

Reflection No. 2 : Informal exchange on ILO initiatives in Africa, the Americas and Asia

4 May 2004

In introducing the open discussion, Anne Trebilcock of the Policy Integration Department recalled the purpose of such Reflections on regional integration, which focuses on research issues. Discussion following the first Reflection had revealed an interest in an exchange in which ILO officials could describe initiatives underway in relation to the social dimension of regional integration. This was the focus of this second Reflection.

Mariluz Vega Ruiz of the InFocus Programme on Promoting the ILO Declaration on Fundamental Principles and Rights at Work DECLARATION led off with an informal presentation on initiatives underway in the Americas Region. A summary note she prepared on these initiatives complements this brief report (see below). In her remarks, she highlighted two challenges in relation to this work: the problem of the *implementation* of rights in practice and the growing importance of free trade agreements (especially bilateral ones) which include reference to fundamental principles and rights at work in a way that differs from the ILO's definition.

José Luis Daza Pérez of the InFocus Programme on Social Dialogue (IFP/DIALOGUE) supplemented her remarks in relation to labour administration, where the current situation ranged from "weak to catastrophic". Problems were particularly acute in relation to the informal economy, where workers were unorganized and had no link to regional integration initiatives. In addition, he drew attention to the difference in the approach taken in some initiatives entered into by States in the Americas – where the obligation of a country was to respect its own national laws – and those following the European model of meeting a common standard.

In relation to Asia, Anne Trebilcock mentioned that René Robert had done background work for CABINET in relation to SAARC, but that he was unfortunately not present to describe it. She referred to work underway by the ILO together with the ASEAN Secretariat on the employment and labour implications of the ASEAN Free Trade Agreement and other agreements. Four national studies - on Indonesia, Philippines, Thailand and Vietnam are underway, and an overview study will be prepared. The work began with a background note prepared by Gijsbert van Liemt. The studies are a joint venture with ROAP, SROs Bangkok and Manila, and Area Offices for the four countries. The work should be completed by the end of 2004.

Christoph Ernst of the Employment Strategy Department (EMP/STRAT) reported on an employment seminar recently hosted by MERCOSUR in which the ILO participated, mostly through the Region. He mentioned that the papers are available on the MERCOSUR website. In relation to ILO work, he briefly described a comparative study he is undertaking with Peter Auer and Janine Berg on Argentina, Brazil and Mexico that addresses regional integration issues.

Reference was made by Alejandro Bonilla of the Social Protection Sector (ED/PROTECT) to the Andean Agreement on Social Security and the trend towards private social insurance schemes from Mexico to Uruguay. Regional integration was being used as a vehicle for such moves. He

also mentioned that the ILO was working with the WHO in countries such as Honduras to expand (public) social security coverage.

Mariluz Vega Ruiz commented that constituent demand related to FTAs. In terms of issues on which various regional integration arrangements had taken the lead, she singled out Canada, the United States, Brazil, Argentina and Mexico on labour administration, WHO-PAHO on safety and health and social security alongside the ILO, and CARICOM on labour law harmonization (MERCOSUR as well).

Christoph Ernst mentioned the growing importance of South-South trade agreements that add a dimensions beyond North-South FTAs. He spoke in favour of using an equilibrium model to gauge the overall number of jobs gained, and the jobs lost in particular sectors, in relation to studying the effects of FTAs. Mention was also made of migration issues in relation to Mercosur (Peter Poschen has relevant documents).

In relation to the African Union, Nieves Thomet provided an update of the Extraordinary Summit of Heads of State and Government that will focus on employment and poverty reduction (Ouagadougou, 7-8 September 2004). She mentioned that the European Union has expressed interest in partnership on regional integration issues, especially in developing indicators and impact assessment. Christoph Ernst noted that the equilibrium model used by the World Bank had been developed by ECLAC (UN Economic Commission on Latin America and the Caribbean) and could be applied to any situation where data was available (this is possible in Chile, for instance).

In relation to the SIA model favoured to date by the European Union, Rafael Diez de Medina described a mission undertaken together with Eric Maertens (ED/TURIN). There was further discussion of pros and cons of a Social Accounting Matrix and related issues.

