In the spring of 1925, members of the International Labour Organization (ILO) met in Geneva to create a convention for the compensation of workers who were injured at work. This agreement provided for a minimum standard of compensation for all states that signed it. Its regulations were extensive: it would allow for the compensation of almost all workers, supervisors, and apprentices in all industries, both public and private. It would also apply to the dependents of these workers. In addition, the convention also required medical treatment and therapeutic assistance for injured workers, including rehabilitation and prosthetic limbs. Every government that ratified the convention would be obligated to extend these measures to its colonies and protectorates. Employers, commercial insurance companies or sickness or disability insurance funds would be required to pay for both compensation and medical assistance.

The ILO convention on workmen’s compensation for accidents could be viewed as a hallmark of convergence for social legislation and, in particular, policies on the treatment of workplace accidents. Indeed, social scientists have often portrayed the development of European social legislation as a story of policy convergence, that is, «the tendency of societies to grow more alike, to develop similarities in structures, processes and performances». Social scientific studies on policy convergence generally cite a number of factors for its occurrence, including diffusion and emulation, elite networking, harmonisation through international regimes, and penetration by external actors and interests.¹

These depictions of policy convergence contrast with the other major story of legislative development, that of national particularity. While sociologists have developed «models» of policy that can be applied to individual or multiple states, historians have also elaborated on national differences in the development of social legisla-

This essay focuses on three particular national cases for the period from the 1880s to 1914. It examines the experiences of the British, German and Italian governments with their policies on compensation for workplace accidents. Scholars have depicted these states as following a unique path in their development of social policy. Historians of Britain and Germany have contrasted the two cases as liberal and authoritarian foils of each other and have focused on the case of workmen’s compensation, in particular, as an example of their differences. Scholars of Italy have focused on Italian social legislation in the late nineteenth and early twentieth centuries as characteristic of trasformismo politics, which was typified by compromise between political interests, and the failure of the state to govern efficiently.

Despite these differences in historical memory, all three policies shared a common experience with the development of social policy: like over seventy other countries, U.S. and Australian states and Canadian provinces, Britain, Germany and Italy adopted laws on the compensation for workplace accidents in the period between 1884 and 1914. What these laws had in common was that they required employers to pay compensation for accidents at work, regardless of what caused the accident. Employers were exempted from compensating workers only in cases in which the injured person had wilfully contributed to his or her injury. For Britain, Germany and Italy, as for many other states, these laws on accident compensation generally constituted the first national social security policy en route to a more comprehensive welfare system.

The compensation policies provided these states, like others at the time, an opportunity to break fundamentally with earlier liberal legal traditions and move towards a more interventionist form of governance. As Peter Flora and Jens Alber have noted, «the introduction of accident insurance or workmen’s compensation constituted the least radical break with liberalism since it could be rationalized by redefining the old idea of liability for individually caused damages». Earlier social policies, such as laws on education and the treatment of the poor, pre-dated the introduction of the compensation laws. However, more comprehensive systems of social security were only introduced in these states, as in many others, in conjunction with the laws on compensation. Germany for example, adopted policies on sickness insurance and pensions for old-age and disability as part of a unified package with this law on accident insurance.

4 M. S. Quine, Italy’s Social Revolution. Charity and Welfare from Liberalism to Fascism (Basingstoke, 2002); A. Cherubini and I. Piva, Dalla libertà all’obbligo: la previdenza sociale fra Giolitti e Mussolini (Milano, 1998).
while Britain began to introduce similar legislation gradually over the next two decades. Italy introduced a voluntary system of disability and old-age pensions at the same time that it enacted obligatory accident insurance and it adopted other forms of obligatory social insurance over the next several decades.

A comparison of these three states illuminates, in particular, how a movement towards an international standard for compensation, such as that set out in the ILO convention of 1925, emerged out of quite different contexts. Germany and Italy adopted their first laws on accident insurance in 1884 and 1898, respectively, and Britain ratified its first workmen’s compensation law in 1897. German accident insurance legislation required employers to join mutual associations (Berufsgenossenschaften) that the regional and national governments supervised. Regional insurance offices and an Imperial Insurance Office in Berlin also served as appeal courts for disputed cases. In Italy, the law required employers to obtain insurance for workplace accidents, and this insurance could be provided by state-registered commercial firms or mutual societies. Courts of cassation throughout the kingdom dealt with disputed claims. In Britain, workmen’s compensation law required employers to pay for compensation for workplace accidents, either through insurance or out-of-pocket. Employers could join state-registered mutual funds, friendly societies or commercial insurance funds for this purpose.

These laws emerged in an era of international connectedness. From the 1880s onward, numerous governments observed foreign legislation on workplace accidents, and many participated in conferences that were convened by transnational bodies of experts interested in various aspects of industrial risk. The observation of foreign legislation and participation in international conferences at this time was not unique to those interested in accidents at work. Governments and reform organisations observed policy developments abroad related to a variety of social issues, from pensions for the elderly and sickness insurance to school meals. International congresses such as the world’s fairs provided opportunities for communication about social policies and practices at social-economy sections like the one held in the 1900 Exposition Universelle in Paris. The efflorescence of transnational and international communication at this time also extended to more specific social issues, such as the protection of women workers and the adoption of an eight-hour workday, which the Second International advocated in 1889.

