

## Globalizing Gendered Labour Policy: International Labour Standards and the Global South, 1919–1947

*Susan Zimmermann*

From its beginnings, the ILO entertained a pronounced interest in women as a special category of workers. Two of the six international labour Conventions adopted in 1919, the Maternity Protection Convention (No. 3) and the Night Work (Women) Convention (No. 4), contained sex-specific regulations and thus contributed to the construction of women as a group of workers legally distinguished from male workers. Simultaneously, the ILO in the interwar period exhibited a sustained interest in the divergent circumstances and treatment of workers in the global South<sup>1</sup> as compared to the global North, addressing the question of the global development of labour relations underlying this divergence in multiple ways. Nonetheless, scholars have rarely considered the historical interaction of these two foundational pillars in the ILO's international policies of labour protection in the decades before World War II.

This chapter explores this entanglement of issues of gender, class, and race—or racialized global inequality—through the ILO's policies of globalizing gendered labour law and the related debate in which women's international networks and organizations played a visible role. In an attempt through various policy avenues to bring ILO-inspired labour law to the global South, the ILO laid special emphasis on women-specific labour protection. It did so with reference to both groups of ILO instruments, 'universal' and 'special' labour standards. The limited group of 'special' standards dealt with the regulation of those forms of "native" labour which were commonly associated with the term 'unfree' labour, and for the most part originated in the economic policies of the Western imperial powers in the global South. The 'universal'

---

1 By global South, I refer to a large world region constituted by independent countries, the territories mandated by the League of Nations, and various other types of non-self-governing territories, including colonies. While Japan from the beginning held one of the seats on the Governing Body reserved for the eight member states of chief industrial importance, the country clearly was treated as belonging to the group of 'special' countries in which special circumstances prevailed due to industrial backwardness, etc. It is with reference exclusively to this fact that Japan is included in this chapter under this heading.

standards—including a number of woman-only standards—were developed with (implicit) reference to ‘free’ wage labour as associated with the industrial revolution in the global North then spreading over the globe. Both types of standards included gender-specific regulations and women-specific labour protection. The special emphasis that the International Labour Office (the Office) in the period between 1919 and 1944 placed on bringing women-specific labour law to the global South indicates the peculiar character of the ILO’s intervention into the development of labour relations in the global South amid unequal global development in those years.

This intervention can be characterized as a short-lived project of gendered global governance that was, as I show, remarkable on account of at least four distinctive characteristics. First, the Office aimed to transplant gendered historical patterns of labour protection in Europe to the global South so as to hasten the catching-up of labour relations in this part of the world and, where possible, even ‘skip’—rather than repeat—the earliest stages of this history of the employment of female labour. Second, while clearly cognizant of some harsh realities of labour in the service of private and public enterprise in the global South, the Office seemed unconcerned that the employment of non-white women as part of the labour force in the global South might follow a logic that differed from the European historical experience of women’s involvement with paid work. Third, the Office tried hard to resist the challenge of those political actors, still in the minority, who worked for the equalization of women’s status in the world of paid work, actors who were firmly anchored in and contributed to the ongoing ‘modernization’ of the gender regime in the developed industrial countries during the interwar period. These two factors—i.e. global racialized difference in terms of labour relations and the slowly but visibly increasing influence of the gender equality paradigm in an unequally developing world—help to explain, fourth, a long historical outcome: why the ILO’s interwar project of gendered international governance for the global South turned out to be of limited historical relevance, and why, consequently, it was replaced after 1945 by the international development regime, which was based on quite different premises when it came to the politics of women’s work in the global South.

Focusing on selected international instruments, the chapter develops this argument via discussing two sets of policies pursued by the ILO: the making of international labour standards, and the policies aimed at implementing ILO-informed labour law. More precisely, the first section discusses the intersection between the engendering of international labour law and the focus on the global South in the process of the making of three international labour standards which sought to bring women-specific labour protection to the global

South: the Forced Labour Convention, 1930 (No. 29) and the Recruiting of Indigenous Workers Convention, 1936 (No. 50), both ‘special’ standards, and the Underground Work (Women) Convention, 1935 (No. 45), a ‘universal’ standard.<sup>2</sup> The second section describes the ILO’s politics of bringing about change in the regulation of labour relations in the global South with reference to both its gendered ‘universal’ and its gendered ‘special’ labour standards. From its organization, the ILO created a set of policies to facilitate both ratification and implementation of Conventions adopted by the International Labour Conference (ILC) and adaptation of national, imperial, and colonial labour law to these international ‘blueprints’, even in cases when the Office judged ratification impossible or a project of the more remote future. The second section, discussing the Maternity Protection Convention, the Night Work (Women) Convention (and its revised successor of 1934), the Forced Labour Convention, and the Underground Work (Women) Convention, and related territorial labour legislation, illuminates why and how the ILO in its politics towards the global South invoked and foregrounded gendered labour law. These four Conventions formed an important focus within the ILO’s overall policies of bringing the labour standards it had developed to the global South.

### **The Making of Gendered Labour Law for the “weaker classes of workers” in the Global South**

In 1933/1934, the International Labour Office declared that “the employment of women underground in mines no longer exists, or is dying out, within the metropolitan territories of the States Members of the International Labour Organization” while in “certain Oriental countries ... the practice ... has persisted”. The Office argued that, “owing to the absence of a formal prohibition in the legislation of certain ... colonial territories, there might be a risk of such employment developing at some time”.<sup>3</sup> These statements summarized key justifications for the preparation of a new international labour standard, the Underground Work (Women) Convention. They were directed at the large public in a period when the Office was confronted with mounting opposition

---

2 While both the ‘universal’ and the ‘special’ standards were in principle conceived of as applicable globally, the focus of this chapter is on the relationship of the selected standards to the global South.

3 ILO, *Employment of women on underground work in mines of all kinds*, Report 6 [1], International Labour Conference (ILC) 18th Session, Geneva 1934, 7; ILO, *Employment of women on underground work in mines of all kinds* (Questionnaire 2), ILC 19th Session, Geneva 1935, 10.

especially from women's organizations and women's networks against women-specific legal standards in international labour law. Not only the preparation and adoption of the Underground Work (Women) Convention, but also the previous process leading up to the adoption of the Forced Labour Convention, coincided with tangible intensification of conflict among women over special labour protection. The preparation of the Forced Labour Convention began soon after a full-fledged international confrontation over special labour protection during the Congress of the International Alliance of Women for Suffrage and Equal Citizenship (IAW) in 1926. Soon thereafter, the conflict among women internationalists culminated in the formation of the Open Door International (ODI) and the Equal Rights International (ERI) in 1929 and 1931, respectively. The preparation of the Underground Work (Women) Convention in 1933/1934 overlapped with a second period of intense conflict among women and between women's networks and the ILO over the revision of the Night Work (Women) Convention, 1919 (No. 4).

The Underground Work (Women) Convention was a classical measure of special protection for women, yet with an unusual focus on the global South, while the labour-related provisions contained in the Forced Labour Convention and the Recruiting of Indigenous Workers Convention, both focused on the global South as a given. In these labour standards and the process of the making of these standards, reference to unequal global development, and the implication of race in this type of inequality, were closely intertwined with—explicit and implicit—reference to the relationship between gender and class in sex-specific or -unspecific labour law. Schematically simplified, this latter debate was about two connected issues. Opponents of women-specific labour protection argued that such protection more often than not had detrimental overall consequences for women; their argument involved a strong focus on how the contexts—in the world of paid labour and beyond—within which labour law operated shaped the outcome of women-specific labour protection to the material disadvantage of women. By contrast, supporters of women-specific labour protection argued that raising labour standards by introducing women-specific protection measures eliminated, within the world of paid labour, specific forms of exploitation, and in this way narrowed class distance in the world of work, regardless of the fact that such measures created or enlarged gender difference within labour law. They, too, invoked the context in which labour law operated, but, in contrast to opponents of women-only protections, advocates argued that without such laws, this labour force would be subject to gender-specific exploitation (which in turn would have detrimental consequences for the male workforce). Progressive change outside labour law itself, such as strengthened trade union organization among women, would

counteract the potential disadvantages from the measures foregrounded by the opponents of women-specific labour protection. In short, opponents of women-specific labour protection emphasized material or class disadvantage for women as a consequence of gendered difference in labour law, whereas proponents stressed the class gain achieved for women, and for the work force as a whole, from introducing women-specific law itself.

