

**THE LEGAL AND THE EFECTIVENESS OF THE
RECOMMENDATIONS OF THE INTERNATIONAL
LABOR ORGANIZATION**

**O JURÍDICO E A EFICÁCIA DAS RECOMENDAÇÕES DO
CONGRESSO INTERNACIONAL
ORGANIZAÇÃO DO TRABALHO**

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ABSTRACT

This article emphasized the effectiveness and legal relevance of the recommendations of the International Labor Organization and its role of effectiveness within the scenario of economic globalization. The research worked on an exploratory character and bibliographical methodology to demonstrate the characteristics essential to reduce dominant ideologies that merely focus on profitability, failing to comply with various international determinations. In order to do so, it was necessary to distinguish the conventions and recommendations in order to elucidate the appropriate treatments

and their respective legal nature, in order to verify their role within the Brazilian jurisprudential environment. It was concluded that ILO acts are of great importance to the international scenario, making accessibility possible and guarantor of fundamental rights.

KEYWORDS: Labor Law; International Impacts; Globalization.

RESUMO: O presente artigo se dignou a evidenciar a eficácia e relevância jurídica das recomendações da Organização Internacional do Trabalho e seu papel de efetividade inserido no cenário de globalização econômica. A pesquisa trabalhou um caráter exploratório e metodologia bibliográfica para demonstrar as características essenciais a reduzir ideologias dominantes que, meramente, se focam na lucratividade, deixando de cumprir com diversas determinações internacionais. Para tanto, necessitou-se distinguir as convenções e recomendações com fim de elucidar os devidos tratamentos e suas respectivas naturezas jurídicas, com finalidade de verificar o papel destas dentro do ambiente jurisprudencial brasileiro. Concluiu-se que os atos da OIT são de grande importância ao cenário internacional, viabilizando a acessibilidade e garantidor de direitos fundamentais.

PALAVRAS-CHAVE: Direito do Trabalho; Impactos Internacionais; Globalização.

INTRODUCTION

The international labor relief, by the rules of the ILO bias, has been in this transition for thousands of years as a last resource for the defense of important civilization conquers. The “era of market”, indifferent to state boundaries, becomes inexorably directed to erode a full range of labor values which were built with a lot of hard work.

Just as in an unusual historical flow, there comes an “international” one which is no longer at labor claims, but financial and profiteer, indifferent to the sensitivity of history or geography: *ubi bene ibipatria*. It seems that what Pio XI had predicted, as a

pontifical premonition, became effectively true, as *il imperealismo internazzionale deldenaro*.

Before such situation, the legal effectiveness of the rules of the ILO, hostage to its universal nature, becomes highly important in the history of labor relations. They are the only ones, like new jurisdictional orbits, apt to face the character of the legal severances of the globalization of economy, which are also universal. Such act takes place in its most perverse characteristic, diminishing labor, making the ancestor rights flexible and reduced for the ideology of maximizing profit, veiled in the binominal competitiveness-productivity.

1. THE RULE PREPARATION OF THE ILO

Having a major mission to fulfill with regards to the dignification of labor and the protection of workers and their families, the ILO has two fundamental legal instruments: “the conventions and the recommendations approved by the General Assembly by a majority of 2/3. The former are compulsory after their ratification by the States. The latter are merely indicative.”¹

What brings interest, especially in the activity of the ILO, is the creation of international rules so that the labor legislation of the member States fulfills the social aims of the organizations, as explained by Lobo Xavier: “The conventions and recommendations are approved in the Conference by a majority of two thirds’. It does not have a regime with immediate efficacy in the legal systems of the State, since this one has the right to ratify or not the approved texts. Nonetheless, at any circumstances, they have to periodically inform about the legislation nature and the domestic practices with regards to the aspects that have been focused.

¹ PEREIRA, André Gonçalves; QUADROS, Fausto de. **Manual de direito internacional público**. 3.ed. Coimbra: Almedina, 1997. p. 557.

The conventions, after being ratified, lead the respective States to the obligations of applying them, adjusting their legislation and practice to their existing principles, making such application liable to control. "The recommendation is a basic guideline and many times precede the preparation of a convention on the subject"².

