

Social Dialogue Sheets 1

Social Justice



A century ago, the founders of the ILO recognized the importance of social justice in securing peace, against a background of worker exploitation in the industrializing nations of that time.

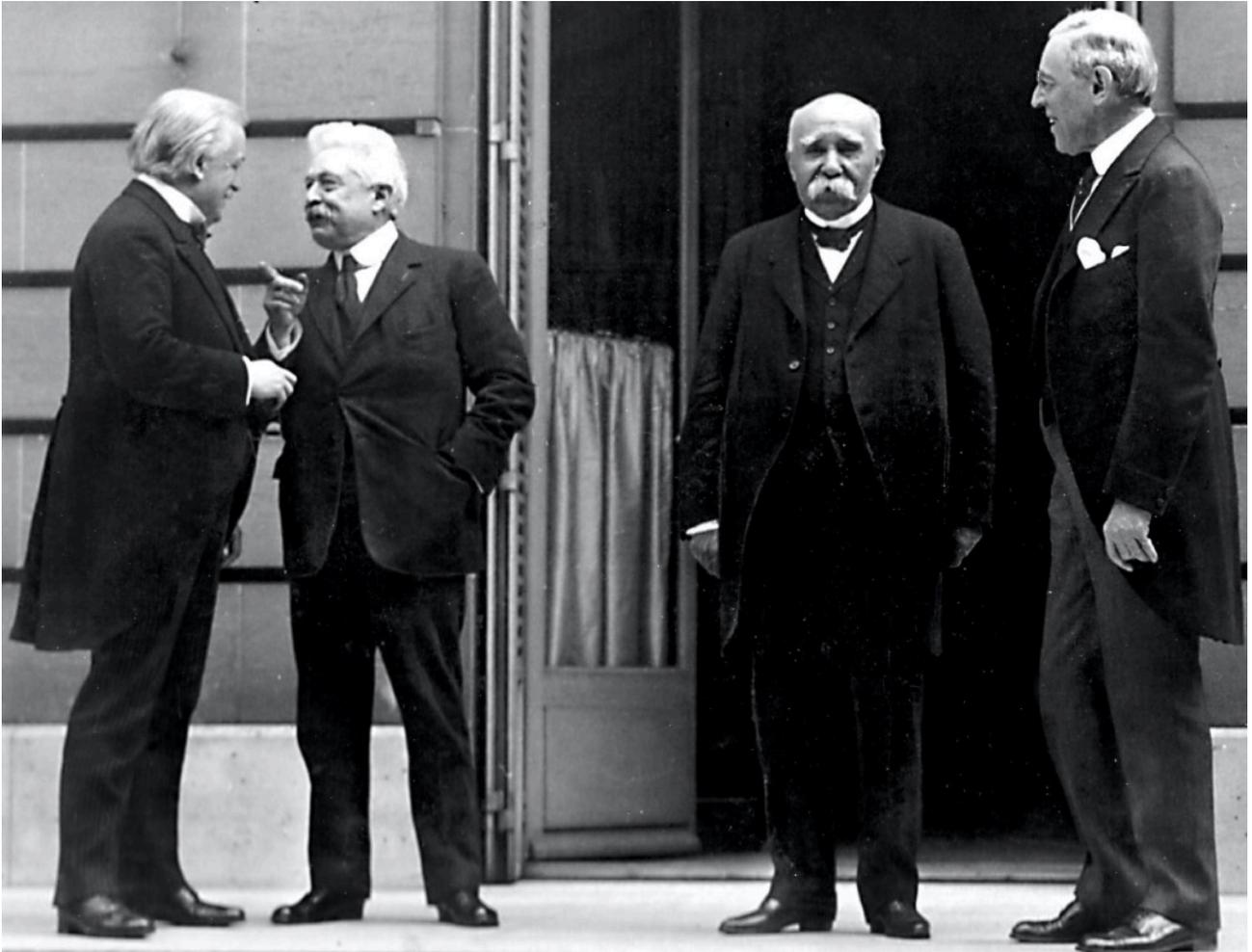
“When these three keys turn together, when governments, employers and workers are able to come together, doors open and social justice advances.”