In this short chapter, it is neither possible to convey the complexity of the political vision pursued by, and disputed between, the actors involved in the making of the three selected instruments nor to give details about the relevant outcomes. The chapter instead captures the broad outlook of the related argument and vision. Put simply, in the political interactions within and around the ILO, the plans of the Office to adapt its foundational ideas about special labour protection for women—designed as both paternalistic gender and progressive class policies—to colonial and similar contexts were visibly confronted with the interest in the unfettered exploitation of female labour and the concomitant acceptance of the disruption of families in the context of “native” labour.

The first ILO instrument on “native” labour in the global South was the Forced Labour Convention. The Office made sure early on to rally the support of important international women’s organizations behind its plan to abolish at once forced labour for “native” women. Strict legal equality feminists did not participate in the women’s campaign supporting this cause at this point or later, nor did they campaign against it. Legal equality feminists contended that, as a matter of principle, the decision whether or not women would be involved in particular types of arduous or hard labour should be left to women’s own choice rather than mandatory sex-specific prohibitions. However, forced labour by definition could not involve choice made by the individuals concerned.<sup>4</sup> The colonial experts involved in the preparation of the Forced Labour Convention saw no visible objection to the principle of women’s exemption as such.<sup>5</sup>

The Forced Labour Convention exempted women from forced labour that was still permissible, namely “for public purposes”.<sup>6</sup> Only “adult able-bodied

---

4 Zimmermann 2016a.

5 ILO, *Forced Labour*, ILC 13th Session, Geneva 1929, 273; ILO, *Forced Labour* (Questionnaire 1), ILC 14th Session, Geneva 1930, 64. At the same time, two important colonial powers, the Netherlands and Portugal, explicitly opposed the adoption of a Convention aimed at the suppression of forced labour as such. Belgium and India voiced strong reservations as to immediate suppression in their answers to the Questionnaire. ILC (1930), *Forced Labour*, 3, 14, 16, 18.

6 All direct quotes from ILO instruments are taken from the ILO’s NORMLEX database.

males” between 18 and 45 years of age could be coerced into this type of labour, while forced labour for private purposes was abolished for both sexes. In addition, certain types of coerced labour either were uncovered by the Convention or constituted special categories that often involved special regulations. In broad strokes, then, the engendering of the regulation of forced labour in the Forced Labour Convention involved the exemption in principle of women from permissible forms of forced labour, while various additional definitions and regulations meant that women could still be forced into coerced labour under certain circumstances.

The Office did not invent women-specific abolition of certain types of forced labour. Some of the pre-existing legislation on forced labour in non-self-governing territories contained relevant clauses, and the Office early on made sure to publicize this element of colonial labour law.<sup>7</sup> In international labour law, however, women-specific abolition as contained in the ILO’s Forced Labour Convention represented an innovation. While international regulation of forced labour formed a part of the Mandate system of the League of Nations established after World War I, mention of women’s coercion into forced labour was absent, even though otherwise the wording was very close to what would later be at the core of the Forced Labour Convention. Some “B” mandates in Africa included a provision according to which the mandatory power “shall prohibit all forms of forced or compulsory labour, except for essential public works and services”, without, however, including any exemption clause for women.<sup>8</sup>

In the policy script the Office pursued in leading up to the adoption of the Forced Labour Convention, women-specific abolition—in conjunction with prohibition for non-adults—played a pronounced role well beyond what in the end became the women-specific abolition clause. The Office tried every step along the way to restrict to adult men the power of the authorities to impose any form of forced labour—with emergencies as the only definite exception.<sup>9</sup> It tied this endeavour to a vision of benevolent family authority and reliable

7 See the numerous references to women’s exemption ILC (1929), *Forced Labour*.

8 In some ‘C’ Mandates there was a similar though somewhat weaker provision. Callahan 2004, 16–17, 199–201, giving the full texts of the Tanganyika, Togo, and Cameroon Mandates (incl. the quote given above); Weaver 1937, 10–12. When bringing forced labour for a first discussion before the ILC in 1929, the Office relied, among other things, on reference to the Mandates in order to make its case for abolition see ILC (1929), *Forced Labour*, 8.

9 The Forced Labour Convention did not cover this category; there was no serious challenge to this principle at any point. In the decades following adoption, this exception would function as a major loophole for coercing women and men into forced labour. With regard to ‘compulsory cultivation’—i.e. certain forms of coerced agricultural labour—the question of

European authority, as opposed to abusive “native” authority. Colonial actors combined ostensible acquiescence in transplanting European ideas of women’s exemption from particularly arduous forms of labour to the colonial world with constant endeavour to undermine the rigorous application of the principle of women’s exemption from forced labour. Decision making of the Committee of Experts on Native Labour, installed in 1926 by the Governing Body (GB) of the ILO to advise the Office with regard to related questions, illustrates this point. Most of the Experts were closely tied to colonial administration and policy. The Committee made sure, for instance, that “minor communal services” would fall outside the scope of the envisioned Convention. The Experts were clear that “women and children in the village” mostly performed such work.<sup>10</sup> The Office, by contrast, repeatedly aimed to guarantee that no authority whatsoever—i.e. including local authorities and “chiefs”—would have the right to directly call on women and children for the performance of any kind of forced labour, including for local purposes, or taking the form of minor communal services, even if uncovered by the Convention. The responsible ILO officer, Harold Grimshaw, believed that, when such work was “of a light nature, and perhaps also in other cases, ... the male adult will be assisted in his work by his family, possibly acting under his compulsion”. However, he insisted “that the authorities themselves should not be directly responsible for the compulsory labour of women and children, and should confine their exactions to adult able-bodied men”. The local authority entitled to extract such work, Grimshaw argued in the Committee of Experts, “must say to the man: ‘This must be done, either you do it yourself or your wife or your children do it; that is matter of indifference to us; but it is you who are responsible for its being carried out’”.<sup>11</sup>

---

women’s exemption was, in contradistinction to forced labour for local purposes or extracted for minor communal services, not explicitly discussed. While the Office’s silence regarding this question might be interpreted as pointing to its implicit recognition of the unavoidable involvement of women in this type of work, in a formal-legal reading of the Forced Labour Convention the women’s exemption clause certainly applied.

10 There was, in fact, easy agreement that those local forms of obligatory labour which took on the character of a more ‘excessive burden’ for the populations concerned, such as was often the case with building or maintaining infrastructure, were to be subject of regulation through the ILO’s future international instrument. ILO Archives (ILOA), N 206/2/1/5, *Committee of Experts on Native Labour*, First Session, 9th Sitting 12/07/1927 morning, 21/3052/60; ILC (1929), *Forced Labour*, 279–282.

11 ILC (1929), *Forced Labour*, 282–283; ILOA, N 206/2/1/5, *Committee of Experts on Native Labour*, First Session, 9th Sitting 12/07/1927 morning, [no p., before 63/70]; ILOA N 206/2/2/1, *Committee of Experts on Native Labour*, Second Session, 2nd Sitting 04/12/1928, 21–24, 26.