According to Cesarino Juniors, both, the rules of the constitutive organs of the ILO and the international conventions regarding labor, are sources of the International Labor Law, whose projects approved by the General Conferences of the ILO are to be ratified by a considerable number of participant States: "The international labor conventions do not have, on their own, compulsory effect; it is through their ratification that a State takes the responsibility to execute them. Its enactment, already regarding domestic law, introduces the dispositions of the convention in the domestic legal system. For each convention, specific rules related to their effectiveness are described in their final clauses. There are identical instruments to the ones of the conventions in relation to their form and preparations, but which cannot necessarily be submitted to ratification, like the conventions are. They are called resolutions, which are mere invitations for the States to follow certain rules."³

Explaining the conventions of the ILO, Amauri Mascaro Nascimento says that: "The Conference of International Labor Organization gets together from time to time to vote decisions that can oblige member States. Such deliberations are covered by the shape of international treaties because, contrary to them, they do not result from direct understanding among the interested countries, but from discussions taken place in the boards of the ILO, where their preparation and later official approval takes place. Therefore, the international conventions are legal rules delivered from the International Conference of the ILO, made to set up general and compulsory rules to the decision-maker States, which insert them in their domestic legal system, taking into account the respective constitutional limitations."⁴⁶

² XAVIER, Bernardo da Gama Lobo. **Iniciação ao direito do trabalho**. Lisboa: Editorial Verbo, s/d. p. 327.

³ CESARINO JÚNIOR, Antônio Ferreira. **Direito social**. São Paulo: LTr e Edusp, 1980. p. 83.

⁴ NASCIMENTO, Amauri Mascaro. **Compêndio de direito do trabalho**. SP: LTr e Edusp, 1976. p. 72-73.

While glossing over the legal acts of International Organizations, Rodriguez Carrion distinguishes those whose content is not compulsory in itself, but demand formal behavior by the States: "... Thus, Article 19 of the Constitution of the International Labor Organization relies on certain specific obligations of behavior by the States with regards to the conventions or recommendations, and which do not imply any obligation in relation to their content. According to Paragraph 5 of the before-mentioned precept,

When it comes to a convention: every Member State is given knowledge of the convention for the purposes of ratification; each one of the Member States commit to undertake, within a year, counting from the closing of the Conference session (or, when that is not possible due to exceptional circumstances, as soon as possible, for a period not exceeding 18 months after the so-called closure), the convention to the authority or authorities whose competence involves the subject, so that they turn it into law or take measures of another nature.

On the other hand, Paragraph 6 says, "When it comes to a recommendation: every Member State is given knowledge of the recommendation, so that they take it into consideration, fulfilling its effectiveness by means of domestic law or any other form."

With these assumptions the State has fulfilled its legal obligation before the respectful fulfillment of its behavior obligation, in such a way that the before-mentioned behavior is not bound to any obligation of the result intended by the material content of the act in question."⁵

Francisco de Assis Ferreira, in turn, explains that the conferences of the ILO reach the plenitude of its aim through three instruments: the convention, having rules which can be an object of ratification by the member States; the recommendation, whose subject is not currently appropriate to be an object of a convention; the resolution, a mere suggestion for the member States to adopt the measures that have been put forward."⁶

⁵ CARRIÓN, Alejandro J. Rodríguez. **Lecciones de derecho internacional público**. 4.ed. Madrid: Tecnos, 1998. p. 258.

⁶ FERREIRA, Francisco de Assis. **Lições de direito do trabalho**. Fortaleza: Imprensa Universitária do Ceará, 1969. p. 495

2. CONVENTIONS AND RECOMMENDATIONS, A NECESSARY DISTINCTION

The recommendations are considered reasonable whenever the subject being discussed does not handle a conventional treatment, either by the legal political precariousness of its adoption, or by the doubtful character of the mentioned topic.

Balmaceda presents four main differences between conventions and recommendations, taking into account their normative structures:

The convention is a way of international treaty, while the recommendation is not; 2) the convention, therefore, can be an object of ratification by the corresponding State, such a fact that obviously cannot happen to the recommendation. 3) once a convention is ratified, the State “takes the necessary measures to fully achieve the provisions of the so-called convention” (Constitution of the ILO, Article 19, Number 5, letter d). Being the ratification of the recommendations groundless, it does not enter into force, as, for its respect, it prevails the obligation by the States. 4) while the convention can be presented with several comprehension problems, entry into force, information, revision and effects if one State of the ILO is retired, all derived from the ratification of the instrument, none of these situations can take place with regards to the recommendations.⁷

Due to its importance, the theme deserved detailed treatment by Nicolas Valtios, in his classic “Derecho Internacional del Trabajo.”⁸ We have made an attempt to summarize it: 1) The convention is the kind of procedure of international labor rules, being the only one prone to being an object of ratification and creating a net of international obligations, followed by control measures; 2) The recommendation is an accessory, having its role defined from the general principle, according to which this form is adopted when the object treated does not have immediate adoption of a convention. There can be noticed three main distinct functions of the recommendation: a) it is the most appropriate form when a topic is not yet mature for the adoption of a convention, and the recommendation derived from the authority of the Conference

⁷ MONTTBALMACEDA, Manuel. **Principios de derecho internacional del trabajo**. 2.ed. Santiago de Chile: Editorial jurídica de Chile, 1998. p. 135.

