

Marking 90 Years of the ILO

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In 2009, the International Labour Organisation (ILO) celebrated its 90th anniversary, against a backdrop of financial crisis and critical levels of unemployment around the world. The ILO is the world's oldest and only tripartite international agency, created in 1919 as part of the Treaty of Versailles that ended World War I, to reflect the belief that universal and lasting peace can be accomplished only if based on social justice. It was a truly global organisation before globalisation entered our everyday vernacular and figured so prominently in our consciousness. Today the ILO has 183 member states.

The ILO is dedicated to bringing decent work and livelihoods, job-related security and better living standards to the people of all countries through social dialogue and tripartism. The first annual International Labour Conference beginning on 29 October 1919 in Washington DC adopted the first 6 International Labour Conventions. Since then, the ILO has had a mandate from its worldwide members to establish a set of core principles. Today, the ILO has 188 Conventions and Declarations and 199 Recommendations. In 1998 the 8 Core Conventions, were consolidated into 4 principles and rights in the Declaration of Fundamental Principles and Rights at Work:

- Freedom of association and the right to collective bargaining
- Abolition of forced labour
- Elimination of the worst forms of child labour
- Equality of opportunity and treatment.

Symposium on 90 Years of the ILO: The significance for Australia and New Zealand

On 19-20 November 2009, the Business and Labour History Group of the New Zealand Work and Labour Market Institute at Auckland University of Technology (AUT), in association with the Auckland Labour History Group, organised a symposium to mark the 90th anniversary of the ILO, at AUT in Auckland. The title of the symposium was *90 Years of the ILO: The significance for Australia and New Zealand*.

In addition to a number of specialist papers listed below, two national tripartite panels discussed the significance of the ILO for their respective countries.

The New Zealand Tripartite Partner Panel on The Significance of the ILO for New Zealand consisted of:

Carol Beaumont, Labour Member of Parliament, former Secretary, NZ Council of Trade

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Unions, and former worker representative to ILO;
Paul MacKay, Manager Employment Relations Policy, Business New Zealand and employer representative to ILO; and
Michael Hobby, Principal Adviser, International Services, New Zealand Department of Labour.

The Australian Tripartite Partner Panel: on The Significance of the ILO for Australia consisted of:

Louise McDonough, Branch Manager, International Labour and Consultation, Workplace Relations Policy Group, Australian Department of Education, Employment and Workplace Relations;
David Gregory, Director, Workplace Policy, Australian Chamber of Commerce & Industry and employer representative to ILO;
Linda Gale, Victorian State Organiser, National Tertiary Education Union, representing Australian Council of Trade Unions;
Steve Marshall, ILO Liaison Officer in Myanmar (and former employer representative to the ILO from New Zealand), provided a summarising overview as Rapporteur.

These were the overarching questions guiding the symposium participants:

- What has been the significance of the ILO for Australia and New Zealand?
- What influence have Australia and New Zealand had on the ILO?
- What does the future hold for interaction of the ILO with Australia and New Zealand?

1. What has been the significance of the ILO for Australia and New Zealand?

One indication is to examine the impact of ILO conventions in Australia and New Zealand. Conventions need to be ratified by member states. Once ratified, countries commit themselves to applying it in national law. This occurs automatically in some countries, but not in Australia and New Zealand. So what has our record been with core conventions?

Table 1: Ratification of ILO Core Conventions by Australia and New Zealand

Convention and year adopted	Year ratified in Australia	Year ratified in NZ
C87 Freedom of Association and Protection of the Right to Organise 1948	1973	
C98 Right to Organise and Collective Bargaining 1949	1973	2003
C100 Equal Remuneration Convention 1951	1974	1983
C111 Discrimination (Employment & Occupation) Convention 1958	1973	1983
C105 Abolition of Forced Labour 1957	1960	1968

Table 1 shows that the record is not strong in either Australia or New Zealand in terms of early ratification of the ILO's core conventions, with the exception of Abolition of Forced Labour. Both countries had periods of relatively strong ratification activity, in 1973-4 in Australia and 1983 in New Zealand. In addition, Australia has generally acted ahead of New Zealand. It is noteworthy, however, that New Zealand has still not ratified the convention on Freedom of Association, which Russia ratified as early as 1953 and Zimbabwe in 2003. The Australia and New Zealand record of ratification does not indicate in itself a strong influence from an early stage for conventions in either country. However, the case of Russia and Zimbabwe, as well as other countries, may also indicate that there is not necessarily a strong correlation between ratification of a convention and its application in a country's industrial relations and political systems.

Is it possible to directly refer to Conventions as influencing our employment law? In some cases, yes. A notable case occurred in New Zealand in the *Employment Relations Act 2000*, which specifically referred to the *C98 Right to Organise and Collective Bargaining Convention* and the *1998 Declaration of Fundamental Principles and Rights at Work* regarding collective bargaining and good faith bargaining. The Australian Industrial Relations Act 1993 was similarly influenced by this convention and declaration.