Colonial powers, to counter the Office, deployed both equality and division of labour arguments. French committee member Martial Merlin harshly criticized the women-specific principles proposed by the Office as being “inspired” by Medieval Frankish civil law, which prescribed “the dominance of the male over the female”. Merlin demanded that “we do equality of the sexes” instead, remarking that in Africa women and not men carried heavy loads on their heads “in an admirable manner”; they were “used to it”.<sup>12</sup> The notoriously illiberal colonial expert Freiherr Albrecht von Rechenberg, who served on the Committee of Experts on Native Labour and, at the 1929 and 1930 sessions of the ILC, as a German Government advisor,<sup>13</sup> at one point explicitly compared the sex-specific restrictions of the involvement of women in paid labour in Europe with the planned women-specific restrictions in the international regulation of “native” labour. He claimed that “it would be difficult to impose restrictions in the colonies, especially in connection with the work of women, more severe than those which were applied in European countries”.<sup>14</sup> When various governments aimed to achieve a substantial broadening of the definition of “minor communal services”, the Office openly opposed such a move, explaining that in “the inevitable absence of constant and vigilant supervision [of such work] on the part of the European authority, the incidence of the labour falls most heavily on the weaker members of the community, including women and children”.<sup>15</sup>

In the end, the Office and its supporters among the Workers’ group had to accept substantial watering-down of their proposals to meet the objections of colonial experts. Only the Recommendation concerning the Regulation of Forced or Compulsory Labour, 1930 (No. 36) attached to the Forced Labour Convention asserted that “all possible measures should be taken to ensure that

---

12 Merlin was Honorary Governor-General of the French colonies and former Governor-General of French Equatorial Africa and Indo-China. ILOA, N 206/2/1/5, *Committee of Experts on Native Labour*, First Session, 9th Sitting 12/07/1927 morning, 63/70-64/70 (French i.O.); ILOA, D 737/100/3, *GB, 37th Session* 37, Berlin, October 1927, documents, Report of the Committee of Experts on Native Labour, [1]–2.

13 ILC (1929) *Record of Proceedings*, [XXXI]; ILC (1930), *Record of Proceedings*, XXVIII; ILC (1929) *Forced Labour*, 4.

14 ILOA, D 612/800/1, *ILC, 12th Session 1929, Committee on Forced Labour, Minutes*, 7th sitting, 07/06/1929, 3–5.

15 ILOA, N 206/2/2/1, *Committee of Experts on Native Labour*, Second Session, 2nd Sitting 04/12/1928, 23–24; ILC (1929), *Forced Labour*, 283, 299. For the support by the Workers’ group see, e.g., ILOA D 612/800/1, *Committee on Forced Labour, Minutes*, ILC, 12th Session 1929, 7th Sitting, 07/06/1929, 3–5.

the imposition” of forced or compulsory labour “in no case leads indirectly to the illegal employment of women and children”.

The question of women-specific restrictions to contract-making was repeatedly on the agenda when the ILO engaged in the 1930s in the making of its three instruments on “native” contract labour. Opposition to patriarchal forms of controlling women’s paid labour, and the intention to ensure employers’ access to the “native” female labour force, at that time successfully combined against the adoption of women-specific restrictions envisioned by the Office, which continued to connect its proposals to the idea of intra-familial control and ‘protection’. In the end, neither of the relevant instruments on the recruiting and the contracts of employment of “indigenous” workers contained any such regulation. I have discussed elsewhere the highly publicized “defeat” in 1939 of the International Labour Office, when restrictions and paternalistic control of women’s contract-making which it had originally planned to include did not make it into the final wording of the Contracts of Employment (Indigenous Workers) Convention (No. 64).<sup>16</sup> A few years before, with the preparation and adoption of the Recruiting of Indigenous Workers Convention, the Office publicly emphasized that the issue already was on its agenda. The Office, however, at this point decided that a possible stipulation requiring that married women could only be recruited into contract labour with permission of their husbands “could best be considered when the problems of Native labour contracts”, i.e. the terms of contract themselves, would be “dealt with” at a later stage.<sup>17</sup> In addition, the Office aimed “to delimit the field of application” of the Recruiting of Indigenous Workers Convention, since “[n]ative workers are also recruited for employment under monthly or other short-term contracts, with or without penal sanctions, and the problems of recruiting may be similar whatever the

---

16 Zimmermann 2016a.

17 ILO, *The regulation of certain special systems of recruiting workers*, ILC 20th Session, Geneva 1936, 92. A parallel stipulation concerning the non-recruitment of non-adults had entered the negotiations at a very late stage, at the behest of the government of the Netherlands and was easily accepted. ILOA, D 6202/1001/1, ILC, 20th Session 1936, *Committee on Recruitment of Workers, Minutes*, 3rd Sitting, 08/06/1936, III/6; ILC (1936), *Record of Proceedings*, 285, 605. As a result, the Recruiting of Indigenous Workers Convention, in pronounced contradistinction to the Forced Labour Convention, ruled out the recruitment of ‘[n]on-adult persons’ alone. The government of the Netherlands earlier had advocated in parallel that the recruitment of married women should be made dependent on ‘the consent of their husbands’. ILC (1936), *The regulation of certain special systems of recruiting workers*, 25.

terms of the contract".<sup>18</sup> Postponement helped the Office to avoid open conflict in 1935/1936. Already at this point, interventions by colonial governments made abundantly clear that any future attempt of the Office to move forward with its vision of special protection for "native" women in relation to contract labour would encounter serious resistance. The British Government in 1936 called for exempting "personal or domestic servants" from the scope of the planned international regulation of recruitment.<sup>19</sup> This move globalized the longstanding refusal to recognize strongly feminized home labour performed by a particularly vulnerable group of workers as the proper subject of regulation. As a result, the Recruiting of Indigenous Workers Convention construed recruitment into domestic service, together with recruitment for work in the (undefined) vicinity of the place of employment or for undertakings employing less than a certain (undefined) number of workers, as a type of activity that less urgently desired international regulation.

Another set of issues triggering interventions concerned the co-recruitment of family members and the related question of weighing family unity against women's individual employment. The British workers' delegate demanded that "recruiting of the head of a family shall not be deemed to involve the recruiting of any member of his family".<sup>20</sup> This amendment aimed to rule out the possibility of automatic access of employers to the labour power of family members, including wives, of recruited workers. In parallel, the Dutch and the British Government representatives demanded that recruited workers could not be separated "against their will" or "without their consent" from wives and minor children accompanying them.<sup>21</sup> The clause proposed by the Office, which would have simply prohibited any such separation,<sup>22</sup> would have restricted the availability of "native" women for contract (or other paid) work at a distance from their husbands' workplace. The British Government representative then argued that "[i]n certain cases it would be desirable for the wives of workers to be able to take employment in a different enterprise from their

18 ILC (1936) *The regulation of certain special systems of recruiting workers*, 118; ILC (1935) *The recruiting of labour*, 4.

19 The justification the British government gave for its suggestion was both complex and utterly indecisive. ILC (1936), *The regulation of certain special systems of recruiting workers*, 13–15, 69, 88, 149–150; ILC (1936), *Record of Proceedings*, 603.

20 The related amendment originally had been restricted to recruitment into agricultural work alone. ILOA, D 6202/1001/1, ILC, 20th Session 1936, *Committee on Recruitment of Workers*, *Minutes*, 3rd Sitting, 08/06/1936, III/8–9.

21 ILOA, D 6202/1001/1, ILC, 20th Session 1936, *Committee on Recruitment of Workers*, *Minutes*, 3rd Sitting, 08/06/1936, III/9.

22 ILC (1936) *The regulation of certain special systems of recruiting workers*, 136.

husbands. Thus it was his concern for the freedom of contract which urged him to defend his amendment".<sup>23</sup> In the Conference Committee, these proposed amendments gave rise to considerable debate. The Spanish Workers' representative Isabel Oyarzábal de Palencia—who was the first female labour inspector in Spain, involved in women's activism, and since 1932 a member of the ILO's Correspondence Committee on Women's Work<sup>24</sup>—made important remarks. She considered reference to consent "distinctly dangerous". For, she explained, "it would be easy to persuade workers to consent to separation from their families in cases not contemplated by the amendment. Moreover, it would be very difficult to make sure that workers had really given their consent".<sup>25</sup> In the end, the colonial governments carried the day. The Recruiting of Indigenous Workers Convention as adopted stated that "[e]xcept at the express request of the persons concerned, recruited workers shall not be separated from wives and minor children".