⁸ VALTICOS, Nicolas. **Derecho internacional del trabajo**. Trad. Maria José Triviño. Madrid: Tecnos, 1977. p. 234-236.

contributes to the setting up of a common social awareness, giving room to a later adoption of a convention; b) a second role is to be used as a complement of a convention, being useful to inspire governments; however, it does not have the same compulsory character as the terms of a convention; c) the recommendation has intrinsic value in a certain number of instances: when its rules have a detailed technical character, such a fact may be useful to domestic management, contributing to the preparation of a uniform legislation on the subject. Nonetheless, it leaves the possibility to set up adaptation according to the needs of the countries; the same thing happens when the recommendation is about issues in which the situations and the practices vary in such a way from one country to another that strict international commitments concerning the preconized measures would hardly be remembered. 3) Thus, the recommendation fulfills, before the convention, a useful function in several aspects, being the difference between the two instruments in the aspect related to efficacy, once, by definition, a recommendation cannot be the object of international commitments, and also that the States are given the margin they want to give effect to what they find convenient to judge, even though they are obliged to submit not only the recommendations, but also the conventions, to competent domestic authorities, informing about the performance of such obligation and about the recommendation or course taken in relation to it.

Nonetheless, such measures cannot be compared to the obligations which the ratification of a convention imposes and with the systematic control in which the performance is the object of such obligations;

4) Even though the recommendation is not considered a poor relative of the convention, two aspects must be present: a) given the nature of the issues that are usually an object of recommendation, the alternative is not always presented between a recommendation and a convention, but between a recommendation and the absence of an international rule, or in the existence of a convention which obtains such few ratifications that it will make it lose all its authority; b) it is indisputable that some of the recommendations have had considerable influences over numerous countries, being a resplendent example the recommendation number 119, of 1963, over the Termination of Employment Relationship.

3. THE LEGAL NATURE OF THE RECOMMENDATIONS OF THE ILO

According to Arnaldo Süssekind's lesson, the conventions of the ILO, when ratified by Brazil, form authentic formal sources of Law. Nevertheless, "the recommendations approved by the International Labor Conference act only as material sources of Law, as they may be the inspiration and model for the legislative activity."⁹

The same author explains the obligation of submission of the normative instruments of the ILO to the competent Brazilian authority, according to the domestic public Law of the member State, within the period of eighteen months of the decision-making: "if approved (by the Brazilian Congress) the way for the conventions to be formally ratified is through a governmental act; for the recommendations to be decided by the competent organ about the conversion of the suggested rules, as a whole or partially, is through legal rules of national efficacy, as established by the same Article 19 of the Constitution of the ILO."¹⁰

Celso Lafer, when analyzing the convention, prescribed in the recurrent Article 19 of the Constitution of the ILO, highlights the major characteristic of the decision-making quorum, being only approved by 2/3 of the officers attending the Conference. Such a fact helped Georges Scelle take to the conclusion that the own will of the Organization, by the 2/3 of the officers present, generates the rule act. The obligation that the State assumes, because it is a related element, depends on this mechanism of creating rules; it is a mere condition act, bound to the legal will expressed by the ILO, due to the power of majority vote of the 2/3¹¹.

As far as Lafer is concerned, "regarding the convention, the greatest originality of the ILO is in the mechanism of its adoption by the rule of the 2/3, thus, a rule act, and its approval and later ratification by the States, as a condition act"¹². The same

⁹ SÜSSEKIND, Arnaldo. **Comentários à Constituição**. 1º Vol. Rio de Janeiro: Freitas Bastos, 1990. p. 336.

¹⁰ Idem.

¹¹ LAFER, Celso. **A Organização Internacional do Trabalho**. Obra coletiva Tendências do direito do trabalho contemporâneo. III Vol. SP: LTr, 1980. p. 332.

