

# Analyzing Exclusion in Global Worker Health Policy

## L'analyse de l'exclusion dans la Politique globale de la santé des travailleurs

## Analizar la exclusión en la política global de la salud de los trabajadores

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Résumé de l'article

Cet article examine le développement de la *Stratégie globale en matière de sécurité et de santé au travail* de l'Organisation internationale du Travail (OIT) à travers le prisme de l'exclusion sociale. L'exclusion sociale est un concept transversal dans les sciences sociales. L'article intègre l'étude de l'exclusion comme une composante essentielle d'une analyse institutionnelle en relations industrielles. Il présente un cadre analytique en utilisant quatre mécanismes d'exclusion repris de la sociologie : 1- l'encodage ; 2- les voies encadrant ; 3- la non-prise de décision ; et 4- les actualités minées.

Les observations sont présentées à partir d'une étude qualitative de 125 textes juridiques préparatoires rédigés dans le cadre du développement de la *Stratégie globale* entre 2000 et 2015. Notre méthode s'avère être une interprétation socio-historique suivant les principes de l'analyse des documents primaires articulés par Marc Trachtenberg dans son livre *The Craft of International History : A Guide to Method*.

Des dynamiques d'exclusion furent observées dans trois domaines : 1- la gestion du sens de l'intégration des politiques en matière de SST ; 2- l'élaboration du rôle des droits collectifs du travail dans la politique en matière de SST ; et 3- le développement des protections spécifiques de danger en matière de SST. Le résultat a donné une *Stratégie globale en matière de SST* avec des forces de promotion, mais aussi des valeurs néolibérales entrelacées dans le cadre de sa politique.

# Analyzing Exclusion in Global Worker Health Policy

Jeffrey Hilgert

**This article examines the development of the ILO's *Global Strategy on Occupational Safety and Health* through the lens of social exclusion. It presents an analytic frame using four mechanisms of exclusion taken from sociology: 1- encoding; 2- framing pathways; 3- non-decision making; and 4- mining actualities. Observations are presented from a qualitative study of 125 preparatory and legal texts created through the development of the *Global Strategy* between 2000 and 2015. Exclusionary dynamics are observed in three areas: 1- managing the meaning of OSH policy integration; 2- shaping the role of collective labour rights in OSH policy; and 3- sidestepping the development of specific OSH hazard protections. The result is a *Global OSH Strategy* with promotional strengths, but also neoliberal values interwoven in its policy framework.**

**KEYWORDS:** International Labour Organization, occupational health and safety, social exclusion, mobilization of bias.

## Introduction

The rise of neoliberal globalization has been accompanied by the growing influence of international organizations (Bartley, 2007; Bandelj *et al.*, 2011; Ponte *et al.*, 2011). These coordinating institutions such as the World Trade Organization (WTO) and the International Labour Organization (ILO) face the challenging and often conflicting task of balancing the management of economic globalization against various social development objectives (Bonvin, 1998; Standing, 2008; Kott *et al.*, 2013). These competing forces of neoliberal globalization and social protection have also influenced global worker health norms. Understanding these norms as institutional models requires assessing their policy blueprints as well as the alternative ideas that have been excluded in their development. This paper examines the historical development of global worker health norms through the sociological lens of exclusion.

Exclusion as a social science concept has been debated extensively by francophone scholars (Xiberras, 1994; Soulet, 1998; Châtel *et al.*, 2001) and is considered to be both an end state and a process. Individuals and groups of people can be excluded as full members of a society, for example. Ideas and strategies

for public policy and social protection can also face exclusion, making the study of exclusion an integral part of any socio-historical institutional analysis.

This article explores the exclusion of ideas that has played out within the negotiation and establishment of global worker health policy. The context is the negotiation of the global norms on occupational safety and health (OSH). The historical background is documented against concepts from the exclusion literature. The documentary record, aided by expert interviews, is then presented and interpreted deductively. The article identifies three key areas of exclusion in global worker health policy. It concludes with a call for a more explicit study of exclusion in global OSH norm creation for social science as well as for a reflexive evaluation method to strengthen global human rights norms.

## Background

Long-range policy coordinating strategies for the protection of worker safety and health play a critical role in the global economy. The multilateral system through the International Labour Organization (ILO) promotes long-range strategies, and the ILO's *Global Strategy on Occupational Safety and Health* (ILC, 2003) advocates a model of national action to protect worker safety and health. These efforts have rightly enjoyed broad public support, but they play out in a world where neoliberalism challenges their effectiveness. While initiatives to build global norms are never perfectly coordinated transnationally (Castillo, 2000; Compa, 2002; Elliott *et al.*, 2003; Tsogas, 2009), they shape state and non-state regulation well beyond the formal ILO supervisory system (Charnovitz, 1987; Riisgaard *et al.*, 2011; Locke *et al.*, 2013; Murphy, 2014). The diffuse impact of global labour standards makes their design a critical object of study. Considering how 2.3 million workers still perish from work-related injury and illness every year (Takala *et al.*, 2014), how society decides to regulate this dimension of worker protection under globalized capitalism needs significantly more attention.