Lao Yujun of EXREL reported that his unit had done a review of external relationships and partnerships last year, and was developing a mechanism for promoting such work. A circular had been drafted to formalize some aspects of these relationships. Communities of practice could be developed with particular organizations, and a mapping exercise would be useful (he referred to the one already done with OECD). He concurred in the strong interest in impact assessment. John Ritchotte of DECLARATION noted that in the context of technical cooperation, a considerable body of work existed on various models, and what worked and why.

The Reflection ended with an announcement that the next one would feature a presentation by Gijsbert van Liemt, followed by discussion.

What follows are notes from the presentation by Mariluz Vega Ruiz on regional integration in the Americas.

Reflections on ILO work in relation to the social dimension of regional integration in the Americas – Mariluz Vega Ruiz

- Since 1993, there has been specific interest in the ILO's work in the Americas, particularly in relation to MERCOSUR. The social aspects of this regional group have been considered as a key area for ILO study (Ermida's role in Mercosur).
- Between 1995 and 1999, several studies on integration in the Americas have been undertaken (Tokman-Martinez). These studies deal predominantly with the economic issues of integration, however, some have focused on issues such as occupational safety and health.
- Since 1995, the Regional Office has included a specialist on regional integration who actively participates in meetings and discussions.
- In 1998, a study by Adolfo Ciudad compiled the labour standards contained in the regional agreements of the Americas.
- The ILO is active in supporting the work of the CIMT working groups (Viña). In 1999, a TC project was designed which received financing and support from USDOL.
- The first phase of the TC project : 2° studies on this matter
- The second and third phases (on course) focus on the development Action Plan. The main topics include: improving labour administration, best practices and horizontal cooperation, exchange of information, promotion of the Declaration, and studies on how to improve the application of FPR in the integration process.

Main conclusions of the work done:

1. Latin American integration processes and some free trade agreements have generated a significant amount of new and more advanced legislation regarding the fundamental rights at work, even though the domestic legislation of some countries in the region needs further development. In the case of some communities (SICA and CAN¹), the role of the fundamental principles and rights should be revised and the possibility of explicitly enshrining them in legislation should be considered.
2. Many countries evidence serious limitations regarding the application of these norms and commitments, the main reasons being a lack of enforcement of the law and the existence of extensive sectors of the working population not covered by labour legislation. The comments by the ILO's CEACR highlight the existing problems with the application of international labour legislation.
3. Domestic enforcement mechanisms are insufficient and the human resources called on to operate them are inadequately trained. On the whole, labour administrations are weak and ineffectual. They find it difficult to develop effective policies and follow them up adequately. Far from destroying jobs and depressing wages, integration reinforces compliance with the fundamental rights, which is a central factor of social and political stability and security of

¹ Apart from a few initiatives, the CAN's code of laws does not protect the fundamental principles and rights at work. This state of affairs has several consequences, one of which is to limit the definition of an all-encompassing social and labour dimension for the integration process and the possibility of giving such fundamental principles and rights the support of the CAN's adjudicatory mechanisms (the Andean Community Court of Justice).

law, all essential requirements for sustained increase in investment, economic growth and the creation of quality employment.

4. There is a consensus that spurious competitiveness based on noncompliance with the fundamental rights at work should neither be promoted nor accepted. The terms of integration and free trade agreements should make this clear in no uncertain terms.
5. By and large, the representatives of the social organizations consulted by the ILO favor the integration process and the development of a social labour dimension within it, particularly with regard to workers' fundamental rights. Nevertheless, they also feel that the social actors' involvement in the development of such processes and their socio-labour dimension should be greater than it is now. Likewise, there is much criticism about the bureaucracy that is stifling some integration processes.
6. Although still insufficient, cooperation projects designed to help countries in the region advance towards compliance with workers' fundamental rights, including the elimination of child labour and forced labour, are numerous. Their number has increased significantly over the past ten years, and is expected to continue growing at an even faster pace, in line with the advancement of the integration processes and the negotiations of a Free Trade Area encompassing the entire hemisphere. It is very important to evaluate their impact, development and sustainability in order to ensure that future programs are better coordinated and more effective in a regional context.
7. While enforcement of existing legislation has been achieved in a number of cases, the experience gained has not been disseminated adequately across the region. Information, horizontal cooperation, debate fora and regional information networks seem a necessary requirement for progress in this respect.
8. Regarding, particular subregional processes, we can see that:

CAN. While its present normative structure does not allow for autonomous development of the socio-labour dimension, its process does enhance employment-related aspects. There can be no doubt that employment expansion, vocational training, the freer movement of workers or equal social security coverage are fundamental components of integration.

