 11 of 178 technical conventions.²¹

By comparison, 146 countries have ratified all eight fundamental conventions, and all but six countries have ratified more of the fundamental conventions than the United States.²² Likewise, 146 countries have ratified more of the priority governance conventions than the U.S. has ratified.²³

Poor Implementation. Of course, ratification does not guarantee compliance. For example, Cuba, Russia (mostly under the former Soviet Union), Venezuela, and Zimbabwe have ratified all eight fundamental conventions.²⁴ This highlights a weakness in the ILO, namely that the organization is more

interested in “promulgating” and “adopting” standards than in effecting real change in the real-life challenges facing many workers around the world. Charlotte Ponticelli, former U.S. Deputy Undersecretary of Labor for International Affairs, notes, “Much attention is given to the adoption of new instruments, but implementation, which is what affects most people, receives much less attention.”²⁵

Protecting U.S. Sovereignty and the Federal System. The U.S. reluctance to ratify ILO conventions is directly tied to its governmental structure. Unlike many countries that ratify treaties with little intent to adhere, the United States takes its legal obligations seriously, which can lead, ironically, to a reluctance to ratify binding agreements. In addition, ratification of ILO conventions often requires legislation to incorporate its provisions into U.S. law, superseding existing federal, state, and local laws that might not align with those provisions. In the U.S. federal system of government, this can inappropriately infringe on state and local government.

In 1988, the Senate stipulated in its ratification of ILO Convention 144 that “each ILO convention will be examined on its merits on a tripartite basis; that if there are any differences between the convention and Federal law and practice, these will be dealt with in the normal legislative process; and that there is no intention to change State law and practice by Federal action through ratification of ILO conventions.”²⁶

According to the U.S. Council for International Business (USCIB), there is an agreement with the U.S. government that

no ILO convention will be forwarded to the U.S. Senate for ratification if such ratification would require any change in U.S. federal and state laws. Of the eight core ILO conventions, the U.S. has ratified two and a third is pending in the Senate. However, the remaining five conventions have been found to directly conflict with U.S. law and practice and thus have not been considered for ratification since ratification would require extensive revisions to U.S. state and federal labor laws.²⁷

In other words, there is a long-standing consensus in the United States that labor laws are a domestic matter and changes must not be imposed through international treaties. Despite its reluctance to ratify ILO conventions, commitment to and enforcement of labor standards is well embedded in the United States. U.S. labor rights and protections are robust and have been made so through domestic policy. If the United States left the ILO, domestic laws would remain in place, and the rights and protections for U.S. labor would not change.

Combatting Labor Abuses. This does not mean, however, that the United States has no interests advanced through ILO membership, just that they are focused outwardly rather than inwardly. The ILO is an appropriate forum for addressing labor rights violations internationally, but it has been ineffective in ensuring the implementation of labor standards in repressive societies. As Secretary of State Mike Pompeo noted on the 100th anniversary of the ILO, working conditions in China, Iran, Venezuela, and Zimbabwe remain dire.²⁸

The ILO's best moments have been in championing the worker against repression—supporting the Solidarity movement in Poland during the Cold War and efforts to end the brutal apartheid regime in South Africa. Conversely, the ILO's current reluctance to confront repression in China, notably about the forced labor practices and other abuses perpetrated on the Uighur population in its Xinjiang province, tarnishes that record and undermines the ILO's professed aims. Moreover, China's sham labor movement—the All-China Federation of Trade Unions—makes a mockery of the ILO's rationale, especially since it obtained “titular” status at the ILO's Governing Body circa 2011.²⁹

Focus on Unions. The ILO has historically focused on workers through the lens of unions. For example, most Worker Delegates to the ILO are representatives of unions or groups of unions.³⁰ However, this tendency to use unions as proxy representatives of all workers is an increasingly antiquated approach as union membership decreasing, particularly in developed nations. For instance, union membership as a percentage of U.S. employment peaked at just over 35 percent in the 1940s³¹ but fell to 10.3 percent in 2019.³²

Seeking Relevance. An outdated view toward labor and standard setting, inadequate focus on compliance, and bureaucratic inflexibility has led countries to increasingly incorporate labor matters, including ILO core principles, into international trade agreements: “An ILO report found as of 2016, 77 out of 267 FTAs globally included labor provisions, compared to 21 in 2005.”³³ Unsurprisingly, international business has progressively disregarded the ILO and its proceedings. As noted by former ILO Assistant Director-General George Dragnich:

the ILO today is at best a player on the margins of most major economic and social policies. Admittedly, the ILO is invited to G-7 and G-20 confabs as an observer and occasional speaker, but most private and public policymakers in the real world pay it scant attention. Unfortunately, in seeking to become more relevant, the ILO has instead diluted its impact by chasing after the

latest issues (often in scattershot fashion) without aligning available resources accordingly. Whatever the fad or cause of the day, be it climate change, Green Jobs, LGTBI rights, the #Me Too Movement, the global food crisis, environmental sustainability, the international monetary system, etc, the ILO is ready with a statement (and, often, initiative) at hand.³⁴

For instance, the 2017 International Labour Conference focused on how green jobs are the future—a position accompanied by a report titled “Work in a Changing Climate: The Green Initiative”—and the 2019 ILC focused on making social justice a top priority.³⁵ This is a long-term trend at the ILO, with the organization seemingly less interested in promoting its core work than addressing matters that relate only tangentially to its core mission. Ponticelli noted that “the key problem is that the ILO is seeking to become the world’s lead institution in addressing the social consequences of globalization.... The world of work, a challenging field unto itself, suddenly loses importance and instead becomes a platform for launching all sorts of social projects.”³⁶