Global worker health policy is especially important for countries with technical and administrative challenges. Lesser-developed societies are more vulnerable to weak global norms. As formal diffusion of ILO-OSH norms continues to grow—ratification of OSH “framework” conventions has increased 40.8 percent since 2000—societies look to these strategies for guidance (ILO, 2015a). China, for example, ratified *Convention No. 155 on Occupational Safety and Health* in 2007. Turkey, after the Soma mine disaster, ratified the *Convention on mine safety* and plans to implement its provisions starting in 2016 (ILO, 2015a). Given the importance of these strategies to the worldwide movement to protect safety and health, their evaluation is a social concern.

Protecting worker safety and health is a long-running ILO concern. Prescriptive hazard-based global OSH norms were the strategy of choice until the 1970s when

society started to demand stronger global action to devise a more comprehensive global safety and health strategy (Blanchard, 1975). At the same time, critiques of command and control strategies were being raised in favour of process-oriented norms (Aalders *et al.*, 1997), and soft law strategies were gaining favour (Abbott *et al.*, 2000; Blanpain *et al.*, 2004). The ILO responded by developing a 'framework' strategy through 'comprehensive' policy-based OSH norms versus 'fixed' prescriptive OSH standards that targeted particular workplace hazards. The contested debate over the design of the right vision for such a national OSH policy 'framework' model began at the International Labour Conference in 1980 (Hilgert, 2013:119).

The *Decent Work Agenda* (Somavia, 1999) has also contributed to the design of global OSH norms, resulting in the ILO's *Global Strategy on Occupational Safety and Health* (ILC, 2003). Previously, the ILO's OSH framework norms had been based on the cultural values of the UK OSH ideology of Lord Alfred Robens (1972). That vision, one that prioritized the role of self-regulation and limited models of state action, ultimately served as the philosophical foundation for *Convention No. 155* of 1981, as acknowledged by the ILO's Committee of Experts (2009:4).

Robens led the first significant effort to consolidate a political ideology around a safety and health policy framework. He concluded "negligence of health and safety should not be a criminal offense" (ILC, 1981b: 25) and OSH was the responsibility of "day-to-day good management" through "a more effective self-regulating system" as "too much law" was the fundamental defect. Advocated was "a framework for better safety and health organization and action by industry itself, not strong government" (Browne, 1973: 88). "No further law should be made if the situation can be met by a voluntary code of practice" the authoritative *Robens Report* argued (1972: 7).

In the ILO system, international labour conventions are created through tripartite negotiation (trade unions, employers and governments). Once adopted by the annual International Labour Conference (ILC), they are open to ratification by governments who commit to conforming national laws and practices accordingly. The ILC also adopts declarations and other strategic documents to advance broader agendas or to better frame and promote their work. These documents guide ILO action and are also the result of tripartite negotiation.

The US and UK used the ideology set forth by Robens to argue for "a new and complementary mode of approaching the question" of OSH versus "the piecemeal approach of the existing standards" numbering "some 50 instruments" to "lay the foundations for a national policy to establish as far as possible a total and coherent system of prevention, taking into consideration the present-day realities of the working world" (CEACR, 2009: 4). The Employers' Group, led by the UK

at the negotiation of *Convention No. 155*, advocated the strategy of Lord Alfred Robens. The “suitable criteria” for policy required a focus on the workplace level versus strong national policy. Adversarial interests needed replacing with “a common interest” and “co-operation rather than confrontation.” National policy must not “erode the clear line of responsibility” at the workplace where employers accepted “they must bear the primary responsibility” for protecting workers (ILC, 1980: 35). Robens called these “practical measures”, not texts “attempting to satisfy abstract philosophical criteria” (ILC, 1980: 35). Robens said he “began with no abstract theory of social justice or the rights of man”, but prioritized his vision of pragmatism (Browne, 1973: 88). This vision would receive global legitimacy at a critical time in OSH norm creation (Mclean, 1997), a history to be later revisited with the creation and negotiation of the ILO’s *Global Strategy on Occupational Safety and Health* once the *Decent Work Agenda* was seeking to build its own political legitimacy.

### **Analytic framework: exclusion and the institutional environment**

Exclusion is a crosscutting concept in the social sciences. The idea is less explicitly developed in labour studies and industrial relations. Several definitions of the phenomenon exist, but exclusion is typically characterized as a social process where people are systematically blocked from rights, resources, recognition or respect of one kind or another. In labour research, less attention has been paid to the dynamics of policy exclusion given the focus on institutional actors, processes, and outcomes (Blyton *et al.*, 2008: 7). This includes the political negotiation of global norms. Analyzing exclusion, including human rights reporting, is a new development for the field when viewed in historical perspective. Exclusion as a foundation for the study of labour and employment relations therefore needs more attention and conceptual development.

Research on precarious work (Vallée, 2005; D’Amours, 2009; Coiquaud, 2011) and gender analyses at work (Forrest, 1993; Hansen, 2002; Holgate *et al.*, 2006) are examples of the study of exclusion in the field. This work shows how an exclusion focus has immediate policy implications. Institutional analyses have long been a feature of labour scholarship (Whitfield *et al.*, 1998: 6; Morgan *et al.*, 2014) and are based in an expansive literature not summarized here (Powell *et al.*, 1991; Hall *et al.*, 1996; Hall *et al.*, 2001; Scott, 2013). Exclusion could be developed as an important focus of socio-historical institutional analysis, as exclusion itself is a systematic social process.