A review of the initiatives and projects that are still untouched by the Community's regulatory system shows that the prospects are excellent for consolidating a socio-labour dimension capable of boosting equitable economic growth. In fact, incorporating the "Andean Social Charter" and the "Andean Charter for the Promotion and Protection of Human Rights" into the CAN's regulatory system could contribute significantly towards adjusting the aims of the Agreement and the means it uses to achieve its ultimate purpose of equitable development.

CARICOM. This subregion can boast significant progress in the socio-labour area, particularly insofar as the harmonization of legislation is concerned. "Model laws" can play a key role and this is an option well worth considering. CARICOM issued its first labour declarations as early as 1973 and it can be considered to be on the forefront of social legislation in the Americas. Its programs and projects in the area of technical cooperation and

dissemination of best practices have made a substantial contribution to overall progress because they combine productivity with protection in their objectives. By and large, there is little debate on the application of principles, since CARICOM's social charters are treated as declaratory instruments rather than as starting points for action.

MERCOSUR. This appears to be the group that has made the most progress in terms of integration of the socio-labour dimension, even though the application of the principles at community level is made difficult by the marked institutional weakness of the process. While specialized institutions and bodies for public labour policy design do exist along with consensus building and implementation mechanisms, the MERCOSUR is yet to really operate as a common market, which means that neither the Common Market Council - *Consejo del Mercado Común* (CMC, the MERCOSUR's highest policy-making body), nor the Common Market Group - *Grupo del Mercado Común* (GMC, the MERCOSUR's executive organ) has initiated common social and labour policies. The national and regional committees face an overload of tasks therefore the need of an executive secretary has been observed. On the other hand, conclusions reached by the Regional Committee -even to the GMC- tend to be vague and need improvement. Priorities for actions should include creating a supranational labour code, introducing individual labour rights into community legislation, facilitating greater horizontal cooperation, and agreeing on joint enforcement mechanisms which might include making the control, investigation and detection of labour rights violations a specific function. This would help the enforcement of community and national legislation based on labour principles and rights. Greater dissemination of the contents of the Socio-Labour Declaration may well help.

NAFTA. The ILO Declaration of Fundamental Principles and Rights at Work is explicitly mentioned both in the NAALC and Commission for Labour Cooperation (CLC), which provide the regulatory framework for the activities pertaining these matters. Even though all three NAFTA member countries grant legal protections to their workers and the eleven principles enshrined in the CLC mandate are recognized by their respective labour regulations, their enforcement is still problematic. Although the challenges that appeared in NAFTA's wake should not be underestimated, the creation of new venues for invoking labour protections through the Commission for Labour Cooperation is a small but positive step in the right direction. The articulation of mutually agreed upon labour principles among the three NAFTA nations is also significant. And the plethora of progressive, civil society organizations that formed in response to regional economic integration and now exist as a powerful network advocating "ethical trade advocacy" in the Americas is compelling. Over the past few years many tripartite socio-labour initiatives in the subregion have been suspended due to disagreement between the social sectors and a lack of coordination with other subregional policies. Nevertheless, an analysis of the labour commitments made in the context of the NAFTA and the ILO Declaration show that the regional integration process creates new opportunities as well as new challenges for workers and their organizations.

SICA. While the legal institutions linked to the SICA economic subsystem are the oldest in the region, socio-labour aspects are little developed. SICA's Social Integration Subsystem (*Subsistema de la Integración Social*) has, so far, had little say in the definition of subregional social policies. As to the fundamental principles and rights at work enshrined in the ILO Declaration, they are not mentioned explicitly in the documents of the Regional Agreement, even though SICA Member States have ratified virtually every one of the ILO Conventions

enshrining them. The few measures adopted to comply with the ILO Principles and Rights at Work have had unequal scope. Their effectiveness depends to a great extent on funding provided by governments from outside the subregion and by international organizations. The follow-up to the Summits of the Americas and the Inter-American Conferences of Ministers of Labour takes place within individual countries with little SICA involvement. As already pointed out in this report, the Central American Integration System is a complex and highly bureaucratized network of organs and agencies about which little is known. Even less is known about their activities in the socio-labour field.