6 Hennock, British Social Reform, part II; L. Frohman, Poor Relief and Welfare in Germany from the Reformation to World War I (Cambridge, 2008), 188.
7 An illuminating description of this particular section can be found at D. T. Rodgers, Atlantic Crossings: Social Politics in a Progressive Age (Cambridge/Mass., 1998), 12–20.
shape of transnational and international communication about the workplace changed fundamentally, however, during the First World War and especially afterwards due to both the inevitable re-focusing on the war effort and the establishment of the ILO in 1919.

This essay focuses on the period between the 1880s and 1914 as a pre-history to developments in the interwar period. It argues that transnational and international communication about workplace accidents during this period facilitated the creation of an international minimum legal standard on the issue. In particular, this essay centres on a case study of foreign workers. The structural problems of labour migration and the legal treatment of overseas protectorates and colonies fostered the standard for the compensation of workplace accidents. For the British, German and Italian governments, pragmatic economic factors were instrumental in paving the way for an international minimum standard, yet these concerns differed from country to country. Moreover, all three governments voiced differing legal and sometimes racial arguments about to whom the standard should be applied. During this period, transnational and international factors played an important role in the development of national social legislation. The international convergence of policies for accident compensation was, however, limited during the period under consideration. Observations and communication across borders went hand-in-hand with the strengthening of national social security systems.

The following will develop in four steps. In the first section, this essay explores why foreign and migrant workers were a political issue for the British, German, and Italian systems of accident compensation during this period. It also outlines how transnational and international communication about workplace accidents and industrial diseases in the late nineteenth and early twentieth centuries provided a means for later cooperation in terms of protecting migrant and foreign workers. The following three sections focus in detail on the German, Italian and British case studies. They investigate how and why these states concluded reciprocity treaties for the compensation of migrant workers, and they examine the experiences of these countries with applying compensation laws to foreign workers in their colonies and protectorates.

1. Labour Migration, Foreign Workers and the Boundaries of Compensation

By 1905, as members of the seventh International Congress on Work-related Accidents and Social Insurance found, fourteen European states offered some form of compensation for workplace accidents. These stretched from Spain to Russia and from Finland to Greece. In addition, several members of the British Commonwealth provided the same compensation. Numerous South American countries, American states and Japan enacted similar legislation within the next decade. Due to the varying provisions that these laws offered foreign labourers, the official Italian representative to that congress argued that the time was ripe for the agreement of international
treaties that would secure these workers and their dependents. The Italian delegate’s argument reflected concern that had been growing in European governmental circles since the mid-1890s about the treatment of migrant workers.

In Britain, Germany and Italy, the question of protecting emigrant labourers came to the fore as more and more states adopted some form of compensation for workplace accidents. Moreover, transnational labour migration within Europe but also within the British, German and Italian empires and to the United States sparked conflict about national jurisdictions for social policy. These issues coincided with the development of international law, which became increasingly significant within the political arena from the late nineteenth century. At this time, numerous conferences established international legal standards in fields as diverse as measurement and time, which proved crucial for technological developments. International conventions and bilateral and multilateral reciprocity treaties acknowledged practices ranging from marriage to the waging of war. One of the leading motivations for advocates of international law at this time was the creation and implementation of socially-oriented standards in a range of fields, including social policy.

The issue of migrant workers tested whether governments would adopt such a standard for accident compensation. Britain, Germany and Italy, like other states in this period, experienced mass emigration. Statistics on migration for the late nineteenth and early twentieth centuries are unreliable. Nonetheless, several general patterns of migration can be found, including the fact that European labour migration declined steeply with the outbreak of the First World War. German emigration was extensive throughout this period but peaked in the 1880s, and the vast majority of German emigrants went to the United States. In contrast, British emigration targeted colonies and former colonies in particular and also the United States. Italian labour migration was more varied. Over fourteen million Italians emigrated between 1876 and 1915, and 44 percent of these individuals sought work in other European countries. Italian migration also differed from that in Germany and Britain, as a particularly high percentage of these emigrants returned to Italy, and as the geographical origins of migrants varied considerably.

In Germany’s case it was not only compensation for emigrant workers that concerned the government at this time; attracting qualified foreign workers from

12 Nugen, Crossings, 43.
neighbouring countries was even more significant in governmental considerations about the remit of rights to compensation. Associations of industrialists, and especially the Berufsgenossenschaften, repeatedly pointed to the lack of labour for the booming German economy. An additional economic consideration also led that government to conclude reciprocity treaties and agreements. Due to Germany’s central location on the continent, many businesses based there operated across borders, which provoked conflict about whether these firms were subject to the social security laws of other states. The international debates that ensued raised questions about the equal merit of legislation and how the standards for compensation should be set. These debates ran parallel to discussions about the treatment of foreign and German workers in Germany’s African protectorates. For Germany, as for Italy and Britain, the issue of foreign workers based in colonies and protectorates tested whether and how the government would work towards international standards for accident compensation.

At the core of each government’s considerations about the treatment of foreign workers were concerns about international standards for the defining elements of the compensation laws: the meaning of accidents, risk and social obligations. From the 1880s onward, transnational and international communication and observation became increasingly important for European governments when drafting and revising their laws on compensation. These experiences influenced how each government dealt with the issue of foreign workers in two ways: first, by forging a common understanding of workplace risk as the source of workplace accidents and, second, by creating transnational networks that could lobby for international minimum standards.