In sponsoring and (co-)directing the making of the ILO's 'special' international standards regulating "native" labour, the International Labour Office was remarkably dedicated to protecting "native" women against involvement or uninformed involvement in the harsher forms of 'unfree' labour in the global South. In doing so, it repeatedly invoked male family authority over "native" women as an instrument for achieving this goal. Its policies were clearly, and increasingly so, at odds with both the interest of colonial and imperial enterprise and authorities in access to "native" women's labour power and those policies that aimed at securing the freedom of contract and thus individualizing the status of women, including "native" women, in the world of work. The latter policies, while clearly playing into the hands of employers' interest in securing access to "native" women's labour power, were also informed by an

---

23 This is the wording given in the Conference Committee minutes. ILOA, D 6202/1001/1, ILC, 20th Session 1936, *Committee on Recruitment of Workers, Minutes*, 3rd Sitting, 08/06/1936, III/10. In the official report of the Committee, reference was to 'members of the family' being potentially prevented 'from taking employment' elsewhere, whereas one statement made before the conference plenum referred to the question at stake as possible prevention of 'the wife obtaining work in another part of the same country or in another country'. ILC (1936) *Record of Proceedings*, 285, 605.

24 Oyarzábal de Palencia participated in the Conference as technical adviser for the Spanish workers. ILC (1936) *Record of Proceedings*, XXIII, XXVIII; ILO, *Minutes of the Governing Body*, 66th Session, Geneva, April 1934, 205–206; ILO, *Minutes of the Governing Body*, 69th Session, Geneva, January/February 1935, 65; Paz Torres (2009), 255, 477–478.

25 ILOA, D 6202/1001/1, ILC, 20th Session 1936, *Committee on Recruitment of Workers, Minutes*, 3rd Sitting, 08/06/1936, III/9–10 (first quote); ILC (1936), *Record of Proceedings*, 606 (second quote).

intention to emancipate women from inherited male authority. They aimed to inhibit the inscription of new forms of such authority in international labour law, so as to ensure, as a matter of principle, women's individual access to the world of paid labour on the same terms as men.

The International Labour Office insisted on the relevance of women-specific labour protection in its international standard setting with a focus on the global South well beyond the standards on "native" labour discussed so far. It could accomplish this goal through addressing labour relations that had played an important role in the European history of labour protection and which continued to be relevant not only for dependent territories, but also for independent countries in the global South. In 1935, the ILC adopted a new 'universal' instrument, the focus of which was exclusively on women-specific labour protection and designed for the global South.

The decision in the mid-1930s to develop the Underground Work (Women) Convention in the first place was a move towards internationalization of one more element of women-specific labour protection, with a special focus on the global South. In addition, the International Labour Office justified this decision with reference to the waning support for women-specific labour protection in the global North. Already in the 1920s, the Office had invoked the lack of labour protection in 'backward' territories as a justification for the necessity to promote women-specific standards. A few months after the cleavage over special labour protection for women at the Congress of the IAW in Paris in 1926, the Office sought public support from the eminent British social democratic politician, trade unionist, and supporter of women-specific labour protection Margaret Bondfield to counter European and international opposition to such measures. The European antagonists, wrote ILO Deputy Director Harold Butler, did "a great deal of harm ... to the cause of the protection of women everywhere and not least in Eastern [Asian, SZ] countries where it is most needed. ... [T]he time has certainly not yet come when special protective measures for women can be abandoned all over the world".<sup>26</sup> The decision in 1933 of the GB to initiate international abolition of women's underground work in mines was thus to underline that the imminent—very limited—softening of the 1919 Night Work (Women) Convention did not imply that the ILO would yield in any generalizable manner to women's opposition to gendered labour protection. To the contrary, it would intensify its related globalizing activities by adding another 'universal' labour standard that explicitly aimed at influencing ongoing and future development of labour relations in the global South. When presenting the plans for this new instrument to one of the more supportive

---

26 ILOA, XR 25/1/3, Butler to Bondfield, 06/09/1926.

international women's committees in 1933, Marguerite Thibert, who, at this time, became the responsible Office official for the "work of women, children and young persons", made sure to underline this specific intention. Women's underground work in mines, Thibert explained, was "a problem which, fortunately, is of interest for no more than some very rare oriental countries".<sup>27</sup>

The Underground Work (Women) Convention was about abbreviating and even bypassing in the global South the period in which a type of labour, which had been one of the "earliest abuses of the industrial system to call forth the protests of humanitarian minds", belonged to the remote European past. The new Convention served to rule out even the possibility of future involvement of women in underground work in mines in the global South, given that there were "new territories the mineral wealth of which is not yet exploited".<sup>28</sup> As was the case with "native" labour, it was never explicitly considered that the use of non-white women in the labour force in the global South might follow a gendered script that was foundationally different from mainstream visions of gender order in the global North, i.e. that the inclusion *en masse* of non-white women in particularly "arduous" forms of work might be an ongoing feature of industrial development in the global South—as it had been and was in North America, albeit in sectors other than mining.

When the 1934 and 1935 sessions of the ILC discussed the abolition of women's underground work in mines, the conflict among women's organizations about special labour protection directly 'entered' the ILO. This entrance was not for the first time, but for the first time it took on a distinct focus on non-white women workers in the global South. The ILC, for one thing, had to deal with a number of related communications. One group of associations, among them the International Union of Catholic Women's Leagues, supported the intention to enforce 'universally' the prohibition of women's underground work in mines. Its members considered the ILO's related plans "specifically significant because those who will benefit by it are particularly non-European coloured women, who are not so far covered by protective legislation".<sup>29</sup> The All-India Women's Conference (AIWC) similarly supported the ILO plan, and

---

27 Thibert explicitly requested this phrase to be included into the minutes of a meeting of the committee in 1933. The request for sure was informed, among other things, by the intention to curb potential anxiety within women's networks about another woman-specific ILO instrument in the making. ILOA, WN 1000/5/01, jacket 2, Thibert to Van Ween, 04/11/1933, attachment (French i.O.); LoN (1934), *Staff List*, 12; and Thébaud in this volume.

28 ILC (1935) *Employment of women on underground work* (Questionnaire 2), 10.

29 ILOA, D 618/1202/3, Communication to the Committee, ILC, 18th Session 1934, *Committee on the employment of women on underground work, Documents*.

referred—as if echoing the ILO’s ideas about the “weaker classes or workers” (see below)—to women working in mines in India as “belonging to a primitive race” and not yet “educated and well enough organized to speak on their own behalf”.<sup>30</sup> By contrast, both the St. Joan’s Social and Political Alliance and the ODI demanded non-adoption of the proposed Convention. The ODI referred at length to the disastrous material consequences of abolition for several tens of thousands of women working underground in mines in India and Japan. The St. Joan’s Alliance underlined that women should have the same right as men to decide for themselves which employment to choose.<sup>31</sup>

In addition, women who were directly connected to the ILO made their voices heard. Seven members of the Office’s large Correspondence Committee on Women’s Work referred to the planned Convention as “misguided philanthropy”, challenging the humanitarian line of argument in vogue within the ILO.<sup>32</sup> Present at the 1935 Conference were Danish Factory Inspector Kirsten Gloerfelt-Tarp and the prominent women’s leader and politician Jahan Ara Shah Nawaz from India, both as advisers to their respective governments. These women agreed as to “the desirability of ensuring that employment be found elsewhere for women excluded from underground work”. They disagreed, however, as to the substance of the ILO’s planned action. Gloerfelt-Tarp made clear that she preferred improvement of labour conditions in underground work in mines, for both women and men, over women-specific abolition. Shah Nawaz, while directly referring to the “difficulties” following from abolition as argued by the AIWC, agreed with the Conference’s overall recommendation; she affirmed the policies of the Government of India of gradually eliminating women’s underground work in mines, claiming that the “women’s

---

30 ILOA, D 618/1202/3, Communication to the Committee, *ILC, 18th Session 1934, Committee on the employment of women on underground work, Documents*.