¹² Idem.

author still claims that due to its own nature, the recommendations are not ratified by the member countries of the ILO, unlike the conventions, being, this way, less binding. For this reason, recommendations, as Vicente Marotta Rangel analyses, are often a soft law prior to the hard law of the convention.”¹³

When studying the legal nature of these two relevant documents, João Mota de Campos¹⁴ points out that the convention of the ILO differs from the generality of other international conventions because of a significant aspect: the State is not obliged to ratify it, but as established by Article 19, Paragraph 5, of the ILO Constitution, the governmental authorities have to subject it to the competent domestic organ, unlike the recommendations, which are not subjected to ratification by the member States; their only aim is to provide guidelines to the State with the leading of internal order and the legislation adoption. Therefore, recommendations and conventions are different because while the former are the “standardization instrument of the labor social Law in the States that ratify it”, the latter are the “approximation instrument of the States legislations which agree to continue them, setting them up more or less faithfully in the domestic legal order.”¹⁵

Concerning the recommendation, Evaristo de Moraes strongly points out that there is equal express demand of its subjection to the competent authority in domestic Law, even though there is no need of formal ratification. Without it, the member State still has to release annual reports, even if it has been turned into law or if its text is in accordance with its respective domestic legislation. It is the State duty to periodically inform the Director-general of the International Labor Office on the present state of the domestic Law and the measures adopted for its effective application¹⁶

Still in the same standard, Néstor de Buen claims that the conventions are equal to a treaty performed between States, regardless the already mentioned differences;

¹³ Ibidem. p. 331.

¹⁴ CAMPOS, João Mota de. **Organizações internacionais**. Lisboa: Fundação CalousteGulbenkian, 1999. p. 407-408.

¹⁵ Ibidem, p. 409.

¹⁶ MORAES FILHO, Evaristo de; MORAES, Antonio Carlos Flores de. **Introdução ao direito do trabalho**. 7.ed. São Paulo: LTr, 1995. p. 234.

the recommendations are mere suggestions given to the States, so that, if accepted, a domestic legal forwarding is made up¹⁷.

As for Mario de laCueva, he points out that Article 19 of the Constitution of the ILO establishes a difference between conventions and recommendations: the former is equivalent to a treaty performed by the executive orders of the States, and have to be accepted or refused in its terms, no alterations being accepted. On the other hand, the recommendation is a suggestion driven to the States; if it is accepted, a bill is originated, in line with it, to be discussed by the legislative branch.¹⁸ De laCueva also summarizes these differences in a formula which seems to be appropriate: the convention, ratified by the competent organ of the State, is automatically turned into positive Law, whereas the recommendation needs a further law which makes its principles positive.¹⁹

When analyzing, in theory, the recommendations of international character, Quoc Dinh, defines them as follows: “The recommendation is an act which emanates a principle from an inter-governmental organ, and that proposes a certain behavior to its addressees.”²⁰ He also mentions the definition of recommendation proposed by M. Virally in 1956: “it is the resolution of an international organ driven to one or several addressees (and implying) an invitation to the adoption of a certain behavior, action or abstention.”²¹ In addition, he brings to discussion the fact that the recommendation is an act free from obligatory effects, regarding its degrees of coercivity. The legal meaning of the term coincides with its current meaning. Its addressees are not obliged to subject it and do not break the law if they do not respect it. However, he highlights the normative value of the recommendations: “The lack of obligatory power of the obligations does not mean that they do not have any extent. If not, it would be hard to explain how obstinate the debates that lead to its adoption are. This political impact is essential at several moments, and even their political value should not be despised.”²²

¹⁷ BUEN, Néstor de. *Derecho del trabajo*. Tomo primeiro. 3. ed. México: Porrúa, 1979. p. 390.

¹⁸ LA CUEVA, Mario de. *El nuevo derecho mexicano del trabajo*. Tomo I. 6.ed. México: Porrúa, 1980. p. 36.

¹⁹ Ibidem. p. 36-37.

²⁰ DINH, Quoc; DAILLIER, Patrick; PELLET, Alain. *Direito internacional público*. Trad. Vítor Marques Coelho. Lisboa: Fundação CalousteGulbenkian, 1999. p. 343.

²¹ Ibidem. p. 335.

²² Ibidem. p. 252-253.