Focusing the ILO on Its Core Mandate

As a permanent member of the ILO Governing Body due to its status as a “state of chief industrial importance,” the United States is in a key position to impede proposed changes to the structure and mandate of the ILO due to

the constitutional stipulation that amendments to the constitution itself require the consent of at least five permanent members of the Governing Body. This has meant that the larger industrial nations, acting in concert, could block any fundamental change in the Organization. It is not as potent a defensive weapon as the veto right of the permanent members of the U.N. Security Council, but it has contributed to the stability of the Organization.³⁷

In fact, the United States enjoys this leverage only because the “states of chief industrial importance” formulation was grandfathered in when the ILO joined the U.N. system after the dissolution of the League of Nations. Its precept is anathema to developing world nations which strongly support the U.N.’s one-nation, one-vote formula as a means in both the U.N. and its specialized agencies to multiply their leverage beyond their economic and political weight. Not surprisingly, then, the developing world routinely seeks to overturn the “states of chief industrial importance” clause at Governing Body meetings; but for reasons noted above have always failed.³⁸

The U.S. should use this leverage to block such efforts and defend the historical ILO practice of promoting labor standards internationally with broad support from governments, labor, and employers. This process, while slow and tedious, produces lasting results precisely because the “principles and wording [of ILO conventions] have been laboriously hammered out by all three parties—governments, employers, and workers.”³⁹ Even under the current system, the ILO has lost relevance. Changing the process to allow decisions with less consensus is a recipe to further marginalize the organization. Beyond basic standards and fundamental rights, it is up to states to pursue labor policies best suited to their circumstances. As such, the United States should address domestic labor issues within the federal system.

Recommendations

While ILO membership offers little of direct benefit to the American people, it can help support other U.S. interests abroad. As long as the ILO can contribute to those efforts, the United States should remain engaged. Specifically, the United States should:

- **Focus the ILO on its core capacities.** Too often the ILO has chased funding and relevance by asserting a role in matters that enjoy significant international attention but are tangential to its mission. Even if these issues are important, the ILO should leave them to U.N. organizations better suited to address them and focus its efforts on promoting labor standards, urging compliance with those standards, examining emerging patterns of work, and combatting labor abuses.
- **Narrow the gap between rules promulgated and real world implementation.** As the ILO seeks to avoid controversial engagement with powerful violators of international labor standards such as the People’s Republic of China, the organization’s credibility has suffered. The United States and other democratic states should encourage the ILO to confront and challenge countries to adhere to the labor standards that they have voluntarily adopted through ratification of ILO conventions.
- **Broaden the U.S. worker representation in the ILO.** The AFL-CIO represents U.S. workers in the ILO but does not sufficiently represent the diversity of labor in the United States today. The United States should ensure that non-union interests have opportunities for representing U.S. workers at the ILO.

- **Broaden U.S. employer representation in the ILO.** U.S. employers are represented in the ILO by the USCIB, which is comprised of over 200 international corporations, law firms, and associations and chambers.⁴⁰ These employers are certainly entitled to represent U.S. employers, but they do not represent the full spectrum of employers in the U.S. economy. Small businesses comprised 99.9 percent of all U.S. businesses and employed 47.5 percent of all U.S. employees in 2017.⁴¹ Labor standards impact small and medium-size businesses as well as international corporations, and the United States should ensure that these employers' interests are represented at the ILO.
- **Defend the treaty process.** Labor standards and human rights protections in the United States are robust even though they are not always uniform or applied solely through federal law. The understanding that no ILO convention should be ratified if it would require changes in U.S. federal and state laws is sound and should be maintained. Changes that affect the lives of U.S. workers should not be imposed through treaty ratification but through the domestic legislative process.
- **Support ILO efforts on key international U.S. human rights related to labor.** The United States is a strong advocate for fundamental human rights and freedoms and should work with the ILO to promote improved working conditions and assist countries in their efforts to combat labor abuses such as child labor, human trafficking, and forced labor.
- **Support reform, budgetary restraint, and efficiency efforts.** As the largest donor to the ILO, the United States has an outsized interest in making sure that ILO funds are used effectively and as intended.

Conclusion

The focus of the ILO should be to champion the “freedom of workers to flourish.”⁴² This is best done not through heavy regulation but by promoting basic rights and protections that are universally observed and allowing nations to adopt and adapt details to their unique circumstances. The ILO practice of promulgating standards in a voluntary manner and serving as a forum to combat the worst forms of labor abuses serves U.S. interests. If

the ILO departs from this approach on conventions and recommendations, or if it allows political agendas tangential to its core mission to overwhelm its original mission and purpose, it will jeopardize U.S. support.

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Endnotes

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21. These conventions are: Fundamental -- C105 - Abolition of Forced Labour Convention, 1957 (No. 105) and C182 - Worst Forms of Child Labour Convention, 1999 (No. 182); Governance (priority) -- C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); and Technical -- C053 - Officers' Competency Certificates Convention, 1936 (No. 530); C054 - Holidays with Pay (Sea) Convention, 1936 (No. 54); C055 - Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55); C057 - Hours of Work and Manning (Sea) Convention, 1936 (No. 57); C058 - Minimum Age (Sea) Convention (Revised), 1936 (No. 58); C074 - Certification of Able Seamen Convention, 1946 (No. 74); C080 - Final Articles Revision Convention, 1946 (No. 80); C147 - Merchant Shipping (Minimum Standards) Convention, 1976 (No. 1470); C150 - Labour Administration Convention, 1978 (No. 150); C160 - Labour Statistics Convention, 1985 (No. 160); and C176 - Safety and Health in Mines Convention, 1995 (No. 176). No. 54 Holidays with Pay (Sea) Convention and No. 57 Hours of Work and Manning (Sea) Convention are no longer in force. ILO, "Ratifications for United States of America."
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