The British, German and Italian governments learned about international developments in the treatment of workplace accidents primarily through two channels. First, all three governments relied on their consuls posted abroad to transmit copies of foreign policies and reports about legislative initiatives in parliament. In addition, they commissioned studies on foreign legislation from government offices, civil servants and insurance experts with ties to government. This information later proved crucial for each government when concluding treaties on labour migration. In particular, it enabled the British, German and Italian governments to reflect on the provisions granted in foreign legislation and to provide legal arguments for or against the creation of reciprocity treaties. Second, all three governments looked to the conferences of transnational and international organisations interested in the protection of workers for information about scientific, legal and statistical research on job-related accidents. This second source of information was particularly important for facilitat-

14 For example: U. Mazzola, L’assicurazione degli operai nella scienza e nella legislazione germanica. Relazione a s. e. il ministro di agricoltura, industria e commercio per Ugo Mazzola, special issue of Annali del credito e della previdenza (1885); Parliamentary Papers (PP) 1886 (c.4784) LXVII. 571: «Reports by Her Majesty’s Representatives Abroad on the Laws Regulating the Liability of Employers in Foreign Countries» (June 1886); T. Bödiker, Die Unfallgesetzgebung der europäischen Staaten (Leipzig, 1884); Bundes-Archiv Berlin (BArch): R1501: 1000420–471.
ing later cooperation, as it fostered common understandings about workplace accidents and the role of the compensation laws in addressing them.

International congresses became especially influential after 1889. It was in this year that the International Congress on Industrial Accidents and Social Insurance met for the first time at an event that ran parallel to the World’s Fair in Paris. Experts associated with universities, insurance bodies and the law, as well as official representatives from governments across Europe, met at this congress to share information about industrial accidents and hygiene. The congress was a particularly significant point of contact about industrial accidents. It met every two to three years and had a standing body based in Paris. At the 1900 Paris Exposition Universelle, the International Congress on Industrial Accidents and Social Insurance resolved to found the International Labour Office, which would compile information and regularly publish a Bulletin on related developments. These points of contact, like the International Congresses on Professional Diseases, the first of which took place in Milan in 1906, continued to prove crucial for transmitting information after all three governments adopted laws on accident compensation. Moreover, they created networks of individuals who were invested in fostering international standards for the compensation of workplace accidents.

2. The German Case

The development of international standards in accident compensation began to concern the German government already in the 1890s. At that time, German shipping firms operating across the Belgian, Luxemburg and Dutch borders began receiving notification from those governments or from their partners abroad that they should join the national insurance schemes there. This sparked public outcry, as these firms and the Berufsgenossenschaften in which they were members began to demand adamantly that the German government do something to prevent them from being doubly burdened with accident insurance contributions. This problem arose because the German accident insurance laws required branches of German industry to contribute to the accident insurance scheme so long as they were so-called «dependent radiations» of a firm. «Independent» branches of German firms, however, were not obligated to contribute to the German national scheme. These included business outlets that were primarily operated with local equipment and workers, and remained

established abroad for more than six months, but not businesses that were constantly in motion, such as transportation industries, railways and the German post. At around the same time, German firms, including state industries, began calling on the government in Berlin to draw up some kind of agreement with other countries that would allow for migrant workers to receive compensation upon returning home. The Saxon State Railway Industry, for example, was especially concerned about its workers based in neighbouring Austria. A few years later, social reform organisations such as the Society for Social Reform and the German section of the International Association for the Legal Protection of Workers petitioned the government for reciprocity treaties that would protect the right of migrant workers, including Germans abroad, to compensation.

By the early 1900s, the German government began to negotiate agreements with other countries that allowed branches of foreign firms to be excluded from the obligation to maintain German insurance, so long as the same was done for branches of German firms acting in those countries. The 1900 revision and consolidation of all preceding accident insurance laws granted the Bundesrat the power to make such agreements. These accords also included stipulations for paying pensions from the German accident insurance scheme to foreign workers living abroad. Germany eventually concluded this kind of agreement with Luxemburg, Belgium, the Netherlands and Italy in the period between 1905 and 1912. Negotiations with Austria-Hungary and Switzerland began not long before the outbreak of war, but fell apart amidst the wartime upheaval. As a result, the German government closely monitored new foreign legislation on accident insurance and workmen’s compensation throughout this period, often with an eye towards possible treaties of this kind.

Its response to demands for reciprocity treaties was initially quite ambivalent due to concerns about whether foreign laws on accident insurance would provide comparable provision to their German counterparts. Members of government in Berlin were more specific in their concerns about the merits of foreign legislation, emphasising the need for it to be of «equal value» to German accident insurance in order for any reciprocity treaties to be negotiated. They argued that, not only did the foreign legislation have to be of «equal value», but implementing these treaties had to be practicable.