31 ILOA, D 618/1202/3, Communication to the Committee, *ILC, 18th Session 1934, Committee on the employment of women on underground work, Documents*; ILOA, D 619/1001/3, Communication to the Committee, *ILC, 19th Session, 1935, Committee on the employment of women on underground work, Documents*. The St. Joan’s Alliance was a member of both the ODI and the Liaison Committee of Women’s International Organizations (LC). The LC had decided prior to the 1934 Session of the ILC not (yet) to take action on the subject, since “[t]he practice of employing women underground in mines was only prevalent in India and Japan and in these countries it was gradually dying out”, and did not come back to the issue in the following year. International Institute of Social History, Amsterdam, LC Archives 1926–1977, Box 2, 22/03/1934.

32 ILOA, D 618/1202/3, Communication to the Committee, *ILC, 18th Session 1934, Committee on the employment of women on underground work, Documents*.

organizations in India were entirely in agreement” with the proposed draft Convention.<sup>33</sup>

Thus, as the ILO was about to adopt the first ‘universal’ international labour standard focused on the global South, which aimed to extend a classical measure of women-specific abolition to this world region, a broad spectrum of women’s organizations and networks tended to foreground the concern for improving the lot of women workers in the global South. Yet they fundamentally disagreed on how they construed the agency of these workers, as well as on the means of improving their lot. The women’s discourse on international labour policies conducted in Geneva thus replicated standard features of the ongoing international debate on women-specific labour protection, even while taking on a more global character in terms of geography and participants.

### The Politics of Implementing Gendered Labour Protection in the Global South

In 1929, Albert Thomas, Director of the International Labour Office, publically boasted:

[I]n every part of the world a series of great reforms are [*sic*] coming into being, slowly perhaps, but surely. In Japan there are some 80,000 women who have traditionally been employed at night in the cotton mills. For years their cry has gone up ... Japan declared that it accepted the night work Convention, but would not ratify it yet ... We have now succeeded in obtaining the abolition of night work for tens of thousands of workers in the cotton mills. ... Today, even in colonial territories, Decrees have been promulgated ... on the employment of women ... The measures for which they provide do not always correspond with the terms of our Conventions, but they represent progress in the direction which the Convention indicates.<sup>34</sup>

In this statement, Thomas faithfully and compactly summarized both the various dimensions of the policies of bringing ILO-informed labour law to the

---

33 The quote is taken from Shah Nawaz’s statement. Gloerfelt-Tarp spoke ‘in a private capacity’ when addressing this question. ILOA, D 619/1001/1, *ILC, 19th Session 1935, Committee on the employment of women on underground work in mines of all kinds, Minutes*, 1st Sitting, 06/06/1935.

34 Quoted in Thomas 1948, 25–26.

global South as pursued by the International Labour Office, and the special emphasis within this framework on women-specific measures.

In its policies of globalizing ILO-informed labour law, the ILO generally pursued an interrelated double goal. It sought, first, direct ratification and implementation of its labour standards and then adaptation of territorial labour law to meet those standards. Second, the Office developed a variety of strategies aimed at supporting, or even pressuring, the responsible legal authorities everywhere in the world to engage in reform of territorial labour law to bring it into conformity with, or at least make it approach, ILO standards. Within this general framework, the Office pursued a politics of bringing gendered standards of labour protection to the global South. This particular focus resulted from a number of interrelated foundational approaches and contexts. First, “women and children” were considered “the weaker classes of workers”,<sup>35</sup> and workers in the global South, similarly, were characterized as particularly “defenseless”.<sup>36</sup> Second, labour standards that were to be devised by the ILO for either “native” workers or female and non-adult workers constituted a group of basic standards that served, in essence, fundamental “humanitarian” purposes of labour protection; there could be no controversy as to the pivotal importance of these standards compared to other labour standards which served more specific purposes. This centrality implied that the ILO had to and could act quickly and emphatically on the problems that these standards addressed.<sup>37</sup> In pursuance of these two basic considerations, Albert Thomas repeatedly made it clear that the “Office unhesitatingly” agreed with all those who felt “that the protection of the weaker categories of workers should come before all other preoccupations”—without, however, postponing other work.<sup>38</sup> Third, “oriental” or “special” countries and non self-governing territories, including the mandates of the League of Nations, were most likely to have no or only minimalistic and ineffective labour standards, even with regard to the “weaker categories of workers”, and labour conditions in these countries and territories often were especially problematic. Fourth, as a result of these combined contexts, especially oppressive types of labour relations and especially “weak” groups of workers in these countries and territories served as logical targets for the policies pursued by the Office of bringing women-specific labour law to the global South.

---

35 ILC (1928) *Record of Proceedings*, 265, 274; ILC (1929) *Report of the Director*, 76.

36 Reference here was to the global South alone. ILC (1921) *Report of the Director*, 67.

37 ILC (1928) *Record of Proceedings*, 60, 147; ILC (1925) *Report of the Director*, 389; ILC (1929) *Report of the Director*, 290.

38 Reference here was to women and children alone. ILC (1929) *Report of the Director*, 76.

Linked to the different legal status of the relevant territories, the Office pursued varied strategies in this regard. Once state members of the ILO—and a few non-sovereign countries such as India belonged into this category—had ratified a Convention, they were obliged to provide the Office with an annual report on measures taken to implement the provisions of the given Convention. The GB had the power to decide on the format of, and particulars to include in, these reports. State members from the global South formally enjoyed this same status, and in some cases, could make use of qualifications within some Conventions to soften the respective standards. Both Conventions on women's night work contained such special regulations for India and Thailand. As for non-sovereign territories under the control of the colonial or mandate powers who were members of the ILO, the Office could promote the implementation of ILO-informed labour law only via mediation by these powers, since they could decide whether or not, or with which modifications, they would implement ILO standards in these territories. For mandated territories, this authority was subject to the League of Nation's international supervision of their administration; in the latter machinery, the ILO played a certain, if limited role.<sup>39</sup>

This variation both allowed for and foreclosed a number of avenues and strategies for promoting ILO-inspired labour law and for the application and implementation of ILO Conventions. This fact in turn had visible influence on how the Office could foreground women-specific labour law. The Office early on developed a highly pro-active attitude in working with these various options. As regards the state members of the global South, who tended to be in a weak and/or aspiring political position in international governance, the Office systematically concerned itself with bringing pressure, always adapted to the circumstances and the political opportunity structure, on these countries to adopt women-specific labour law. In the early 1920s, for instance, the Office engaged in systematic correspondence with countries like Haiti and Liberia to prod them “to establish the beginnings of legislation inspired by the four Washington Conventions concerning the work of women and children”.<sup>40</sup> The Office also tried hard to exert influence on the larger countries of the “East”. On the occasion of Chinese plans for provisional factory regulations in 1923,<sup>41</sup> Albert Thomas engaged in a number of carefully designed and orchestrated confidential and personal interventions aimed to make sure that an

---

39 Zimmermann 2010b.

40 ILOA D 601/2010/37, Minute Sheet, Plissard to Madame Weaver, 20/09/1923 (French i.O.).

41 ILOA D 601/2010/13, Ratification of Washington Draft Recommendations and Conventions (General) China; ILO, *Official Bulletin*, 7, no. 12, March 1923.

effort would be made to “especially” protect “women and children”.<sup>42</sup> Information about abhorrent labour conditions of women, received from a Shanghai activist for the Young Women’s Christian Association (YWCA), he suggested, might be used to scandalize the International Labour Conference.<sup>43</sup> The GB expressed “great satisfaction” when Japan soon thereafter introduced special protection clauses for women “before and after childbirth”, and the Office made sure to widely publicize the reform.<sup>44</sup> A few years later, in a report to the GB on his “Visit to the Far East”, Thomas again underlined the importance of the ILO’s focus on women’s and children’s work when dealing with China. Thomas had advised the Chinese authorities responsible for such regulations that the “Government might at once apply, creating an inspectorate for the purpose, the three or four fundamental reforms which must form the basis of all labour legislation: abolition of the employment of children, abolition of the night work of women and workmen’s compensation for accidents. If the Government directed its first endeavours towards establishing reforms which are already accepted by all the great industrial countries ... it would be morally impossible for employers, even and indeed especially foreign employers, to refuse to apply those reforms”.<sup>45</sup>

Japan stood apart from China in greater progress towards developing labour law informed by ILO standards. At the same time, with respect to Japan too, the focus early on was on the “Conventions dealing with the night work of women and ... of young persons, Conventions which make a special appeal to humanitarian sentiments” and which “should be universally ratified and ... thus provide the first examples of the universal application of the system provided for” by the Paris Peace Treaties.<sup>46</sup> The focus on women and children remained a constant feature in the extended and complex dealings of the Office with Japan throughout the interwar period.