Guy Ryder, ILO Director-General

The ILO was created as part of the 1919 Treaty of Versailles that ended World War I, to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice.

The ILO was founded on a system that gives governments, employers and worker representatives a seat at the table, where they can openly debate and develop labour standards together. This system is called tripartism and it remains the defining feature of the Organization to this day.

As the ILO celebrated its 100th anniversary in 2019, it is timely to reflect on the many life-changing events which are linked to the ten decades of ILO Social Dialogue and Tripartism.



The meaning of Social Justice

While the League of Nations established to maintain peace after World War I, the ILO was created to pursue social justice. The League of Nations was developed as a way to solve disputes between countries before they erupted into open warfare. A precursor to the United Nations, the League achieved some victories but had a mixed record of success, sometimes putting self-interest before becoming involved with conflict resolution, while also contending with governments that did not recognize its authority. The League effectively ceased operations during World War II. Contrary to that, the ILO celebrated its 100 anniversary in 2019.

The original draft of the ILO Constitution mentioned that ‘peace can be established only if it is based upon the prosperity and contentment of all classes in all nations’¹. The Belgian delegate Emile Vandervelde highlighted the contradiction between "peace" and "classes" since in a society with "classes" antagonisms is inevitable. According to this approach, the social peace can only be achieved through the elimination of classes and the creation of a community of workers who are collectively owners of working tools, or who can control their work. As a result, he proposed the following formulation which was adopted: "peace can be established only if it is based upon social justice’. Therefore, the ILO represents, through this sentence, the possibility to achieve a society without classes. Yet, in the Anglo-Saxon literature social justice is used as synonymous with ‘distributive justice’, going beyond s beyond the *suum cuique tribuere*.



Marcel Kohen², raised three issues on the social justice concept. In his words, ‘social justice’ emphasizes the idea of community’s justice, as differentiated from individual justice. It is the society as a whole that becomes the recipient of justice. It ultimately means a just society, from the point of view of its organization, including its governance, and of the sharing of the commons. In addition, social justice refers to the rights of the most deprived actors or those who need special protection by society. Finally, social justice alludes more broadly to justice to be rendered to those who produce social goods, and who may be disadvantaged in the distribution of their fruits.

The Social Justice term included in the ILO Constitution shows that it is a recent concept, rooted in the Anglo-Saxon culture, stemmed from the industrial revolution and socialist views of society.

In 1919, the capitalist exploitation of labour was perceived as injustice, while social justice has been introduced as the opposition to social conditions leading to injustice. Proudhon identified justice with social justice, and social justice with human dignity. With the Versailles Treaty, winner states of the first world war (USA, UK, France, Italy) agreed to establish the League of Nations to defend peace and the ILO to

¹ Edward J. Phelan, ‘The Commission on International Labor Legislation’ in James T. Shotwell (ed), *The Origins of the International Labor Organization*, vol. 1 (Columbia UP 1934) 132, quoted from Marcelo G. Kohen, *Does General International Law Incorporate the Concept of Social Justice*, in G. Politakis, T. Kohiyama, T. Lieby, *Law for Social Justice*, ILO, Geneva, 2019.

² Cited, pag 96



pursue social justice. The ILO Constitution sets out that “labour is not a commodity” which became the flag of social justice approach.