Concerning their legal effects, Dinh teaches us that certain recommendations take advantage of strengthened legal effects, even though they remain, by themselves, non-compulsory acts. He also explains: “the indirect means of pressure applied to this end differ according to the application that must be taken by... States or by the organs of international organizations, and in accordance with the issue that is put forward in a context of mere co-operation, or in an integrated organization. “As far as States are concerned, the classical example is provided by the acts of the competent organizations to adopt projects of conventions in the shape of recommendations.”²³

It is worthwhile to remember what Article 19, paragraph six (06), subitem b, of the Convention of the ILO says: “each one of the member States make a commitment to subject, within the period of one year counting from the closure of the Conference session (or, when, due to exceptional circumstances, that is not possible, as soon as it is possible, for a period not exceeding eighteen (18) months after the so-called closure), the recommendation to the authority or authorities whose competence involves the subject, in such a way that they turn them it into law or take measures of another nature”, Article 19, paragraph six (6), subitem b. Here its lies a certain flexibility of the assumed legal obligation, as it says: “the domestic authorities keep full freedom of decision over the opportunity to turn the recommendation into a domestic rule.”²⁴

It is highly significant to observe a *posteriore* control of the recommendations, as well as the pioneering role of the ILO over the theme, expressed in QuocDinh’s words: “The most used techniques for the State to provide regular reports, answer questionnaires, or explain their delays before experts or political organs (...). The ILO performed a pioneering role in this respect; its experience became broader (United Nations, Organization for Economic Co-operation and Development, North Atlantic Treaty Organization, etc) in such diverse areas, such as the protection of men’s Law, the co-ordination of the economic policies, and disarmament.”²⁵

²³ Ibidem. p. 349.

²⁴ Idem.

²⁵ Idem.

4. THE EFFECTIVENESS OF THE RECOMMENDATION OF THE ILU IN THE BRAZILIAN LEGAL SYSTEM.

It seems that Brazil has not yet defined how the recommendations of the ILU have to be accepted in our territory. Such situation may be recently noticed when Convention N. 182 was enacted; it is about the “Prohibition of the Worst Forms of Child Labor and the Immediate Action for its Elimination”. Effectively, the same Decree that enacted Convention N. 182, also “enacted”, let us say so, Recommendation n. 190, publishing it in a separate record by copy.²⁶

As it has been seen, such procedure opposes the predominant doctrinaire position which says that a convention is a treaty, subjected to ratification. On the other hand, a recommendation is not; it is an invitation to the adoption of a bill, to be discussed by the legislative branch.

The terminological and conceptual confusion apparently took place because both, the convention and the recommendation, demand subjection to the member States, and are liable to systematic control.

Regarding the procedure that it demands from the member States, it has been registered that the convention is made to be sent for ratification (Article 19, paragraph 5, subitem a, of the ILO Constitution); as for the recommendation, its effectiveness happens through a domestic law, or any other form of suggestions by the Nations, according to Article 19, paragraph 6, subitem a, of the ILO Constitution.

Concerning the control exercised by the Organization over the conventions and recommendations approved by the International Conference, and sent to the member States, it is observed that: a) with regards to the former ones, after consent by the competent authority, the member State informs the ratification to the Director–general of the International Labor Office, and takes measures for the completion of the dispositions; if there is no consent, the member State has no obligations, except for informing the Director–general about the legislation and practice observed in relation to the subject the information is about (Article 19, paragraph five (5), subitems d/e of the Constitution duo II); b) regarding the recommendations, the member States let the

²⁶ Decreto nº 3.597, de 12-01-2000. **Revista LTr**, Vol. 64, nº 09, setembro de 2000, p. 1214/1218.

same General-director know about the measures taken to subject the recommendation to the competent authority, in addition to the legislation and practice relatively observed over the subject of the recommendation, Article 19, paragraph 6, subitems a/d, of the ILO Constitution.

If the recommendation has no status or legal nature of a treaty, the invocation of Article 84, VIII, of FC/88 (Brazilian Federal Constitution) is presented as wrong, and also the enactment and publishing by the Executive Order set of the Recommendation and the Convention.