Godard (2008) outlines tenets of an “institutional environments” approach to labour studies that encompasses a focus on exclusion. Social actors are subject to institutional forces or rules, be they formal or informal, embedded within insti-

tutional arrangements even as actors actively shape these rules. The nation-state holds a critical role in the arranging of employment relations, and history is a major force in this overall design. Most important for the analysis of exclusion, all types of institutional arrangements serve to mobilize bias as they privilege some ideas and actors over others.

Bias mobilization is the study of exclusion. The idea has at times been recognized as important in labour and employment (Hyman, 1982: 104; Kirkbride *et al.*, 1988; Brigden, 2007; Ibsen, 2015). Institutional norms and arrangements “privilege one or more groups or institutions over others” by arranging the distribution of resources, rights and obligations. The end result is a distribution of rights, resources, recognition and respect for some, but not others. Bias is mobilized to exclude the extension of these privileges to others. The “structural embedding of norms within institutional designs means that dominant groups’ interests and values are more likely to be served by the institutional status quo, often in ways that are hidden from view or taken for granted” (Godard, 2008: 73). These biases may be strengthened over time by “strengthening norms and interpretations of these norms” (2008: 73). Exclusion dynamics result in power inequalities and perpetuate various forms of social exclusion.

Social science has identified various mechanisms related to exclusion. These describe how exclusion happens by naming the social processes and explaining how they work. Four mechanisms are presented here. This is by no means an exhaustive list, and no claim is made to argue they are mutually-exclusive. It could be argued that these are interrelated social processes. They are presented here from other studies of exclusion with similar work and employment objects of study, offering a degree of validity.

*Non-decision making* occurs by limiting the range of decisions to be made to non-threatening issues. Studying this dynamic means asking what has been left out and why. Gaventa (1982) studied this process in Central Appalachia coal communities and based his ideas on Lukes’ power framework (1974, 2005). Decisions happen not only in a free market of ideas, but also where ideas or people are excluded from the process of making decisions. Bachrach and Baratz (1962, 1963) noted how decision making can be limited “to ‘safe’ issues by manipulating the dominant community values, myths, and political institutions and procedures.” Silencing certain actors or ideas altogether is a part of this process and was called “the most effective and insidious use of power” as alternatives may not present themselves (Lukes, 1974, 2005: 27).

*Framing pathways* is a dynamic observed in institutional ethnography, including studies of public employment (Smith, 2005, 2006, 2009; Smith *et al.*, 2014). This approach focuses on the “complex of relations” that organizes work life (Smith, 2005: 9-10). Institutions form “pathways of action” or “institutional circuits”

(Smith *et al.*, 2014: 10) that hold their own logic. When this formal logic is not shared by people interacting with these pathways, people must reframe their experiences as ‘facts that fit’ the pathway and subsume, conceal, or exclude their own experiences in the process. This reframing occurs at all levels, shaping the consciousness of political leaders, policymakers, managers, unions and workers as they do their jobs. Framing pathways results in a gap between the institutional design and excluded everyday experience.

*Mining actualities* is another dynamic of exclusion. The term ‘actuality’ can be understood in the jargon of radio journalism where it refers to an audio clip of a real person being interviewed for a news story. As does a radio journalist, real life stories are “mined” to selectively identify “aspects, features, measures and so on that fit the governance frame” (Smith *et al.*, 2014: 10). People search across a range of actual experiences to find cases and stories that fit the existing or proposed governing conceptual schema in non-threatening ways, in turn reinforcing that governance. At the same time, as some stories are “mined” to illustrate key points, others’ stories are excluded because they do not reinforce the desired governance framework. Asking why certain actualities have not been referenced can be another area of institutional analysis.

*Encoding* is a dynamic studied across social science disciplines. Encoding is the use of key catch phrases such as “sustainable development” (Eastwood, 2014) or “baudy house” (Smith, 2014). These key catch phrases give their readers a range of possible meanings while they serve to reinforce existing practices. Governing conceptual schemas are reinforced by the use of encoded phrases as encoding leaves room for the meaning desired by key actors in negotiation and maintains the flow of debate along planned lines of governance. These flexible meanings give room to manoeuvre in what might otherwise be socially or politically tense situations. Encoding contributes to exclusion because encoded phrases can obscure the issues they are said to describe while simultaneously acting to reinforce a particular planned pattern of governance.

**TABLE 1**

**Selected Exclusion Mechanisms in Institutional Environments**

<b>Mechanism</b>	<b>Social Process</b>
Non-decision making	Excluding ideas or people in decision-making processes
Framing pathways	Reframing social experiences according to institutional processes
Mining actualities	Privileging certain stories of governance while excluding others
Encoding	Managing key terms to advance exclusionary governing schemas

Concepts adapted from Gaventa (1982), Smith (2014), Smith and Turner (2014) and Eastwood (2006, 2014).

The questions guiding this brief socio-historical sketch emerge from the literature on exclusion. What exclusions have developed in the creation of the ILO's Global Strategy on Occupational Safety and Health? What forms of non-decision making can be observed? How have institutional pathways been framed? Are there stories and events used as actuality mining to advance certain viewpoints over others? How have different keywords, concepts or catch phrases been encoded with meanings unique to these debates? How have the dynamics of exclusion influenced the ILO's Global OSH Strategy?