From the start, the Office, all variety notwithstanding, tended to foreground regulations relating to the Night Work (Women) Convention over those

42 ILOA D 601/2010/13, Thomas to Mon Cher Ministre et Ami, 11/04/1923 (French i.O.).

43 ILOA D 601/2010/13, Thomas to Monsieur le Ministre de Chine à Berne, 11/04/1923 (French i.O.).

44 ILO, *Official Bulletin*, 8, no. 4, July 1923, 47–48; ILOA D 601/2010/13, Thomas to Monsieur le Ministre de Chine à Berne, 11/04/1923 (French i.O.), and [?] to Son Excellence J.R. Loutsens-gtsiang, 06/07/1923 (French i.O.). For a recent overview on the ILO’s relations with China in the interwar period, see Y. Chen (2014), here esp. 29 f.

45 The reference to ‘foreign employers’ alluded to the various ‘concessions’ on Chinese territory to which national Chinese legislation did not apply. ILO, *Minutes of the Governing Body*, 43rd Session, Geneva, March 1929, 135–149.

46 ILOA D 601/2010/35/4/0, Thomas to the Japanese Delegation, 06/04/1923.

relating to the Maternity Protection Convention. This choice was not coincidental. Whereas the Night Work (Women) Conventions of 1919 and 1934 focused exclusively on prohibiting the involvement of women in certain types of work, the Maternity Protection Convention contained stipulations as to how women workers were actually to be treated in case of pregnancy and childbirth, including rather extended leave before and after confinement, and—importantly—compulsory material benefits for such workers during this prohibition period.<sup>47</sup> Approximating this latter standard proved to be difficult for many countries and territories.

The example of India illustrates the challenges involved. In 1938, the Office in Geneva learned that Indian lawyer and social reformer Godavari Gokhale was campaigning for adoption by various Indian territories of a maternity benefit scheme that had employers directly and exclusively bear the cost of the benefits—an option “deliberately excluded” in the Maternity Protection Convention. Marguerite Thibert was truly concerned. While conceding that India might not yet be prepared for any “general sickness and maternity insurance” scheme, Thibert nonetheless called for proposing to Indian officials the “creation of a maternity-assistance fund administered by the state” and financed by a tax levied on all employers “without being related” to hiring “this or that individual” so as to circumvent “the important point leading to the disadvantage” of Gokhale’s draft bill.<sup>48</sup> Soon, the Geneva Office dispatched a detailed note to the New Delhi office of the ILO, asking the regional unit “to suggest improvement of the Bill as well as of legislation already in force”.<sup>49</sup> While praising Gokhale’s draft bill as potentially “pav[ing] the way to ratification” of the Maternity Protection Convention, the Office cited concrete examples received from the AIWC and a local women’s organization that showed how problematic types of maternity benefit schemes in some Indian provinces had led to “restrictions” of the employment of women, the dismissal of pregnant women, and “the disinclination of women to claim legal benefits owing to fear of dismissal”—even though ILO policies clearly had served as a template for such provisions.<sup>50</sup> Upon receipt of the note, the India office communicated

47 Authorities who considered ratification or application of the Forced Labour Convention certainly did not consider this Convention as a woman-specific prohibitive piece of legislation in the first place.

48 ILOA WN 1/33, jacket 1, Minute Sheet, Thibert to Johnston, 10/10/1938, and the following notes on this Sheet.

49 ILOA WN 1/33, jacket 1, Minute Sheet, various notes; ILOA WN 1/33, jacket 1, Director of the ILO to Director of the New Delhi Office, 10/11/1938.

50 ILOA WN 1/33, jacket 1, Maternity Protection in India, 10/11/1938 (all quotes given in text). A summary of the ILO’s engagement with the issue of maternity benefits in India in the

the “substance” of this “very useful note” to Gokhale.<sup>51</sup> However, the 1939 revision of the key Madras Maternity Benefit Act retained the rule that the benefit “shall be paid by the employer”.<sup>52</sup>

Women internationalists who pursued a politics of strict legal gender equality in labour law bitterly opposed the expansion of ILO-inspired gendered labour law in the global South. With regard to women’s underground work in mines, this opposition was voiced already in 1929, years before the ILO adopted the related instrument. The first full testimony of this opposition was prompted by an ILC resolution in 1929, originally moved by the Japanese workers’ delegate, and requesting the ILO to consider at an “early Session” of the Conference the international prohibition of underground work in mines for children and women.<sup>53</sup> The ODI in its journal *The Open Door* paralleled ongoing efforts of the Indian legislature to abolish women’s underground work in mines with the history of the British Coal Mine Act of 1842, constructing the two episodes as parallel, i.e. only historically asynchronous, events: the “wrong to women that flowed” from the historically first British act introducing women-specific labour protection will similarly “flow from the Indian proposals”. The ODI attributed the lack of resistance of the majority of married British woman miners nearly a century before to the “servile status” of women at the time. While talking at length about the British example, the ODI made sure not to imply—directly—that nearly a century later, Indian women workers might suffer from a similar status. Rather, *The Open Door* invoked the parallel between the organized political resistance of those few female miners in Britain who, upon abolition in 1842 “were certainly not submissive when they were turned out [of the mines] to starve”, and the opposition of female miners in India to planned abolition already being recorded.<sup>54</sup> Years later, after adoption of the Underground Work (Women) Convention, *The Open Door*, in

---

early years, and the ensuing legal developments to the later 1930s, is given in ILO (1938), *Industrial Labour in India*, Studies and Reports, Series A, No. 41, (London: P.S. King & Son for the ILO), 94–97. A brief account of Indian women’s organizations’ and activists’ apparently rather intense engagement with the ILO policies for woman workers in the 1930s is given in Forbes 1996, 170–176.

51 ILOA WN 1/33, jacket 1, Director of the New Delhi Office to Director, 17/12/1938.

52 The Madras Maternity Benefit Act, 1934 (Madras act VI of 1935) and the rules made thereunder as modified up to the 15th August 1952 (Madras: Superintendent, Government Press); see also ILO (1938), *Industrial Labour in India*, 94–97.