Indeed, having this idea in mind, the then Adviser General of Brazil, Dr. Adroaldo Mesquita da Costa, stated in the official report of March 27, 1968, pointed out that the “ILO recommendations” “are about a social order issue, and do not aim to create international commitment”, and that “they have to be subjected to technical organs of the Labor Office, which will prepare a bill to be offered to the Brazilian Congress, if so is understood by the Executive Order.”²⁷

As far as Rezek is concerned, he had already noticed this mistake when sending the recommendation, saying that there is “register, in the recent history of the Brazilian Congress, of the approval of recommendation of the International Labor Office, upon legislative decree (Dec. \Leg. N.51, of June 30, 1974, approving Recommendation n. 139, adopted in Session n. 55 of the ILO). There is no problem at all for the government to send the text of these recommendations to the Congress, they intend to work as a source of legislative inspiration. The mistake is to accept them as if they were treaties, and approve them through a legislative order, taking it for granted a possible ratification.”²⁸

The Explanatory Memorandum n. 189, of June 16, 2000, by the interim Foreign Ministry to the President of Brazil, clarifies this issue: “In 1988, Recommendations adopted by the International Labor Conference, on several occasions, between 1962 end 1985, were sent to the Brazilian Congress to be assessed. The rapporteur of the message in the Commission of Foreign Ministry and National Defense of the Brazilian Senate concluded that that eminent Commission should not be in charge of that

²⁷ D.O.U. de 18 de abril de 1968. Disponível em: <http://www.jusbrasil.com.br/diarios/DOU/1968/04/18>. Acesso em: 19.out.2016.

²⁸ REZEK, J. F. **Direito dos tratados**. Rio de Janeiro: Forense, 1984. p. 159.

evaluation, since the Recommendations, unlike the ILO conventions, are merely exhorting, not having judgmental character, but only being introduced to the Brazilian authorities that can internally legislate over the subject.”²⁹

The interim Foreign Minister emphasizes that: “Even though the Explanatory Memorandum n.10, of January 14, 1987, and n. 102, of April 14, 1987, which originated the so-called Message, have mentioned, in accordance with Article 19, Paragraph 6, subitem (d), of the Constitution of the International Labor Organization, that the Recommendations are not considered binding documents, but should be subjected to the competent authorities, solely aiming at making them known; in Message n. 165/1988 there is no explicit reference that legislative approval of the subject would not take place.”³⁰

At last, the Minister sends the Explanatory Memorandum to the President of Brazil for appreciation, attached to a Message Bill to the Brazilian Congress: “Which requests the suspension of appreciation by the legislative branch of Message n. 65/1988, through which the texts of the Recommendations adopted were sent by the International Labor Conference, on several occasions, in the period between 1962 and 1985”³¹.

It was highly appropriate, as the exposition regarding the recommendation, even though it is similar to the convention in the way it is approved by the International Labor Conference, quorum of 2/3, it is still different from the convention, since the Convention of the ILO is the same as an International Treaty, while the Recommendation of the ILO is a request to the member States to adopt the necessary measures advocated in them by means of the Brazilian legislation.

Finally, the Resolutions and Conclusions of Special Meetings, which are also formed by rules originated from the ILO, are considered as constitutive of international Labor Law by some authors. Regarding the theme, Balmaceda teaches: “The resolutions adopted by the International Labor Conference represent, in general, valuable issues made to guide the States and the ILO itself in subjects of their

²⁹ The text of the EM nº 189, DAI- MRE – PAIN, de 16-06-2000.

³⁰ Idem.

³¹ Idem.

competence.”³² Some have given reason to serious discussions inside the Conference; others form real principles for the organs of inspection of the ILO; and example of that is the resolutions over the “Independence of the Union Movement”, and over the “Union Rights and their Relations with Civil Freedom, respectively adopted in the Conferences of 1952 and 1970.”³³

The conclusions of the “Special Meetings, all aimed at guiding the social policy of the States in specific aspects through the ILO, should be added to such rules.

CONCLUSIONS

The doubtless significance of the effectiveness of the rules of the ILO, in the great moment of deconstruction of labor rights and guarantees we can see, shines in the always present recollection of João Oreste Dalazen: “the ILO will only be given higher international expression as long as the basic standards of labor protection that it approves are bound in agreements of global trade. Ideally, it is essential that the ILO and the World Trade Organization work together so that in the international trade there exists effective demanding of the required universal rules of labor protection.”³⁴

If it is right that the conventions and recommendations of the ILO, even with different binding degrees, are of major importance in the current international context of working relations, given all the odds of globalization, it is also right that their effectiveness lie in the immediate and correct accession given by the international community. States which are not part or give wrong treatment to the rules of the ILO have contributed to the breach of an irresistible civilizing route, upon which we are all compelled to, by the duty of guarantee.

³² Ibidem. p. 136.

³³ Idem.

³⁴ DALAZEN, João Oreste. Relatório de participação na 88ª Reunião da Conferência Internacional do Trabalho – Genebra – 2000. **Revista do TST**. vol. 66, nº 3, julho a setembro de 2000. Brasília-DF, p. 242-243

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