23 E. Wickenhagen, Zwischenstaatliches Sozialversicherungsrecht (Bonn-Bad Godesberg, 1957), 41.
There were two problems that stemmed from the question about the «equal value» of accident compensation laws. The first was structural. The main problem here was whether both laws provided for compulsory insurance. Since the British Workmen’s Compensation Acts of 1897 and 1906 only mandated compensation and not insurance, the German government decided against opening negotiations for a treaty with Great Britain. It was concerned that German workers would be unfairly disadvantaged there, as employers might become insolvent and therefore unable to pay compensation. Due to the format of the German system of accident insurance, defaulting on compensation was never a possibility for individual employers. The German government, therefore, rejected the British government’s repeated requests to draw up a reciprocity treaty along the lines of those that Germany had concluded with other states and that Britain had concluded with France. Similarly, it decided against concluding a reciprocity treaty with Russia, following its adoption of an accident insurance law in 1912, because the Russian law was quite limited in scope and excluded foreign workers. The German government did, however, make an exception for certain villages on the Polish-Russian border.

A second significant structural problem was whether foreign laws on accident compensation included fault clauses for workers’ actions. Another reason why Germany would not conclude a treaty with Britain was that the Workmen’s Compensation Acts allowed employers to opt out of compensation if they could prove that workers had acted with «serious and wilful misconduct» when an accident occurred. The 1906 Workmen’s Compensation Act slightly revised this stipulation by granting compensation to permanently and totally disabled workers and the families of workers who died due to accidents, whether or not «serious and wilful misconduct» was involved. Yet, neither the revised version of this clause, nor the 1898 French law’s stipulation about «faute inexcusable» convinced the German government that either law was comparable to the entirely fault-free system of German accident insurance.

The second issue about the «equal value» of compensation laws was pragmatic. A major concern voiced by German firms – after their opinion on the matter was solicited by the Imperial Insurance Office – was that they had many foreign workers from countries such as Italy, but there were not many Germans working for Italian firms. Some argued that it might be unfair for German industry to be burdened with paying accident benefit that would just go back to Italians and their families abroad.

25 BArch R1501:100482: 6–8: Secretary of the Interior to the Foreign Secretary, 3 Aug. 1908.
26 For example: BArch R1501:100482:3: Frank C. Lascelles to the German Foreign Secretary, 27 May 1908.
28 The only form of workers’ fault that the German law conceded was criminal acts. BArch R1501:100482:10: German Foreign Office to Ambassador Frank Cavendish Lascelles in Berlin, 20 Aug. 1908; BArch R 1501: 100481: 7–10: Report on possible reciprocity treaty with France by governmental advisor Gabel, 15 Apr. 1902.
29 For example: BArch R 1501: 100478: 94–7: Süddeutsche Eisen-Berufsgenossenschaft to the Imperial Insurance Office, 21 Apr. 1911.
with no particular gains for German workers. The Imperial Insurance Office made a similar point with regard to Russian workers.\(^30\) Another concern was fraud, especially in the case of Italy. For instance, the German mining Berufsgenossenschaft pointed out that there had to be a good way to prove that Italians truly had dependents back in Italy. Otherwise, miscellaneous relatives or friends of deceased workers might receive insurance benefit not otherwise owed to them. Moreover, the mining Berufsgenossenschaft noted, Italians were not very trustworthy. For example, it claimed that local doctors in Italian towns might feel pressured to exaggerate the severity of injuries so that workers would receive a higher pension. It argued that this was especially likely due to the «national character of revenge».\(^31\) Other Berufsgenossenschaften made similar, though less colourful, claims about the Hungarian medical profession.\(^32\) Quoting a Swiss expert on accident medicine, the mining Berufsgenossenschaft also maintained that Italian workers were especially prone to self-injury.\(^33\)

Nonetheless, the majority of Berufsgenossenschaften conceded the importance of interstate agreements or reciprocity treaties for accident insurance policies when it came to attracting foreign workers to Germany. The German government first took up the cause of luring and retaining foreign workers with accident insurance in 1901, after the Imperial Office of the Interior received a petition from two migrant labourers along the Russian border area of Upper Silesia.\(^34\) The problem that these workers encountered, like other foreign workers in Germany, was that they were unable to receive full annuities for accident compensation if they left Germany permanently. Moreover, their dependents, if resident outside Germany, were not entitled to accident benefit upon the death of these workers. In 1911, the Imperial Insurance Office inquired with all Berufsgenossenschaften about their reliance on foreign workers and whether they thought that it was important to attract them with comprehensive accident insurance benefits. Many Berufsgenossenschaften declared that a substantial part of their membership consisted of workers from abroad. For example, the Southwest German Iron Berufsgenossenschaft paid approximately ten percent of its annual compensation payments to Italian workers. It claimed that an agreement with Italy would be important for guaranteeing the well-being of these individuals and their families.\(^35\) While several Berufsgenossenschaften

\(^31\) BArch R 1501: 100478: 59–63: Committee of the Knappschaftsberufsgenossenschaft to the Imperial insurance Office, 11 June 1911; BArch R 1501: 100478: 70–9: Report from Sec. I of the Knappschaftsberufsgenossenschaft, 11 June 1911.
\(^33\) C. Kaufmann, Handbuch für Unfallmedizin. Mit Berücksichtigung der deutschen, österreichischen, schweizerischen und französischen Arbeiter- und der privaten Unfallversicherung, 3rd edn (Stuttgart, 1907), 124ff.
\(^35\) BArch R89: unnumbered: Südwestdeutsche Eisen Berufsgenossenschaft to the Imperial Insurance Of fice, 21 Apr. 1911.
made this argument from an economic standpoint, others pointed to humanitarian
grounds.\textsuperscript{36}