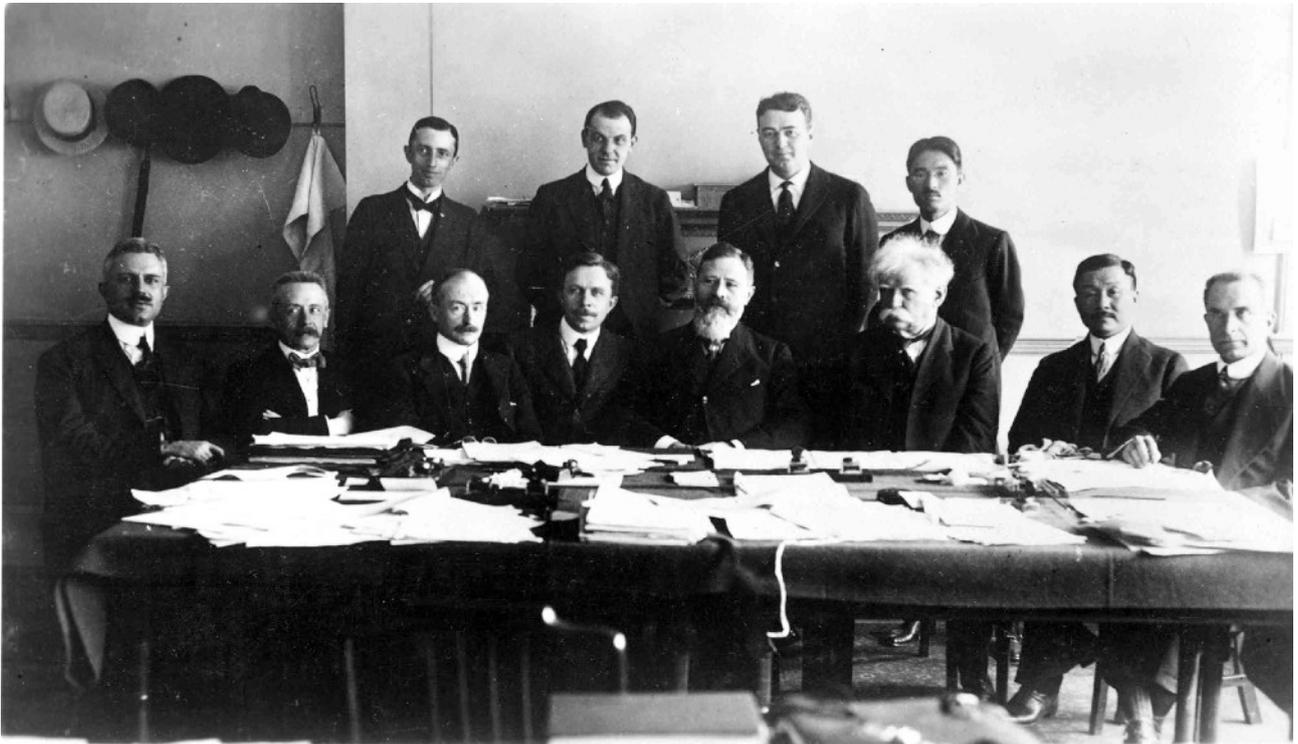
Social Justice words are so relevant if one considers that the term does not appear in the constitution of the United Nations, in the UN Charter neither in the Universal Declaration of Human Rights or the two International Covenants on Human Rights and scarcely mentioned in the United Nations Millennium Declaration.

This is why the ILO, ten years after the Declaration on Fundamental Principles and Rights at Work, adopted in 2008 a declaration entitled Declaration on Social Justice for a fair Globalisation. The relationship between human rights and social justice is quite important in defining social justice concept. Meckled-Garcia³ raised a debate on the relation between human rights standards and principles of social justice: are human rights and social justice the same concept just under a different name? Are they only a subset of the former? Or are they different kinds of standards altogether? These questions are raised by political theorists who make the distinction to assert that claims under one heading entitle the claimants to less than under the other.

ILO documents treat human rights and social justice as a concept worthy of independent attention, even if no detailed analysis of the relationship between these concepts is shown. It is also surprising that human rights theorists have tried to settle conceptual definitions without including social justice in the equation.

³ S. Meckled-Garcia, Human rights or social justice?, School of public policy working paper Series, Nr 30, London, 2011

Social Justice concept have received interest by philosophers and social sciences as distinct areas of study and by economists as phenomenon linked to distributive justice. More recently, social justice concept has assumed a theoretical dimension thanks to the academic interdisciplinary dialogue within the United Nations University which has led the discourse alongside the sustainable development narrative ⁴ .