53 The text of the Resolution is given in ILC (1934), *Employment of women on underground work*, Report VI (1), [5], 6.

54 Abbott, Elizabeth (1929) “Women and Right to Work in Mines. Philanthropy versus Justice”, *The Open Door*, no. 1, September, Supplement.

an analysis of the situation, once again referred to the protest of the women concerned.<sup>55</sup>

As it pursued its policies of bringing ILO-informed gendered labour law to the global South, the International Labour Office regarded non-self-governing territories administered by state members of the ILO as a separate field of action. In the first half of the 1920s, the Office encountered perseverant negligence by these powers to apply ILO standards to such territories. In response, the Office started in a (more) formalized manner to press the colonial and mandatory powers towards application or at least approximation of ILO standards in dependent territories. Once again, there was a special emphasis on women-specific regulations. In 1926/1927 a newly installed Committee of Experts on the Application of Conventions and Recommendations, mandated to have the Office and GB request from members more concrete and detailed information about (non) application of Conventions, began to analyze the Annual Reports on application provided for under Article 408 of the ILO Constitution.<sup>56</sup> In its very first report, the newly installed Committee drew attention to the fact that a number of member States in their annual reports simply stated that Conventions were not applicable to their colonies “without giving any complementary explanations”. The Experts admitted “that in practice certain Conventions can have no purpose in certain colonies, protectorates or mandated territories, or raise great practical difficulties”. There were, “however, other Conventions, such as those relating to the protection of labour of women and children, which have a very wide bearing, and which, it would appear, might be applied even in colonial areas. Moreover, even when application appears to be impossible, it would be of value if the Governments would make known the special conditions which present insurmountable obstacles to application”.<sup>57</sup>

The Office and its networks pro-actively worked towards bringing about more detailed reporting by colonial and mandatory powers, and, by implication, related development in colonial and imperial labour law. One 1935/1936 interaction can serve as a typical example of how a variety of actors tried to intervene, mobilizing in particular reference to the international dimension of ILO labour policies. In 1935, the Indian press reported that one trade union functionary had urged the National Trades Union Federation to challenge, through an appeal to the International Labour Office, the alleged non-applicability in French

---

55 *The Open Door* (1937), no. 21 [no page numbers given].

56 The (long-term) name of the Committee given in the text was not yet spelled out upon its establishment. ILO, *Report of the Director*, ILC 11th Session, Geneva 1927, 259–261; ILC (1929), *Forced Labour*, 3–4.

57 ILC (1927), *Report of the Director*, 415.

territories in India of ILO Conventions to which France was a party.<sup>58</sup> Within the Geneva Office, one officer responsible for the application of Conventions, K. Kuriyan, immediately took up the issue and was supported by J. Goudal, the first officer in the Native labour service. Kuriyan argued that when it came—“e.g.—to the Night Work (Women) Convention and the parallel instrument on night work of young persons, i.e. Conventions “binding both upon France and British India”, the conditions “cannot be substantially different” in the French territories in India. He thus demanded action.<sup>59</sup> Soon thereafter, the case was transformed into a formal appeal under international law.<sup>60</sup> A special committee composed of three GB members prepared a report urging colonial governments to examine ‘in good faith’ whether any Convention could be applied at least with modifications to colonial territories, and suggested that “State members might be requested” to regularly “supply information on any changes in the ‘local conditions’” prevailing in such territories.<sup>61</sup> The GB decided that a related additional question was to be included in the Annual Reports under Article 408. The French Government representative felt alienated.<sup>62</sup>

Once colonial governments moved towards application of women-specific ILO Conventions to dependent territories, only legal equality feminists among Western-led women’s organizations again voiced staunch opposition. In 1932, the British Government planned to apply the Night Work (Women) Convention to 13 non-self-governing territories. This policy alarmed the ODI and its British member organization, the Open Door Council. Appropriating an argument formerly employed by the British Government to justify non-abolition, the British Council argued that in tropical climates “work during the day is more arduous than that during the night”. It demanded “the immediate reversal” of the new

58 ILOA D 600/2001/22/3, Coupure de Presse du Hindu du 10.8.35.

59 ILOA D 600/2001/22/3, Minute Sheets, Kuriyan to Weaver et al., 05/10/1935; Rao to Blleloch et al., 02/10/1935; Goudal to Weaver, 25/10/1935. Kuriyan in 1934 was second in the service on the Application of Conventions and Recommendations within the Labour Conditions Section of the Office, League of Nations (1934), *Staff List of the International Labour Office showing Nationalities and Salaries for 1934* (Geneva: League of Nations) 12, 14.

60 This is the stipulation contained in the ILO Constitution ILO, *Minutes of the Governing Body*, 74th Session, Geneva, February 1936, 3, 18, 63, 194; Weaver 1937, 18.

61 Direct quotes from the (confidential) Report of the Committee as given in Weaver 1937, 18; see also ILC (1936), *Summary of Annual Reports under Article 22*, Appendix, 4. *The Open Door* (1936), no. 19, reported in December 1936 that restrictions on women’s night work and maternity-related legislations had indeed been introduced in “French India” in May 1936—“curtail[ing] the liberty of one sex when introducing labour legislation for the first time, instead of improving the conditions for both women and men”.

62 ILO, *Minutes of GB*, 75th Session, Geneva, April 1936, 52–53.

British policy, “which deliberately creates a situation such that when industrial employment does arise in the future, economic opportunity and equal personal status are denied to women, and upon them is imposed from the outset of industrial development a personal and economic handicap”.<sup>63</sup> Two years later, the Council bitterly complained about and condemned “the action of the Government in prohibiting, or proposing to prohibit, night work of women in twenty-eight non-self-governing territories”. The Council demanded that the related ILO Convention “be denounced and legislation ... in this country and in the colonies amended, so as to make any prohibition of night work apply both to men and women” equally.<sup>64</sup> This demand was phrased in such a way that legislature might grant it via removing women-specific restrictions of night work without introducing, or without introducing substantial, gender-neutral prohibitions of night work. In other words, the Open Door Council, regardless of the colonial context, prioritized the abolition of gender difference in labour law over the control of, or cut back on, exploitative labour relations.<sup>65</sup>

Taken together, with regard to non-self-governing territories, the International Labour Office certainly pushed, and once again with special reference to women-specific standards, for the application of ILO standards and for assimilating territorial labour law to these standards. While activities pursued and information provided by the powers themselves under Article 408 constituted a key starting point for related ILO action, the ILO had no direct influence on the policies pursued by these powers. The ILO had no means at its disposal to challenge the foundational fact that its Constitution gave “wide discretionary powers”<sup>66</sup> to the colonial and mandatory powers. The inscription of a special paragraph in all the ‘special’ instruments on “native” labour aimed at promoting application to non-self-governing territories did not fundamentally change this setting, since the Office itself had made sure to water down the wording so as to avoid the danger of provoking delayed ratification or to overstep what

63 *The Open Door* (1932) no. 9, 29–30 (first quote, giving reference to former government position); Open Door Council. British Branch of the Open Door International. Non-Party [1932–1933], *Seventh Annual Report* (no year given) (no place given: Wadsworth and Co.), 13 (second quote; The Open Door made a quite similar statement).

64 Open Door Council. British Branch of the Open Door International. Non-Party [1934–1935], *Ninth Annual Report* (no year given) (no place given: Wadsworth and Co.), 27.

65 I have discussed this policy script in detail in Zimmermann 2016a.

66 This is how C.H.W. Weaver, the Chief of Section of the Special Problems Section, which, among other things, dealt with the “conditions of labour in colonies, protectorates and mandated territories” in the International Labour Office, put it. Weaver 1937, 18; ILO, *Staff List on 10 September 1937* (no place given: ILO), 18.

was legally possible within the limits of the ILO Constitution.<sup>67</sup> The Office did not succeed in having this same soft special article on application in non-self-governing territories inscribed into the Underground Work in Mines (Women) Convention, even though it argued that the planned instrument was “a matter of practical interest almost exclusively in colonial territories”.<sup>68</sup> Charged with aspiring to the “internationalization of the colonies”, Office efforts to exert more direct or straightforward influence on colonial labour policy generated strong opposition as inappropriate interference into intra-empire affairs.<sup>69</sup>

### The Struggle over Globalizing Gendered Labour Law in Perspective

Soon after the Second World War the ILO essentially abandoned its policy script of bringing, in a preferential manner, women-specific labour protection to the global South. When in 1944 the ILC convened in Philadelphia, it still adopted a Recommendation that called on all ILO members responsible for dependent territories “to secure the effective application in each such territory” of what was now labeled, for the first time in the official language of the ILO, “Minimum Standards of Social Policy” for such territories (Recommendation No. 70). Amongst the instruments reiterated and combined in this Recommendation, the women-specific standards and regulations figured prominently—for a last time. By 1947, when the Minimum Standards were made into a Social Policy (Non-Metropolitan Territories) Convention (No. 82), the focus on women-specific standards and regulations had nearly disappeared.