For Berufsgenossenschaften and the government alike, only one category of foreign
worker did not generally merit the German norms in accident insurance. The German
consulate in St. Thomas in the Virgin Islands contacted the Imperial Insurance Office
on behalf of the Hamburg-America shipping line to request that compulsory accident
insurance not apply to «coloured» workers, including Japanese, Chinese, Malaysians,
«blacks» and other labourers on board its ships, even though, by German law, ships
based in Germany were obliged to provide accident insurance to their workers. The
consulate argued that providing accident insurance to these workers would be unnec-
essary because they never entered Germany; these workers instead joined and left
crews during a ship’s passage. Moreover, it pointed out that certain exceptions for
these workers had already been made with regard to obligatory disability insurance. It
is noteworthy that the Imperial Insurance Office did not take a stance on the issue,
instead ruling that the business could decide for itself.\textsuperscript{37}

The German government accepted another argument when it came to denying
accident insurance to workers in industries based in colonial Africa. The German
Colonial Society began lobbying government for the extension of social insurance to
German protectorates in the early 1900s.\textsuperscript{38} Yet, the government in Berlin argued that
German protectorates would not be considered «domestic» for the purposes of social
insurance, meaning that no permanent residents there would receive accident insur-
ance. It claimed that these areas were not yet suitable for the general introduction of
social insurance and that the special conditions in the protectorates meant that insurance
would need to be regulated quite differently once introduced there.\textsuperscript{39} Therefore,
the industries that were operated out of Germany’s African colonies, such as the East
African Railway Society, would be considered «independent» branches of German
firms. The only way to circumvent this ruling would be to change the political stand-
ing of the German East African state so that it was along the lines of that in Alsace-
Lorraine, which Germany had held in special status since 1871.\textsuperscript{40} The loss of Ger-
many’s colonies in 1919 finally resolved the issue of social insurance in Africa.

\textsuperscript{36} For example: BArch R1501:110478: 51: Südwest-
deutsche Eisen-Berufsgenossenschaft to the Secre-
tary of the Interior, 6 Feb. 1911; 66–8: Report of the Oberschlesischer Knappschafts-Verein to the Committee of Section VI of the Knappschafts-Ber-
ufsgenossenschaft, 18 May 1911.

\textsuperscript{37} BArch R89:15426:12–14: German consulate at St Thomas to the Imperial Insurance Office, 15 Dec. 1906; 20: Imperial Insurance Office to the German Consulate in St Thomas, 7 May 1907.

\textsuperscript{38} BArch R1501:101255: 29: Foreign Office to the Secretary of the Interior, 9 Sept. 1904; «Die Invalidenversicherung und die Schutzgebiete»,


\textsuperscript{40} BArch R1501:101255: 86–87: Secretary of the Imperial Colonial Office to the Secretary of the Interior, 29 July 1914; 95: President of the Imperial Insurance Office to the Secretary of the Interior, 12 Nov. 1914.
3. The Italian Case

In Italy, in contrast to Germany, the government was mostly concerned with looking after its many emigrant workers abroad. In 1891, the Minister of Foreign Affairs contacted all Italian embassies and consuls in order to begin compiling more comprehensive statistics on the number of Italians residing abroad. Some of the information he received suggested that Italian workers were being treated poorly in their host countries. The Vice Consul in Vienna, for example, claimed that workers came from Italy unprepared and ignorant about the labour situation in Austria. Although Austrian labour legislation was designed to treat Austrian and Italian workers equally, Italians often ended up poorly off. One way to tackle this problem was informing Italian workers abroad of their rights and the procedures to follow in specific countries. The Italian government, therefore, drew up brochures on topics such as workplace accidents in France and sent them to the Royal General Commission for Emigration, consular agents in France and regional prefects, who distributed these to mutual aid societies.

In situations where Italian emigrants were not guaranteed equal treatment under the labour legislation of their host countries, the Italian government actively sought the conclusion of treaties that would ensure their rights abroad. Already in the late 1890s, it began considering whether it could reach some kind of agreement with Germany that would enable dependents of Italian workers in Germany to receive compensation back in Italy. As soon as the Bundesrat was granted the authority to make such agreements, following the enactment of the Commercial Accident Insurance Law of 1900, the Italian government drew up a proposal for the German government. They reached an agreement by 1901. Several years later, in 1913, the two governments expanded on this agreement with a formal treaty that enabled returned Italian workers to receive compensation in Italy through annuities based at the Italian National Accident Insurance Fund.

The Italian government reached the 1913 treaty following a royal decree the previous year that enabled the government to sign international conventions regarding social insurance that would allow for equal treatment between Italian and foreign citizens. The decree stipulated that these agreements could be drawn up so that the Italian National Disability and Old-Age Pension Fund and the National Accident Insurance Fund could register pensions for foreign citizens. It also enabled the Italian government to revoke the benefits of the laws on social insurance from «citizens from those states that make less favourable conditions to Italians than to those made to
nationals». Italy concluded a similar treaty with France in 1907, following a more informal agreement about honouring work-related legislation in 1904. It also reached an agreement with Hungary in 1911. The administration in Rome encouraged Sweden in the same year to pass a law that would entitle Italians to accident compensation even if they returned to Italy. The two governments did not, however, sign a full reciprocity treaty.