## Methodological approach

A socio-historical interpretation, this article follows the methodological principles for working with primary source documents outlined by Trachtenberg's *The Craft of International History: A Guide to Method* (2006: 140-168). These principles address how documents are assessed and how to draw meaning from them as sources of evidence. Historical interpretation is not viewed as fundamentally different from scientific knowledge where it follows deductive reasoning. One approaches sources with a set of questions and asks, "What does the evidence cited actually show?" The focus is on concrete issues that "have a certain bearing on broader issues of interpretation. You begin by raising questions. You then try to answer them" with "a close study of the documentary evidence." A documentary record is always incomplete, but one reaches an interpretation "the same way you make any historical judgement: namely by looking at as much evidence as you can" and "making the most of whatever evidence you do have" while controlling for biases. Source reliability is often the primary bias concern in historical interpretation as documents can misrepresent or even fabricate events. In the ILO's official records, however, source reliability is a low concern as the debates documented here unfolded in public view, received worldwide attention, and resulted in different types of international legal texts against which interpretations can be judged.

The development of the ILO's *Global Strategy on Occupational Safety and Health* provides a rich source of documentary evidence. Official documents are available for download through the ILO's online Labordoc Collections. This record includes committee reports, provisional records and records of proceedings, draft conventions and recommendations, ILO commentary, submissions for discussion, law and practice reports, responses to general surveys, national profile reports, and concluding observations. The collection includes detailed accounts of debates between tripartite social actors in negotiation. Following Trachtenberg's guidance to expand the range of evidence as widely as possible, the author was a credentialed, university-affiliated observer, not affiliated with any tripartite delegation, of the discussions of the *General Survey on Occupational Safety and*



*Health* over a two-week period at the 98th International Labour Conference in Geneva in June 2009. Interviews were made with 12 Office technical specialists and conference delegates to deepen an overall understanding of the documentary record. The collection assessed includes roughly 125 documents, the complete documentary record available for public download spanning the start of the *Decent Work Agenda* in 1999 to the preparation for the 2017 *General Survey* on key instruments related to occupational safety and health. An in-depth reading of this record was aided by the qualitative data analysis software NVivo, which was used to group documents and annotate text segments against the exclusion framework noted in the previous section. Text segments were consolidated around these concepts and the following historical interpretation was thereby sketched.

Documentary analysis plays a key role in the study of exclusion. Exclusion processes are often textually-mediated, making documentary analysis the methodological choice. Texts are considered in terms of the role they play in shaping action. They occur “in definite actual settings of people’s everyday living” (Smith *et al.*, 2014: 5) and “coordinate what people do” in “institutional sequences of action” (2014: 7-8). Higher-order texts are used to regulate local social relations (Eastwood, 2006: 184) as people “fulfill the function ascribed to it in the (higher-order) regulatory text” (Smith, 2006: 67, 79, 82-85). Concepts and categories are created as part of “the textually-authorized procedure” (2006: 83) and exclusion emerges from the documentary reality as a social process “fundamental to the practices of governing, managing and administration” (Smith, 1974: 257; Eastwood, 2006: 185). Action is “coordinated beyond local settings” (Griffith *et al.*, 2014: 10) with “coordinating texts” (Smith *et al.*, 2014: 10). Documentary analysis can “make visible” that which has “systematically been made invisible through the abstraction effected by the documentary reality” (Eastwood, 2006: 184).

## Observations and interpretation

The documentary record indicates three areas where exclusion appears at issue in the development of the ILO’s *Global Strategy on Occupational Safety and Health*. These areas relate to: 1- managing the meaning of OSH policy integration in particular to encompass an emphasis on voluntary self-regulation; 2- shaping the role of collective labour rights in national OSH policy through de-emphasizing the importance of workers’ freedom of association; and 3- sidestepping the development of specific OSH norms such as hazard protections. This documentary history highlights these areas. Table 2 connects the exclusion processes to the observations made from this record.

TABLE 2

**Observed Exclusion Mechanisms in Global Strategy Texts**

<b>Social Process</b>	<b>As Observed in the Documentary Record</b>
Encoding	Defining OSH policy integration to include a self-regulation focus
Framing pathways	Marginalizing the role of collective labour rights in OSH policy
Non-decision making	Sidestepping the development of specific OSH hazard protections
Mining actualities	Not observed clearly in the documentary record

### Managing the meaning of OSH policy integration

The ILO *Global Strategy on Occupational Safety and Health* is a series of policy objectives for national- and enterprise-level action, summarized in a formal statement adopted by the International Labour Conference (2003). Policy being defined as “officially expressed intention” (Lowi, 2007: 277), this collection of norms includes layers of intentions, some more prioritized than others. The ILO Director-General’s report *Decent Work* (Somavia, 1999: 18) marked the first push for a formal Global OSH Strategy. Consolidating OSH norms would be the primary objective: “Framework conventions cover a subject’s essential and unchanging principles” this report stated, citing the *Occupational Health and Safety Convention No. 155* as one model example (ILC, 1981). Specific issues “should be embodied in supplementary non-binding instruments” he said. This idea had been developing at the Governing Body through the Cartier Working Party’s efforts to design a new policy for revising ILO standards. That committee concluded the “integration” of OSH standards was critical to ensuring “coherence” (GB, 2000a: 2). This was the “integrated vision” later described as “the minimalist approach to ILO labor standards” (Diller, 2013: 307). Safety and health was selected as the first “experiment” of this vision (GB, 2000a: 2); “experimental in nature” (GB, 2000b: 8, para. 35). The Governing Body then followed with initiatives to formalize a *Global Strategy*.