In the Australian federal structure of governance, with its multiple jurisdictions for labour law, and the relatively weak powers given by the federal constitution in this sphere, ILO conventions might be referred to by a national government to overcome state government impediments to reform. This could be done by the High Court accepting ILO Conventions as international treaties in relation to which the constitution gives the national government exclusive powers to make laws. This was actually done in Labour's 1993 Act in some areas, although that same Act's forcing of unions with less than 10,000 members into amalgamations was also amended because of an appeal to an ILO Committee of Experts who found it in breach of Freedom of Association. In the recent past, the possibility had been discussed for extending a national Labour government's powers in industrial relations more extensively, but recent changes under a conservative Howard government, ironically, have seen the substantial extension of national powers by reference to corporations power in the constitution, and the states have ceded much of their powers in this sphere to the federal government.

2. What influence have Australia and New Zealand had on the ILO?

Paul Mackay, employer delegate to the ILO from Business NZ, states that he considers that New Zealand delegates 'punch well above their weight' in terms of influence at the ILO. At the symposium, there was consensus amongst all of the tripartite panelists from both New Zealand and Australia that this was the case for both countries. The panelists attributed this influence to two factors. First, there has consistently been a high degree of collaboration between employer, worker and government representatives from each country, and this is unusual in international terms. Second, there has also been considerable collaboration between representatives of Australia and New Zealand. One of

Nigel Haworth's papers referred to below addresses this issue for New Zealand in an early period of the ILO's history.

3. What does the future hold for interaction of the ILO with Australia and New Zealand?

An ILO Declaration on Social Justice for a Fair Globalisation was adopted in 2008. This indicates the ILO's focus on the impact of globalisation on employment and social issues.

Many of the countries that have been the focus of this concern in terms of the lack of fundamental labour rights are in the Asia-Pacific region [our region]. However, the ILO lacks any powers of enforcement and has to rely on persuasion to gain compliance (Lansbury 2009: 607) with core labour standards.

According to some observers, 'the international legal framework is "outdated and ill-suited to the challenges of globalization" and the prospect of "regulating for globalization seems implausible"' (Ewing 2008 as cited in Lansbury 2009: 607). Nike and Gap have been high profile cases of companies agreeing to enforce labour standards amongst suppliers and to produce annual CSR reports. The UN has established a Global Compact, which has been joined by a number of MNCs, and is based on core labour standards and human rights. But there is considerable skepticism about these endeavours. Some have looked to cooperation with other international agencies such as the WTO, World Bank and IMF to enforce labour standards, but progress to date has been slow in this area. Two of the symposium papers, by Nigel Haworth and by Ray Markey and Katherine Ravenswood, specifically addressed these global issues.

The symposium speakers and their topics included the following:

Ray Markey, NZ Work & Labour Market Institute, Auckland University of Technology,
Introduction;

Margaret Wilson, Professor of Law and Public Policy, University of Waikato and former Minister for Labour,
ILO – Role of the New Zealand Government: Reflections of a Former for Labour;

Nigel Haworth, University of Auckland,
Director-General Activism and the Extension of the ILO Agenda: The ILO since 1989;

Ray Markey and **Katherine Ravenswood**, NZ Work & Labour Market Institute, Auckland University of Technology,
The impact of MNEs and FDI on aspects of working conditions as contained in 1977 Tripartite Declaration of Principles Concerning Multinational Enterprises & Social Policy;

Nadine McDonnell, NZ Work & Labour Market Institute, Auckland University of Technology and **Boaz Shulruf**, University of Auckland,
OHS of Migrant Workers: an international concern;

Nigel Haworth, University of Auckland,

A Distant Detachment. New Zealand and the ILO 1919-1945

Danae Anderson, NZ Work & Labour Market Institute, Auckland University of Technology and **Krish Naidu**, University of Auckland,

The Land of Milk and Honey? The contemporary working lives of contingent youth labour;

Felicity Lamm, NZ Work & Labour Market Institute, Auckland University of Technology,

Worker Participation in Occupational Health and Safety: The Hidden Potential to Change Intensified Working Arrangements;

Rupert Tipples, Lincoln University,

Employment standards in world food production – the place of GLOBALGAP supply contracts and indirect legislation

The papers by Margaret Wilson, Nigel Haworth (on post 1989), Ray Markey and Katherine Ravenswood, Danae Anderson, and Rupert Tipples have been reworked for publication in this issue of the *New Zealand Journal of Employment Relations*.

Reference

Lansbury, R.D. (2009). Workplace Democracy and the Global Financial Crisis. *Journal of Industrial Relations*. 51(5): 599-616.