While this was in keeping with the ILO’s more general shift to legal equality instruments discussed in the introduction to this volume, it also signaled the abrogation of a unique experiment in promoting, through gendered international and applied labour law, development in the global South to catch up with the global North. In the interwar period, the International Labour Office

67 ILC (1930), *Forced Labour* (Questionnaire 1), 8–9, 53; ILC (1930), *Forced Labour*, 207–208.

68 Opposition came from the British and the Dutch governments. ILC (1935), *Employment of women on underground work* (Report 2), 25–28, 36–37, 41–43, and Supplement, [2], 4; ILC (1934), *Employment of women on underground work* (Report 6 [1]), 25–27; ILC (1935); *Employment of women on underground work* (Questionnaire 2), 10, 25–27; ILOA, D 619/1001/1, ILC, 19th Session 1935, *Committee on the employment of women on underground work in mines of all kinds*, Third Sitting, 7 June 1935.

69 This is how Weaver put it in public defense of the ILO’s newly emerging ‘native labour’ policy in 1931, detailing that ‘[i]n some unexplained way international treaties or conventions relating to colonial matters are supposed to derogate from the sovereign rights of States in a different manner from other international treaties.’ Weaver 1931, 348.

reluctantly recognized that particularly abusive labour relations facilitated capitalist development in the global South. At the same time, it associated this state of affairs with what had happened in Europe in the nineteenth century, envisioning that the European pattern would be reiterated before long in the global South. Step by step, so the argument went, labour protection would improve the status of workers. This meant bringing to the global South new types of 'special' labour standards specifically addressing the 'special' circumstances there and preparing for the transition to 'normalized' free labour, as well as 'universal' standards of labour protection of all kinds. Both of these elements of the ILO strategy involved a—non-exclusive—focus on women-specific labour protection. Such measures were included into international instruments focusing on the global South, and the International Labour Office pushed for their early introduction and expansion in territorial labour law in the global South wherever and whenever possible. This was to occur because women-specific protection had constituted in the global North, and was about to in the global South, one of the first necessary and doable steps in terms of labour protection. Pursuing this programme of standard setting and diffusion of gendered labour law, the ILO, from the early 1920s until after World War II, entertained one of the earliest practical policy programmes aimed at closing the gap in labour standards between the industrialized countries and the global South. This programme was rooted in a modernization paradigm, which conceived of development in the global South as modeled on the historical progress the West had undergone earlier, but had to be hastened through international action. Women-specific labour law thus functioned as one important means of internationalizing and globalizing gendered governance.

At the same time, the interwar period saw a rising tide against special labour protection for women. Not the least in response to these ILO's policies, women's networks and other actors promoting this change gradually began to consider women's work and labour relations in the global South and include reference to this part of the world into their demands. Within women's networks visibly interested in gaining influence over the politics made at Geneva, in the interwar period the question of gendered labour law "was the only real controversy ... on the international level" remembered Margery Corbett Ashby, President of the IAW between 1923 and 1946.<sup>70</sup> Many women's organizations and networks were not in principle opposed to certain elements of women-specific labour protection and explicitly supported or silently accepted the ILO's policies of globalizing women-specific labour law. By contrast, those women's organizations and activists who entertained more individualist concepts of women's

---

70 As quoted in Rupp 1997, 139–140, 271.

emancipation, with a strong focus on paid work and legal equality in labour law, were to various degrees critical of the ILO's policy script for the global South.

By 1947, it had become apparent that the ILO would not be able to maintain its emphasis on bringing gendered labour standards to the global South. Yet neither the mounting opposition to gendered labour law voiced by women's organizations and networks, nor the growing emphasis on gender equality in international politics generally, can fully explain such withdrawal. Two additional interrelated factors contributed to this failure. First, in many places in the global South, the class position of workers vis-à-vis employers and (especially colonial) governments was and would continue to be a particularly weak one. Second, in many places in the global South the interest of employers, including (colonial) governments, in accessing, using, and abusing woman's labour power trumped male workers' patriarchal or paternalistic interest in controlling women and consuming women's unpaid labour at home in a much more pronounced manner than in Europe. Consequently, as we have seen, employers and colonial powers construed non-white women's labour and their position in society as historically different compared to white women's labour and position. They 'normalized' women's paid work, and tended to deny the right to family unity to considerable parts of the non-white population, thus potentially undermining male power within families. The International Labour Office, by contrast, in a developmentalist fashion sought to bring the class position of, and gendered difference between, workers in the global South, step by step, in line with the situation in the more advanced countries, but foundered on this giant stumbling block. The ILO's vision, in other words, that the future of women's work in the global South would and should resemble the present of women's work in the global North ignored that the particularly abusive character of labour relations in many places in the global South resulted from capitalist expansion to and within the global South. While factually acknowledging colonial difference in labour relations, especially through the creation of the 'special' standards on 'unfree' labour, the ILO was unable to more critically address these conditions. This inability stemmed in large measure from the power of the colonial and mandate powers but also was due to the interest of particular employers within the Organization. The Office tried in vain to overrule these interests with its programme of gender-specific labour legislation for the global South, which was to simulate European historical patterns. Repeatedly, spokespersons of colonial interest within the ILO evoked both the different character of gender, family, and labour relations in the global South and women's legal equality in order to avoid the inclusion of women-specific protection into relevant international labour standards.

Important women's networks for their part had long criticized women-specific prohibition in labour law in the industrialized countries as being motivated by male interest and reifying the patriarchal domination of women, and ILO policies in the interwar period were accused of taking sides with these interests. At the same time, feminists advocating legal equality in labour law in the global South actually shared one foundational idea with the ILO. They ignored, in practical political terms, the fact that any policy of bringing labour protection to the global South was not a beginning, or, as the key journal of legal equality feminists internationally once put it tellingly, a "Bad Beginning",<sup>71</sup> but an—attempted—intervention into the ongoing politics of unequal and deeply racialized and racializing development of labour relations on a global scale.

Taken together, a complex entanglement of gender, class, and racialized global inequality characterized the overall political developments and struggles described in this contribution and foreshadowed problematic traits of international gender politics during the latter part of the twentieth century and beyond. The ILO in the interwar period pursued a politics of introducing and enlarging gender difference in labour law for non-white workers in the global South. This approach was meant not only to protect non-white woman workers against extreme forms of exploitation and misery. The ILO's policies also emerged from the hope that women-specific protection would work as a first step towards controlling and curbing extreme exploitation of all workers in the global South and thus overcoming racialized global difference. While paternalistic strategies of gendered protection undoubtedly coloured these policies, they also considered the question of gendered labour law as part of and related to the quest for reducing overall economic inequality.

By contrast, economic and class concerns diametrically opposed to the ILO's vision drove colonial and related employers' interest within the ILO. Their opposition to women-specific protection derived from interest in unfettered exploitation of working women in the service of capitalist and public enterprise in the global South. Those women's networks who similarly opposed the expansion of gendered labour law in the global South did so because they objected to paternalistic control of women and argued that legal equality in labour law would economically benefit woman workers in the global South in just the same way as it benefitted woman workers in the industrialized countries. However, inasmuch as their quest for women's legal equality in non-self-governing territories and independent countries in the global South foregrounded gender equality in labour law over the issue of achieving overall

---

71 *The Open Door* (1936), no. 17, [1].

class gains in labour law, their argument could be abused to justify ongoing racialized global difference in labour relations. The change in direction in the ILO's standard-setting policies in the years following World War II signaled that the overall political constellation thus described was conducive to the rising prominence of overtly problematic scripts of gendered global governance. While successfully promoting women's equality—for example in the world of work—dominant scripts of global governance in the twentieth and twenty-first centuries have detached gender equality from policies aimed at combating both global inequality and the exploitation of labour.