Aforementioned developments allow a preliminary distinction between social justice tout court and social justice as the justice concept applied to the world of work. While the “social justice tout court” entails a philosophical perspective, the “social dialogue as equality at work” requires the identification of a specific social context as an applied subject into a geographical, sociological, political and cultural framework where specified relations between individuals and groups can be understood, assessed, and characterized as just or unjust.

The abstract meaning of social justice, in turn, forces scholars to hypotise an injustice framework to be deepened in terms of victimized human beings, shifting the narrative closer to human rights pattern as set out in the international declarations. These two dimensions of the same coin pose further methodological issues since the specific and contextualized social fact needs different practical options than those figured out at theoretial levels: threat equals in different ways or unequals in the same way (the case of migration or refugees is emblematic) poses additional problem to the “fair application” of social justice.

⁴ United Nations University, Sustainability, N.Y., 2011.

Social Justice and Human Rights

Different epistemological paths characterized social justice. The first one refers to the academic realm where university courses overview the leading contemporary conceptions of social justice, including utilitarian, liberal, libertarian, communitarian, and deliberative-democratic theories, their implications for the design of political, institutions or the justice between generations.

The parallel path refers to the practical solutions among employers and workers or between social partners and state, which often include social agreements, collective understandings or social pact where the ideal pattern of social justice is sacrificed. Here, the discussion on social justice as Utilitarianism (Bentham, Mill), as fairness (Locke, Kant, Rawls), as Libertarianism (Narveson, Nozick), Communitarianism (Marks, Walser), Deliberative Democracy (Habermas, Cohen), Extending or Intergeneration Justice (Barry, Nagel) is replaced by a practical need to solve such as an unemployment case or a massive migration flow.



There are further issues relating to inequalities in income and in living conditions within and between countries which are not defined as just or unjust in international texts or national constitutions. Some economists argue that a more equal distribution of income facilitates economic growth, given the involvement of more people with energy and diverse skills in the economy and the increased demand for goods and services. Others scholars object that savings and capital accumulation are

strengthened by the concentration of income at the top of the socio-economic scale, therefore increasing disparities ⁵.

The call for greater equality in the distribution of world income raises further issues at the international level, since technology and innovation, vital to the economic growth, entail inequality by their nature. Yet, excessive income inequality restricts social mobility and leads to social segmentation. At the same time, scholars counter this argument with examples of economically successful authoritarian or elitist societies. Distribution of income is not necessarily associated with equality of rights, while greater equality of rights can be only apparent for specific groups such as indigenous peoples, disabled persons or migrant workers.

The issue of equality of opportunities further complicates efforts to determine whether ground has been lost or gained in the realm of social justice. Apart from the issue of unemployment (an area in which social justice appears to have suffered setbacks in recent years), there is the crucial question of whether societies offer their people sufficient opportunities to engage in productive activities of their choice wherever they wish, whether at home or abroad, and to receive benefits and personal and social rewards commensurate with their initiative, talents and efforts. In another words, economic justice represents justice or fairness in the broadest sense, since it has been perceived as the basis for social justice in the United States of America, China, India or Brazil.

Using the United Nations words, economic justice is considered an element of social justice, a choice justified by the desire to convey the idea that all developments relating to justice occur in society. Economic justice has unquestionably grown as the basic principles and practices of the market economy have become more prevalent and pervasive. In this respect, market economy ideology support the belief that more people have acquire valuable skills, have been given greater freedom of movement regionally and internationally, that barriers to cross-border economic and financial transactions have progressively been lowered. It is worth noting that the social justice for all as promoted by the ILO is a different issue which entails a different social model.

