

'ILO is the sole shield for millions of workers': Interview with Bernard Thibault

Interview by David Eloy, Altermondés

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On 25 February 2015, the International Labour Organisation (ILO) emerged from a crisis that had blocked it from functioning properly for three years. The cause of that crisis was that the employers' organisations called into question the right to strike. Could you talk us through that dispute?

Bernard Thibault: The ILO was born in the aftermath of the First World War, in response to the simple observation that the origins of war are to be found in social precarity and poverty. So the nations agreed to create a body of worldwide labour law, including basic texts on freedom of association and the right to strike. Established a little later, the Committee of Experts on the Application of Conventions and Recommendations is tasked with examining how states implement these standards and with issuing opinions. So in case of violations, states can find themselves in the hot seat. But from 2012 onwards, the employers' organisations contested the fact that these experts could recognise a right to strike in countries where this right is not provided for in the constitution.

What sparked the crisis in 2012?

B.T: Quite simply, there's an element among the employers' organisations that no longer wants to have anything to do with a worldwide labour code. But that has become all the more necessary as the situation in the world of work is constantly deteriorating. Today, unemployment stands at 215 million. One in every two workers does not have an employment contract; only 1 in 4 has a stable employment relationship; 21 million people are subjected to forced labour; up to 168 million children are known to be working; and 23 million workers die every year due to work-related illnesses or accidents. So at a time when we ought to be even more demanding about respect for standards, the employers have launched an offensive in the name of economic competitiveness and have gone so far as to turn basic rights, such as freedom of association, into bargaining chips.

What do you mean by 'an employer offensive'?

B.T: The ILO is a tripartite organisation – the only one. It operates on the basis of consent among states, employers' organisations and workers' trade unions. While there is no sanction

mechanism, a report, opinion or decision issued by one of the organisation's bodies does, from the diplomatic point of view, have quite an incentive and/or dissuasive effect on erring states. And yet, starting in 2012, every time that the cases being examined involved the issue of the right to strike, even when the facts were undisputed, even when it was an open and shut case, the employers refused to vote for the opinion. No longer was any state being served with a formal warning about breaches of Convention 87 regarding the right to strike. And if there's no opinion, there's no official report. The breach ceases to exist.

Some people would retort that no such right is enshrined in the Convention.

B.T: That's a fallacious argument, but it has lain at the heart of this polemic ever since 2012. The employers' lawyers have developed an argument that Convention 87 does not explicitly state that the right to strike is part of trade unions' freedoms. And that's a fact. But this nit-picking just doesn't stand up to examination in the light of practice and history. Strikes have always been one of the means available to trade unions. It can even be argued that strikes existed before unions were recognised, and that's still the case in certain countries. In our stand-off with the employers' organisations, they did back down at one point and agreed to recognise the right to strike, but only in those countries where it's embodied in the constitution. That doesn't make sense. In a world organisation, the aim isn't to take note of rights that already exist at the national level. On the contrary, it's all about establishing rules that have universal scope. After a three-year blockage, the states, including those that do not have legislation on the right to strike, ended up issuing a declaration recognising that strikes are a legitimate means of action for trade unions. That was a setback for the employers.

Is the problem just about contesting the right to strike?

B.T: This is a general offensive. The employers' position of principle is that there should be fewer laws and more enterprise-based collective bargaining – in other words, fewer rules that apply to all and more of a pick-and-choose rights menu – whereas in practice, wage-earners

are far from being able to negotiate within their own workplace about the development of their own rights. At the world level, all of this translates into the argument that we should stop trying to achieve global uniformity on social issues and accept that we're in an open, deregulated economy.

Governments bear a heavy responsibility for these developments.

B.T: They do indeed. To take a symptomatic example, for some time now Qatar has been making headlines worldwide for breaching basic rights. The conditions for workers there, mainly immigrants from Asia, are despicable. Well, can you imagine, we didn't manage to get an ILO mission of enquiry sent there? Certain states preferred to take the Qatari government's declarations at face value when it said that it intended to make an effort. In reality, many of them opposed the mission because for years now, they have been benefiting from Qatar's financial largesse. Countries' stances were governed by their economic and political interests. That is very damaging to the organisation itself. That's why I say the organisation is under direct threat.¹

Doesn't this situation also reveal the weakness of the workers' trade unions?

B.T: The trade union movement is in difficulty. That has to be recognised. There's not a single country in the world where it isn't receding. The trade union movement is having difficulty in finding ways of organising wage earners within their present configuration – namely, much greater precarity and mobility. And on top of that, political forces are denying that social negotiation is a factor in democracy.

Only states are answerable to the ILO. Isn't that an anachronism?

B.T: That's a very topical point, leading into a debate about the ILO's prerogatives. With others, I'm pressing for a reflection, on the organisation's centenary in 2019, about new means of fighting for social progress. Are the consensus-based tools sufficient to move forward the development of social law? It would be a good thing if the ILO, which monitors the attitude of states, could also monitor the attitude of the multinationals, which by definition operate in an international sphere. In 2016, at the ILO's annual conference, we plan to hold a first discussion on multinationals' responsibility within the value chain.

To win the battle, shouldn't the trade union organisations be building broader alliances?

B.T: The first step is to improve the organisation of solidarity among wage earners within the same value chain, from the principal down to the subcontractor. Beyond the workplace,

there are consumer associations, child protection campaigners and more. Being able, with others, to create movements of information and influence that can oblige the multinationals to change their forms of organisation is one line of action. Historically, it hasn't always been a trade union tradition, but some firms will be more sensitive to a broad public campaign than to purely internal pressure. So we need to do both.

Pinpointing responsibilities is one thing. Getting them taken on board is quite another. Isn't a more compelling system needed?

B.T: There's no reason why international trade should be the only thing on which states can agree about rules and then get them respected. We need to be talking in terms of sanctions, because rules without sanctions don't amount to much. If you break the Highway Code, you're penalised. So why, in the social field, should compliance be voluntary? In a capitalist economy, by definition, the entrepreneurial logic is to add value to capital resources, not social ones. If social responsibility were as natural as some would have us believe, we wouldn't have needed to invent trade unionism and social struggles. Of course, we're still far from having a majority of countries that want to go down that road. But we must launch the debate. What do we want tomorrow's globalisation to look like: a disorganised jungle or social progress? Let's not forget that, for hundreds of millions of workers worldwide, the ILO is their sole remaining shield against the law of the jungle.

¹ Following an initiative of the Workers' Group, the Governing Body voted in November 2015 - despite the lobbying efforts of the Qatar government - to 'request the Government of Qatar to receive a high-level tripartite visit, before the 326th Session (March 2016), to assess all the measures taken to address all issues raised in the complaint, including on measures taken to effectively implement the newly adopted law relating to the regulation of the entry and exit of expatriates and their residency'.

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