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## **“THE SEARCH OF A UNIVERSAL MINIMUM STANDARD BY THE ILO”**

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***L'impact des normes de l'OIT sur la scène internationale***

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# I. MATTER AND DYNAMICS OF GLOBALIZATION..

- ❖ Globalization generates or reinforces some dynamics (Lantarón Barquín, 2019, 35)



- ❑ Increases the importance of supranational sources departing from an inefficient multilevel constitutionalism (Maccormick 1999)
- ❑ It strengthens private sources, soft law, making motorized legislation bigger (Ibáñez García, 2008). Unbalance between public and private law, not coordinated.
- ❑ Consequently, legal pluralism and “deterritorialization” as well as legal uncertainty grow (Thrift, 2002, 29)
- ❑ It also affects the content of the state-made legal provisions in very different ways.
- ❑ Increases the volume of non-mandatory applicable law. Some authors even speak about *Law shopping* (Supiot, 2010, 170)



- ❖ These dynamics deeply affect the sources of Labour Law overlapping former Kelsen pyramid.



- ❖ The defense of workers' rights becomes more complicated.
- ❖ Dynamics of workers' rights protection in this "new" scenario.
  - A) From a subjective point of view: Labour Law actors.
    1. Strengthening the interaction of all agencies, strengthening their coordination. *UN General Assembly endorses ILO Centenary Declaration for the Future of Work*  
[https://www.ilo.org/newyork/news/WCMS\\_719183/lang--en/index.htm](https://www.ilo.org/newyork/news/WCMS_719183/lang--en/index.htm)



2. Paying attention to multinational enterprises
  - 2.1. Through different legal instruments
  - 2.2. These frontlines of action do not constitute watertight compartments
  - 2.3. "Two-speed pact", from higher standards to those most virtuous companies (Stefania Scarponi, 2018).
3. Workers. Digital era. Platform economy. Industry 4.0.

B) Objective point of view. The search for a minimum common international denominator of labour standards, on labour dignity basis.

## II. MINIMUM INTERNATIONAL LABORAL STANDARDS.

**A) What is the category that identifies that common denominator?** and if it is, is it unique? and, if it isn't, how does it live together with the rest of them?

### FIRST. Labour Human Rights

➤ Difficulties of the concept. Social/Complex/Wide-strict/



## SECOND. Adoption of the ILO Declaration on Fundamental Principles and Rights at Work (DFPRW)

- Content and development
- Why does it fit this function (Servais, JM, 2012, 128)
  - ✓ It breaks the normative self service, allowed by the ratification system (A. Supiot).
  - ✓ Impact:
    - The "work" section of the "UN Global Compact" 2000, which lists four principles and repeats word for word the language of the Declaration.
    - It has been used to define the rules to be followed jointly by the ILO and the largest international financial institutions in their country-level activities
    - Imitated in the social letters adopted by the regional bodies (European Union, Council of Europe)
    - Served as an inspiration for multinational companies when they project their codes of social conduct or define the criteria to be observed by social reports or auditoriums.
    - Invoked by NGOs requesting the establishment of a list of basic principles to be respected in terms of social policy



## THIRD: DECENT WORK.

- ❑ Terminological confusion.
- ❑ Bring together the strategic objectives or pillars of the ILO's constitutional mandate. In addition, "a framework for harmonizing and providing unity to the different ILO departments.
- ❑ Birth and milestones.
- ❑ Conceptual uncertainty continues.
  - ✓ Moneréo
  - ✓ Goldin
  - ✓ RODGERS two important ideas: "decent work has a floor but not a roof" "A moving goal, a goal that evolves along with the possibilities of societies, a threshold that moves along with economic and social progress" Freedom to the Member States in the way in which they are to achieve their objectives (section I.C.)
  - ✓ In other words, the level of the content of each country's "decent work" is different. And almost without so many sights there is, or may exist, a "decent work" content specific to each state.
  - ✓ Is "Decent Work" the "labour part" of human rights"? Is it a concept that does not equally reach all the countries determining a "two-speed pact"?. <http://www.ilo.org/IRDashboard/#azfoxn0>



## FOURTH. Universal Labor Guarantee.

Fundamental rights and principles + basic working conditions

## FIFTH. Hybrid concepts or compendiums.

- Section 12 of the Ruggie Principles
- International Trade and Investment Treaties

### ✓ What features should this/these category/categories observe?.

- ✓ Dignity; Universal; Dynamical character; Holystic; Redistributive.

## III. CONCLUSION

### (+) THE PROGRESSION FROM:

1. DELIMITATION BY A NORMATIVE COMPENDIUM TO A MORE CONCEPTUAL, TO A CATEGORY, OBVIOUSLY DEFINED BY THE LEGAL RULES
2. A GENERAL COMMON CATEGORY TOWARDS AN SPECIFIC OF THE LABOUR WORLD.

### (-) NEGATIVE.

1. AVOID INTERNAL TERMINOLOGICAL CONFUSION
2. AVOID THE DEVIANT AND THE USE OF APPEARING TO ASSUME THESE CATEGORIES AND/OR CONTENT WHEN THERE ARE ACTUALLY SUBSTANTIVE DIFFERENCES.



# Congratulations to the ILO

## MERCI BEAUCOUP!!!

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