A major concern for the Italian government at this time was workers based in the United States of America. Between 1890 and 1910 over two-and-a-half million Italians emigrated there. Due to the federal system of government in the United States, labour laws differed from state to state, making the protection of Italian workers throughout the country particularly problematic. A treaty on commerce and navigation that the United States and Italy signed in 1871 called for the equal treatment of citizens and property from both countries. However, later American laws and proposed legislation that related to liability and compensation did not uphold these terms. In 1912, the «Sutherland Bill» on interstate railways sought to exclude compensation to families of foreign workers if they were not resident in the United States. The bill did not succeed in Congress, but a number of state laws undermined the 1871 agreement. For example, New Hampshire, Oregon and New Jersey all passed legislation between 1911 and 1913 that denied non-resident «aliens», in the nomenclature of Anglo-American immigration law at the time, equal compensation following workplace accidents. Even in California, where the law on accident compensation did not discriminate between foreign and American workers, the Italian consul in San Francisco noted that procuring compensation for dependents of Italian workers had been difficult.

The consul called for Italy to adopt some sort of agreement with the United States along the lines of those that had been drawn up with other European governments. Italy concluded a treaty with the United States federal government in 1913 in order to rectify this situation; following an amendment to the U.S. constitution in 1868, the laws of all U.S. states must correspond with federal legislation. Yet, the treaty proved ineffective, as a report by the Italian ambassador the following year argued.

44 «Legge 19 giugno 1913, no. 736, che converte in legge il R. Decreto 6 luglio 1912, n. 1067, recante provvedimenti per le assicurazioni sociali nei riguardi degli italiani emigrati e degli stranieri residenti nel regno», Gazzetta ufficiale, no. 155 (4 July 1913).
45 France: Regio Decreto 30 June 1907, no. 546, Gazzetta ufficiale, no. 182 (1 Aug. 1907); Hungary: Law 6 July 1911, no. 713, Gazzetta Ufficiale, no. 169 (20 July 1911).
consulates throughout the United States, as elsewhere, therefore continued to offer legal aid and to monitor cases involving workplace accidents.49

Italy had paved the way for these international conventions for accident insurance by signing earlier treaties for the protection of workers. While the Italo-French treaty of 1904 served as an important precedent, the 1906 treaties for the abolition of white phosphorus in the production of matches and the abolition of female and child night labour were the most significant of these agreements, which were reached following a conference on the international protection of labour that the Swiss government convened in Berne. Germany also agreed to these conventions, while Britain abstained.50 Although there had been earlier attempts to draw up some form of international law to protect workers, including those at the 1890 conference in Berlin on the protection of labour, the 1906 agreements were the first major international conventions of this kind. It was not entirely surprising that the protection of female and child workers stood amongst the initial issues to receive international legislation: many European states had focused first on these populations before extending similar provisions to other members of the workforce. The lobbying of transnational organisations for similar legislation on an international level was a natural outgrowth of these earlier developments. It was primarily the efforts of the International Association for the Legal Protection of Workers, which was founded in 1900 and based in Basel, that led to these treaties in 1906. The organisation recognised the need to transcend the abstract discussion of workers’ rights and focus on particular issues. Amongst these was the application of national laws on workplace accidents to foreign workers. Various Italian parliamentarians, social reform organisations and members of government supported its endeavours here.51

The Italian government’s concern with protecting workers and providing them with accident insurance extended also to foreign labourers in its African protectorates. Unlike in Germany, guaranteeing the right to accident insurance to foreign workers was never an issue in Italy. Neither businesses nor accident insurance funds contacted government about the need to attract foreign workers to the peninsula with social policy. The only exception to this rule was the case of workers in Italy’s North African protectorates. In 1913, the Ministry of Colonies and the Ministry of Agriculture, Industry and Commerce convened a commission with members of the National

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Accident Insurance Fund in order to investigate extending accident insurance to Tripolitania and Cyrenaica, which Italy acquired in 1911 following a war with the Ottoman Empire. Members of the commission argued that requiring accident insurance for workers there would help to integrate Italy’s new «subjects» and encourage a «coordinated collaboration» between them and Italian workers there. They also argued that requiring employers to provide accident insurance for the «natives» would make North African workers no more desirable to Italian employers than Italian workers based there. Moreover, the commission claimed that African workers should be entitled to accident insurance because all foreign workers on the peninsula were treated equally under the Italian law.\footnote{52}

The commission, however, decided that African workers would not require exactly the same benefit level as Italians because they had «less sensitivity to pain» and a different form of «family solidarity» than existed in Italy. Moreover, it would not be necessary to provide extensive accident benefit to African workers, the commission argued, because they were used to Muslim customs and religious law with regard to these matters. Since African workers might be more likely to commit fraud than Italians, and since insuring them could be very expensive, the National Fund argued for exclusive rights to accident insurance in Italy’s African protectorates, which the Italian government granted.\footnote{53} The Italian government therefore, conceded that certain foreign workers might merit ostensibly equal but in fact rather different rights than Italians when it came to compensation.