A formal strategy was adopted at the 91st session of the International Labour Conference in 2003. Responding to the “great human suffering and loss” caused by dangerous and unsafe working conditions, the *Global Strategy* was introduced under the slogan “Decent Work must be Safe Work” and outlined a five points action plan: 1- promotion, awareness raising and advocacy; 2- ILO instruments; 3- technical assistance and cooperation; 4- knowledge development, management and dissemination; and 5- international collaboration. The strategy advocated a national preventative safety and health culture, and called for an “overarching instrument with a promotional rather than prescriptive content” to be developed on a priority basis. The problem of safety was diagnosed as

the “disorganization, fragmentation and incoherence” in the public awareness and treatment of safety and health around the world. “Efforts to tackle OSH problems” it said, “are often dispersed and fragmented and as a result do not have the level of coherence necessary to produce effective impact” (ILC, 2003: para. 3).

This formal strategy led to the creation of *Convention No. 187, the Promotional Framework for Occupational Safety and Health* (ILC, 2006b). It was adopted as a complementary OSH policy framework to ILO *Convention No. 155*. Negotiated in 2005 and 2006, it encourages OSH promotion and sets forth four key policy concepts: a national OSH policy; a national OSH system; a national OSH program; and a national preventative OSH culture, defined as “a culture in which the right to a safe and healthy working environment is respected at all levels” and “where the principle of prevention is accorded the highest priority” (ILC, 2006b: art. 5). *Convention No. 187* advocates a “systemic approach” based upon “cooperation between management, workers and their representatives” as “an essential element” for safety and health (ILC, 2006b: art. 4(2)d). Three years later, an ILO *General Survey*, a worldwide assessment of action by the Committee of Experts, surveyed progress made under *Convention No. 155* as the first OSH policy framework from 1981 along with its protocol and recommendation (CEACR, 2009). This provided the Committee of Experts the opportunity to highlight the complementarity of *Convention No. 155* with *Convention No. 187*. The Committee found a “close linkage” and encouraged the joint global promotion of both *Conventions 155 and 187*.

The Committee of Experts’ observations at the 98<sup>th</sup> International Labour Conference called for an action plan on safety and health (2009: para. 206-209). This would become the *Plan of Action 2010-2016* to achieve widespread ratification and effective implementation of this new suite of OSH framework instruments (GB, 2010a). The aim being “to promote a systems approach to OSH at the national level” and to “help governments and social partners work together to develop a national programme and strategy to continually improve OSH infrastructure and conditions” (GB, 2010b: 19-21).

Related developments have since emerged at the ILO. The latest efforts include more attention to ILO-OSH framework norms, as evidenced by the planned 2017 *General Survey* (ILO, 2015b) to examine the sectoral-based OSH policy framework conventions in mining (ILC, 1995), construction (ILC, 1988), and agriculture (ILC, 2001). Despite this direct focus, health and safety continues as an ubiquitous question. The issue has been linked to the formalization of informal work (ILC, 2015b, 2015a) and has been the focus of critical project-based initiatives. The overarching focus of the *Global OSH Strategy* is, however, the dominant national framework for long-term strategic action.

The question of OSH policy ‘integration’ was the overarching narrative force in the development of the *Global Strategy* from 2000 to 2016. The ‘integration’ of ILO-OSH standards under ‘framework’ norms was presented as more ‘comprehensive’ than simple prescriptive standards (Somavia, 1999). The objective was to “streamline all its means of action ... to achieve more effective occupational safety and health implementation by member states” (ILO, 2003: 23). The documentary record shows repeated use of the key catch phrase “an integrated approach” to OSH, and the Office staff worked repeatedly to clarify and interpret this phrase. The shifting meaning of the phrase went beyond simply providing an umbrella OSH framework for the loose collection of global norms adopted by the ILO in the realm of safety and health. The phrase was defined by the Office as the consolidation of ILO-OSH standards with “voluntary measures” by private enterprise to build “a proper safety culture at the enterprise level” (ILO, 2003: 23).

Worker delegates to the ILC held different views. Integration was understood to mean “integrated systems” of safety and health inspection internally or with systems of collective labour rights (ILC, 2005: 32), or the “integration of OSH into vocational education” (ILC, 2005: 69), or even the more sweeping “integration of sustainable development” agendas with national OSH policies and vice versa (ILC, 2005: 93-94). None of these definitions conformed to the voluntary self-regulation definition the Office advocated. This tension ran throughout, making the phrase a debated issue that raised red flags for many trade unions as they demanded clarification and voiced opposition.