The “global capitalism” gives economic and financial forces the power to treat the world as a global market facilitating conditions for “economic justice” as it is propagandized. However, a different approach is need if a social model with related welfare state is sought. As a result, different development models entail different perspective of justice inspired by distribution justice (liberalism) or social justice (social democratic model).

Finally, social justice has a local and international framework. At national level, social justice requires fiscal, monetary and other economic policies, as well as social

⁵ See United Nations, Department of Economic and Social Affairs, Social Justice in an open world, N.Y. 2006.

policies, which incorporate specific objectives not always congruent with international policies imposed by the global interdependence.

Within the global interdependence, macroeconomic policies can either favorite a few or offer a chance to the many. Regrettably, this conciliation effort of public institutions addressed to social justice does not appear a priority, where the growth maximization imperative is the primary objective. The United Nations Agenda 2030 and related Sustainable Development goals, combining individual freedom and social development, show a different perspective where “growth” becomes sustainable, the integrity of the natural environment is respected, the use of non-renewable resources is rationalized and the future generations are able to enjoy a beautiful and hospitable earth.



In conclusion, according to ILO ⁶, social justice goes beyond redistributive justice since it is based on equality of rights for all peoples and the possibility for all human beings without discrimination, to benefit from economic and social progress everywhere. Promoting social justice is about more than increasing income and creating jobs. It is also about rights, dignity and voice for working women and men as well as economic, social and political empowerment.

The ILO's idea that every person anywhere in the world, irrespective of citizenship, race, class, age, gender, religion, has some basic rights with others should respect would correspond to social justice. However, Amartya Sen goes beyond social

⁶ ILO, The ILO and Social Justice, 2011

justice as human rights ⁷. Drawing on the sanskrit's meaning of justice, “*niti*” and “*nyaya*”, Sen outlines the difference of the idea of justice: while *Niti* refers to correct procedures, formal rules and fair institutions, *Nyaya* is broader, more extensive concept impacting on the “effects” of the institution's action, rather than being restricted to in institutions themselves.

Some scholars ⁸ look to Justice as the establishment of correct institutions, while others ⁹ take a more deep approach looking at social conditions and realizations that occur as result of institutions. The “materiality of justice” is explained in terms of human capabilities approach developed in collaboration with Martha Nussbaum in which the justice-concept, in term of rules and institutions (*Niti*), is replaced by social justice as the kind of societies that a institutions produce. With the Sen words, the central recognition here is that the realization of justice in the sense of *Nyaya* is not just a matter of judging institutions and rules but of judging the society themselves ¹⁰.

The use of capability approach (social justice) over the resource-centred approach is linked to the substantive freedom, not formal freedom tout court, and gives a key role to the individuals actual ability to do the different things they value doing. By the shift from the “means of living” to the “actual opportunities a person has”, the capability approach changes the evaluative approach used in pursuing social justice. In the Idea of Justice, Sen moves from justice as a theoretical concept to a social justice understood in practical terms, comparing the impact of pubic policies on the way things are done in the name of impartiality and fairness ¹¹. Sen considers social arrangements as wholes and evaluates their impact in holistic terms without becoming obsessed with “democratic procedures” or “formal rules”, thus embracing Smith or Mill, rather than Locke or Rawls. The interdependency between social context and rules, forces everyone to tale into account the interests of others as his or her own interests. In conclusion, Sen offers a parading of what it means to A human-centred approach

The 2019 ILO Centenary Declaration on “human-centred approach” focuses on increasing investment in people's capabilities, in the institutions of work and in decent and sustainable work linking the social justice for the new millennium with social justice that inspired the ILO 1919 Constitution.

Next Social Dialogue Sheet is dedicated to Solidarity

⁷ A. Sen, The Idea of Justice, Penguin, Penguin, 2009

⁸ Hobbes, Locke, Rosseau, Rawls

⁹ Smith, Bentham, Marx, Mill

¹⁰ A Sen, The Idea of Justice, cit. pag 20

¹¹ C. Brown, On Amartya Sen and the Idea of Justice, Ethics & International Affairs, Vol 24, September 2010