4. The British Case

The British government was similarly concerned about contributing to standard practices for accident compensation. Yet, in the British case the government took a middle course between the German and Italian governments’ approaches to extending compensation to migrant workers and contributing to international standards. While the German government sought to uphold its model of accident insurance as the yardstick for compensation, Italy was determined to protect its workers abroad regardless of the system of compensation available. The rules of British workmen’s compensation law were much less rigid than those for the two continental systems of accident insurance because they did not require employers to enrol workers in insurance funds. This meant that providing accident compensation to foreign workers in Britain was much less cumbersome than it was in Germany and Italy. Since Britain did not demand accident insurance, the government there was not particularly concerned


\footnote{53} «Relazione della Commissione», 7–8, 9–11, 114–15; Cassa Nazionale d’assicurazione per gli infortuni sul lavoro, sede centrale in Roma, Organizzazione del servizio di assistenza agli infortuni (Rome, 1922), 5.
about entering into agreements only with states that had compensation laws of «equal value» to those in Britain. It instead sought to make agreements in cases that would be most beneficial for British workers abroad. It was, therefore, less active than Italy in making agreements with other European states and instead focused on creating universal standards of accident compensation that would apply throughout the British Empire.

The issue of protecting migrant workers first emerged in the 1904 Home Office Departmental Committee on revising workmen’s compensation law. The committee approved of the treatment of migrant workers under the law because it was «substantially in accordance with the laws of France and Germany,» and encouraged parliament to «recognise the principle of reciprocity» for accident insurance and workmen’s compensation in these cases. It decided, however, that the government should find a way to secure compensation for British workers abroad.\(^{54}\) In 1908, the Home Office asked the Foreign Office to inquire into the effects of European accident compensation laws on British workers abroad.\(^{55}\)

The Home Secretary, Herbert Gladstone, echoed the German government’s concerns about concluding agreements or treaties for accident compensation only when these would provide «equivalent advantages» to those involved. Yet, he saw that an agreement with France would solve the problem of British workers based there, who were not given the same rights to accident insurance as their French counterparts. Considering France’s earlier agreements with Belgium, Italy and Luxembourg, the British government pushed for the Anglo-French Convention on Workmen’s Compensation, which was ratified in 1910.\(^{56}\) For the same reason, the British government negotiated an agreement with Austria-Hungary in the next several years, but negotiations subsided with the outbreak of war. It also persuaded the Swedish government to enact a Royal Ordinance that would improve the position of British citizens under the Swedish accident insurance law.\(^{57}\) After the British consul in St. Louis, Missouri, notified the Foreign Office about American discussions of creating uniform compensation laws that would not grant benefit to the dependents of foreign workers, the British government began considering concluding a similar treaty with the United States. It shelved the idea, however, after informally inquiring into the matter with the U.S. government.\(^{58}\)

\(^{54}\) PP 1905 (cd.2208) lxxxviii. 743: «Home Office Departmental Committee on Workmen’s Compensation», 800.


Unlike Germany and Italy, Britain was not interested in applying workmen's compensation to its dependent colonies at this time. It rejected the German understanding of «dependent» branches of domestic businesses, and instead decided that British workmen's compensation law ended outside Britain. The only exception to this rule was supplied by the 1906 extension of workmen's compensation to maritime workers, which meant that British ships abroad were still within the remit of the law. Although members of parliament debated about applying the first Workmen's Compensation Act to India in order to set Indian workers and businesses on equal footing with those in Britain (so as not to disadvantage British workers and firms), the idea was dropped with an early draft bill. The parliamentary committee debating the bill decided that it would be premature to extend the new law beyond British soil. Moreover, members of the committee claimed that it would be difficult to implement the law in India, given that the infrastructure for it was not yet in place there. Legislation for workmen's compensation only reached that colony in 1923.

The British government at this time was, however, interested in creating standard practices in accident compensation throughout the British Empire where laws on compensation existed. Numerous dominions had enacted workmen's compensation laws since the early 1900s. At the 1911 Imperial Conference, therefore, participants agreed to New Zealand’s proposal that there should be greater uniformity and reciprocity in workmen’s compensation law throughout the British Empire. The Home Office responded by drawing up a memorandum that compared the British law with its counterparts in the Empire. The British government discouraged members of the conference from seeking identical legislation, as this would be impracticable due to the «wide diversity of the industrial and social conditions and the administrative and legal machinery in the different parts of the Empire». Nonetheless, it praised New Zealand’s proposal to aim for reciprocity throughout the Empire and encouraged the adoption of agreements that would allow for the dependents of British subjects to receive compensation regardless of where they resided. However, the Home Office was less emphatic about compensation practices than about uniformity in the collection of accident statistics. This concern reflected the British government’s general interest in uniform statistics – which extended especially to information about commerce – throughout the Empire.

While the British government in the next several years encouraged members of the Empire to abide by the resolution made at the 1911 Imperial Conference, they did

59 NA PIN: 11: 8: unnumbered: Home Office memorandum on the amendment bill with regard to extension to workmen employed abroad otherwise than on a British ship, 16 Apr. 1923.
62 PP 1911 (cd. 5745) liv. 103: «Minutes of the proceedings of the Imperial Conference of 1911», 259, 261.
not sign a formal convention. The British government’s ambivalence to commit to an international standard for compensation at this convention reflected its earlier reticence to participate in international conferences and organisations for the protection of workers and accident compensation. Unlike the Italian government, the British avoided committing to international Standards in this arena to a large extent. Like its German counterpart, it emphasised maintaining its own traditions in law and governance – except for the cases when foreign practices were beneficial to British workers abroad.