“Self-regulation”, noted the New Zealand Council of Trade Unions, “reflects a damaging worldwide trend to deregulate OSH enforcement” (ILC, 2005: 9). Self-regulation was “detrimental to occupational safety and health in the world” said the Swiss Federation of Trade Unions (ILC, 2005: 11). “Problematic” noted a Finnish labour union (ILC, 2005: 7) and “inconsistent with the mandate of the ILO” said the Barbados Workers’ Union (ILC, 2005: 5). This tension also played out in the debate on “national preventative safety and health culture” in *Convention No. 187*. The encoding of cooperative self-regulation with an unclear role for the state was at issue. The “integrated approach” phrase thus became a tool with divergent and contradictory meanings that Office staff needed to negotiate to keep the debate on course and moving forward.

The *Global Strategy* via *Convention No. 187* also defined for the first time under international law the idea of a “national system” for occupational safety and health (ILC, 2006b). States thus are to “establish, maintain, progressively develop and periodically review a national system for occupational safety and health” defined as “the infrastructure which provides the main framework for implementing the national policy and national programs on occupational safety

and health" (ILC, 2006b: art. 1). Framing national OSH policy in a 'systems' approach created a dedicated domain for OSH action. The national OSH 'systems' approach and the internal-external division created by the concept raised several concerns. The linkages with other policy domains could be challenged if all the focus rests inside the 'system' of OSH. Among these were broader economic and financial policies with a historically strong influence on safety and health protection. The relationship with collective labour rights was also at issue.

Adopting a 'systems' concept ran the risk of dividing or separating OSH from a stronger linkage to broader policy questions. The ILO Constitution, for example, notes how "all national and international policies and measures, in particular those of an economic and financial character, should be judged" and "accepted only in so far as they may be held to promote and not to hinder the achievement of" social justice, including safe work (ILC, 1944). A focus on OSH 'systems' alone might limit OSH strategies to a narrow view of OSH regulations, ignoring linkages to broader issues such as liberalized trade or industrial relations laws. Guidance was lacking on the regulation of the employment relationship, a separate debate (ILC, 2006a), or countering austerity, or addressing issues like informality or triangular employment relationships, despite the hazardous nature of these issues (Quinlan *et al.*, 2001; Benach *et al.*, 2014).

### **Shaping the role of collective labour rights in national OSH policy**

An important issue arose on the link between the OSH system, trade unions and collective representation. Draft definitions of the OSH 'system' did not include linkages with collective bargaining as a crucial enforcement strategy. Trade unions and collective agreements "where appropriate" was the approach (ILC, 2006b:art. 4). Constructing the OSH system this way, industrial relations protections were viewed as some addenda, rather than central strategies to protect worker health. Instead, labour inspection was prioritized as the main enforcement modality: "the enforcement of laws and regulations concerning occupational safety and health, and the working environment shall be secured by an adequate and appropriate system of inspection" (ILC, 2006b: art. 9).

Similarly, OSH strategy documents do not refer to the fundamental conventions on workers' freedom of association. A general call is made "for integrated action that better connects the ILO standards with other means of action such as advocacy, awareness raising, knowledge development, management, information dissemination and technical cooperation" (ILC, 2003). However, nowhere does the formal strategy refer to *Conventions Nos. 87 or 98*, the two fundamental core labour standards on workers' freedom of association, the right to organize trade unions and collective bargaining rights and protections. The debate was silent on the strengthening of unions, collective bargaining and protection of the

right to organize. This orientation is in contrast to the new *General Comment No. 23 on the Right to Just and Favourable Conditions of Work* from the UN Committee on Economic, Social and Cultural Rights (2016: 1), which defines the freedom of association as being “crucial” to workplace safety and health.

Where worker representatives were noted across the collection of *Global Strategy* related documents, consultation was the strategy of choice (ILC, 1981: art. 2), with no mention of strengthening industrial relations machinery to ensure representation. In contrast to this lacunae of references to the importance of building industrial relations systems, the Committee on Economic, Social and Cultural Rights now explains the human right to health as “closely related to and dependent upon the realization of other human rights” including “the freedoms of association, assembly and movement” (CESCR, 2000: para. 3). The *Global Strategy* drew no such connection about safety and health being “dependent upon” association rights or that these rights were “crucial” for the protection of just and favourable working conditions. These concerns were raised explicitly by worker delegates throughout the development of the *Global Strategy*.

Tied to the question of collective protections is the issue of individual rights and their effectiveness. *Global Strategy* documents include individual rights protections. *Convention No. 155*, for example, requires arrangements at the workplace level be in place should a worker refuse orders to perform hazardous work. A worker is to report “forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health” and “until the employer has taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health” (ILC, 1981: art. 19f). While a positive protection, the individual pathway created holds several limitations in the exercise of rights. First, workers pursue claims on an individual basis. Second, the worker must go through management. Third, a test of reasonableness focuses on the worker’s psychology for making the refusal as safety inspectors, not negotiations, are called upon to define a reasonable justification. Finally, an “objective” hazard test is controlling. The collective experience of work is therefore reframed to fit the individual protections (Hilgert, 2013: 55).

Other enabling rights were negotiated into non-binding, advisory texts. Key participatory mechanisms like workers’ safety and health committees or safety delegates are to be created “where appropriate and necessary” (ILC, 1981a: art. 12). These weak global norms extend to other rights, from the receiving of adequate information about hazards to being able to contribute to decision-making at the enterprise level. Participation is noted as “an essential element of the occupational safety and health management system in the organization”

(ILC, 1981a: art. 6), but the concrete means of legal enforcement are largely left undefined under the *Global Strategy*. Grey areas exist about the role of the state concerning the enforcement of participatory systems.

### **Sidestepping the development of specific OSH hazard protections**

Protections afforded to victimized workers and vulnerable groups were also at issue in the negotiation of what constitutes a 'national policy' on OSH. Discipline taken against a worker "as a result of actions properly taken in conformity with the policy" were prohibited by *Convention No. 155* (ILC, 1981: art. 5(e)). The challenge was that no elaboration was provided in the *Global Strategy* documents. Some protections were left to non-binding recommendations (ILC, 1981a: art. 17). Thus, further legal guidance was unclear beyond identifying vulnerable workers, such as the young, disabled and migrant workers, the self-employed, workers in the informal sector, and workers in high-risk sectors who were to be given "special consideration" (ILC, 2003: 20, 23) and provided "appropriate measures" of protection by the national system (ILC, 2006b: art. 3). Strategies "that could be considered" include "extending coverage of legal requirements, strengthening the capacities of enforcement and inspection systems, and focusing these capacities towards the provision of technical advice" (ILC, 2003: para. 23).

Building a global framework strategy around the OSH 'system' and 'policy' idea permitted sidestepping the elaboration of stronger OSH rights protections, including new hazard-based OSH norms. Psychosocial hazards, as an example, were not a focus as an emerging issue in the negotiation of *Convention No. 187* of 2006. The antiquated "mental elements" of health at work noted in *Convention No. 155* (ILC, 1981: art. 3(e)) and *Recommendation 164* said the "prevention of harmful physical or mental stress due to conditions of work" (ILC, 1981a: art. 3(e)) is a necessary part of national OSH policy. No new normative work or guidance was offered beyond these two phrases, leaving a significant lacuna in the international labour standards system. In contrast, the CESCR's new *General Comment No. 23 on the Right to Just and Favourable Conditions of Work* offers a strident statement: "all workers should be free from physical and mental harassment, including sexual harassment", followed by detailed policy guidance (2016). A similar argument can be made about employment injury benefits. A list of "relevant OSH instruments" of concern to a national OSH system was annexed to *Recommendation No. 196*. Among these is *Convention No. 121* on Employment Injury Benefits (ILC, 1964), an important norm, but long critiqued for being outdated (Vosko, 2000: 119; Standing, 2009: 48). The overall focus on national OSH policy framing left no room for the global development and extension of the normative position of safety and health at work into

these neglected OSH policy areas. This was happening even as United Nations committees were building the human rights foundation of key OSH issues, including the human right to work injury benefit protections (CECSR, 2007).

## Conclusion: placing exclusion in focus

The ILO's *Global OSH Strategy* can be analyzed through a lens of social exclusion. The meaning of integration as an overarching objective and narrative force driving the global strategy required constant management. While, at times, the term held several meanings, the Office held a clear view that integration meant not only the consolidation of specific OSH norms around framework norms, but also coherence with a certain basic idea of voluntary self-regulation at the enterprise level, in turn accepting the precepts of a neoliberal policy orientation and applying these to safety and health. This was accomplished through the social mechanisms of encoding the 'integration' idea.

In terms of the treatment of collective labour rights, framing pathways of OSH protection raised the profile of labour inspection and individual rights versus the goal of strengthening collective representation. Much of this orientation had been debated in the negotiation of *Convention No. 155*, so by linking this norm with the newer *Convention No. 187* and making both part of a *Global Strategy*, any open debate on the issue was in many ways already decided. The consequence at the national level means that workers exercising 'OSH rights' under 'OSH systems' do so on individual terms.

Exclusion also occurred through the social dynamic of non-decision making. The overarching concern about consolidating OSH norms under a new integrated OSH policy framework meant that the need to update outdated hazard-specific global OSH norms was easily sidestepped. These concerns were simply not on the agenda of a discussion on a '*Global Strategy*', even though a list of these standards was ultimately annexed to Recommendation 197, the non-binding text adopted by the International Labour Conference in 2006 to accompany *Convention No. 187*. The overarching policy framework orientation underlying the development of the *Global Strategy* effectively marginalized any debate about the need to update content-specific ILO OSH norms.

Social dynamics of exclusion played out in the development of the ILO's *Global Strategy on Occupational Safety and Health* as evidenced by the documentary record. The historical record illustrates how exclusion itself is more than an end state, it is also a social process extending beyond the lack of legal coverage for certain social groups. Different processes and mechanisms marginalize people, their organizations, and ideas in different ways, even where an otherwise strong political consensus appears to have developed. Institutional



pathways are framed, guiding narratives are encoded and managed, and non-decision making used to focus attention on certain topics and not others that, in this case, creates patterns for the governance of occupational safety and health. These dynamics are observed even at the highest level of policy negotiations. The resulting effect is a global OSH policy framework with an admixture of neoliberal values that, at least in terms of these coordinating documents, hold weaknesses in social protection that should be remedied through new normative work in the future.

To the extent the ILO's *Global Strategy* has led to stronger promotional efforts and raised awareness of safety and health at work, it can be viewed as a valuable and important effort. Institutional patterns, however, mobilize bias. The pursuit of social justice requires evaluating the institutional patterns created by global strategies such as the ILO's *Global Strategy on Occupational Safety and Health*. This means evaluating exclusion in all its complex forms. While exclusion may be justified in some ways (to focus attention on a given set of needs versus others, for example), the onus for defending these exclusions rests with the tripartite actors in the multilateral system and, most particularly, member states. Where the basis for exclusion cannot be readily justified, steps are needed to design better global strategies and improve global norms.

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## SUMMARY

### Analyzing Exclusion in Global Worker Health Policy

This article examines the development of the ILO's *Global Strategy on Occupational Safety and Health* through the lens of social exclusion. Social exclusion is a transversal concept across the social sciences. The article integrates the study of exclusion as an essential element of institutional analysis in industrial relations. After discussing the treatment of the study of exclusion in labour and employment relations scholarship, it presents an analytic frame using four mechanisms of exclusion taken from sociology: 1- encoding; 2- framing pathways; 3- non-decision making; and 4- mining actualities.

Observations are presented from a qualitative study of 125 preparatory and legal texts created through the development of the *Global Strategy* between 2000 and 2015. The method of analysis is a socio-historic interpretation following the principles of analysis of primary source documents outlined by Marc Trachtenberg in his book *The Craft of International History: A Guide to Method*. Exclusionary dynamics are observed in three areas: 1- managing the meaning of OSH policy integration; 2- shaping the role of collective labour rights in OSH policy; and 3- sidestepping the development of specific OSH hazard protections. Comparisons

are made at key points with recent normative work by UN human rights bodies, including the UN Committee on Economic, Social and Cultural Rights and their *General Comment No. 23* on the human right to just and favourable conditions of work. The result is a *Global OSH Strategy* with promotional strengths, but also neoliberal values interwoven in its policy framework.

KEYWORDS: International Labour Organization, occupational health and safety, social exclusion, mobilization of bias.

## RÉSUMÉ

### L'analyse de l'exclusion dans la Politique globale de la santé des travailleurs

Cet article examine le développement de la *Stratégie globale en matière de sécurité et de santé au travail* de l'Organisation internationale du Travail (OIT) à travers le prisme de l'exclusion sociale. L'exclusion sociale est un concept transversal dans les sciences sociales. L'article intègre l'étude de l'exclusion comme une composante essentielle d'une analyse institutionnelle en relations industrielles. Il présente un cadre analytique en utilisant quatre mécanismes d'exclusion repris de la sociologie: 1- l'encodage; 2- les voies encadrant; 3- la non-prise de décision; et 4- les actualités minées.

Les observations sont présentées à partir d'une étude qualitative de 125 textes juridiques préparatoires rédigés dans le cadre du développement de la *Stratégie globale* entre 2000 et 2015. Notre méthode s'avère être une interprétation socio-historique suivant les principes de l'analyse des documents primaires articulés par Marc Trachtenberg dans son livre *The Craft of International History: A Guide to Method*.

Des dynamiques d'exclusion furent observées dans trois domaines: 1- la gestion du sens de l'intégration des politiques en matière de SST; 2- l'élaboration du rôle des droits collectifs du travail dans la politique en matière de SST; et 3- le développement des protections spécifiques de danger en matière de SST. Le résultat a donné une *Stratégie globale en matière de SST* avec des forces de promotion, mais aussi des valeurs néolibérales entrelacées dans le cadre de sa politique.

MOTS-CLÉS: Organisation Internationale du Travail, sécurité et santé au travail, mobilisation des biais, exclusion sociale.

## RESUMEN

### Analizar la exclusión en la política global de la salud de los trabajadores

Este artículo examina el desarrollo de la *Estrategia global en materia de seguridad y salud ocupacional* de la Organización internacional del Trabajo (OIT) a través del prisma de la exclusión social. La exclusión social es un concepto transversal

en las ciencias sociales. El artículo integra el estudio de la exclusión como un componente esencial de un análisis institucional en relaciones industriales. Después de haber discutido el tratamiento del estudio de la exclusión en la literatura de las relaciones laborales y del empleo, se presenta un marco analítico incluyendo cuatro mecanismos de exclusión inspirados de la sociología: 1- la codificación; 2- las vías estructurantes; 3- la ausencia de toma de decisión; y 4- las realidades socavadas.

Las observaciones presentadas se basan en un estudio cualitativo de 125 textos jurídicos preparatorios redactados en el marco del desarrollo de la Estrategia global entre 2000 y 2015. Nuestro método consiste en una interpretación socio-histórica siguiendo los principios del análisis de documentos primarios articulados por Marc Trachtenberg en su libro *The Craft of International Historic: A Guide to Method*.

Las dinámicas de exclusión fueron observadas sobre tres áreas: 1- la gestión del sentido de integración de políticas en materia de salud y seguridad ocupacional (SSO); 2- la elaboración del rol de derechos colectivos de trabajo en la política de SSO; y 3- el desarrollo de protecciones específicas de riesgos en materia de SSO. El resultado obtenido es una *Estrategia global en materia de SSO* con fuerzas de promoción, pero también con valores neoliberales entrelazados en sus esquemas políticos.

PALABRAS CLAVES: OIT, salud y seguridad ocupacional, movilización de sesgos, exclusión social.