5. Conclusions

In 1925, when the ILO submitted its convention on the compensation of workplace accidents to its members to ratify, Britain, Germany and Italy all abstained from signing. They had agreed to an ILO treaty from 1921 on the compensation of agricultural workers for workplace accidents, and they agreed to the 1925 convention on the equal treatment of migrant workers. None of these governments, however, sought to abide by the standards embodied in the general convention on workmen’s compensation from the same year. The British, German and Italian governments at this time, like those before the First World War, were ambivalent about conforming to comprehensive international norms for the treatment of workplace accidents. Each government instead focused on pragmatic and nationally-specific concerns that contributed to minimum legal standards on an international level. Thus, their framing of compensation policies as driven by pragmatic economic issues reflected the narratives of national economic development that were widespread in each society. Paradoxically, transnational observations as well as the observation of migration across borders reaffirmed these stories of national difference. The narratives of national peculiarities that many historians of social welfare have highlighted and the social scientific analyses of policy convergence are therefore two sides of the same coin.

Domestic economic growth was the main concern for the German government of the pre-war period. It therefore focused on attracting and retaining foreign workers by offering them accident insurance and allowing them to receive pensions even after returning to their home countries. For the same reason, it targeted the issue of double premiums for accident insurance, which confronted many companies that operated across borders into neighbouring states. Both issues led the administration in Berlin to adopt interstate agreements and reciprocity treaties that would protect migrant labourers, as well as companies that operated abroad. The German government

64 (ILO No 17) 10.6.1925; ratified by the UK on 28.6.1949; Germany on 14.06.1955; Italy: not ratified; (ILO No 12) 12.11.1921; ratified by the UK on 06.08.1923; Germany on 06.06.1925; Italy: 01.09.1930; (ILO No 19) 5.6.1925; ratified by the UK on 06.10.1926; Germany on 18.09.1928; Italy on 15.03.1928.
65 For a case study on Germany, see H. James, A German Identity, 1770–1990 (London, 1990).
sought to avoid entering into agreements that would not be economically beneficial for German firms, though it relied on legal reasoning about the «equal value» of foreign legislation when deciding how to proceed. For economic and pragmatic reasons, it argued against extending accident insurance to its African protectorates.

Italy’s government was primarily concerned with protecting emigrant workers. Government officials actively advocated the equal treatment of these workers when abroad and the provision of compensation to them upon their return to Italy. Of the three governments, it was the one most concerned about creating international legal standards for compensation. Of the three countries, Italy was also the only one to extend compensation to its African protectorates. Members of government argued for the integration of North Africans by providing them with accident insurance. Some made economic arguments for the inclusion of North Africans within the National Accident Insurance Fund. In particular, they were concerned that uninsured African labour would be cheaper than Italian labour in these territories and would therefore disadvantage Italians. Nonetheless, the Italian government’s extension of accident insurance to its North African protectorates is indicative of its advocacy of general legal standards for workers.

Both economic concerns and interest in the protection of emigrant workers influenced the British government’s approach to the issue of legal standards for workplace accidents. On the one hand, it was invested in ensuring the well-being of British workers in continental Europe, the British Empire and the United States. On the other hand, it echoed German arguments about the «equal value» of legislation and rejected the possibility of applying workmen’s compensation to its largest colony, India. For pragmatic reasons, it also rejected the idea of creating a uniform system of workmen’s compensation throughout the British Empire and instead advocated reciprocity in the treatment of migrant workers within the Empire.

For pre-war Britain, Germany and Italy, the issue of foreign workers provided a test for the boundaries of national laws on accident compensation. Although all three states actively observed foreign legislation and participated in transnational organisations and conferences on workplace accidents, none was invested in forging comprehensive international standards. Instead, each state focused primarily on pragmatic issues related to the operation of its compensation systems and the treatment of its citizens abroad. These experiences provided the foundations for later international cooperation and revealed the ambiguity of convergence in social policy that would continue well into the twentieth century.
Foreign Workers and the Emergence of Minimum International Standards for the Compensation of Workplace Accidents, 1880–1914

This essay examines the politics behind creating international norms for the compensation of workplace accidents in the period from the 1880s to the outbreak of the First World War. It focuses on a case study about the treatment of foreign workers in Britain, Germany and Italy in order to illuminate these developments. One of the leading motivations for advocates of international law at this time was the creation and implementation of socially-orientated standards in a range of fields, including social policy. The issue of migrant workers tested whether governments would adopt such a standard for accident compensation. The essay argues that transnational and international communication about workplace accidents during this period facilitated the creation of an international minimum legal standard for the compensation of accidents at work. Yet, the international convergence of policies for accident compensation was limited during the period under consideration. Instead, observations and communication across borders went hand-in-hand with the strengthening of national social security systems.

Ausländische Arbeiter und die Entstehung von internationalen Mindeststandards für die Entschädigung von Arbeitsunfällen, 1880–1914


Les travailleurs étrangers et l’émergence de standards internationaux minima pour la réparation des accidents du travail, 1880–1914

Cet article analyse l’émergence des normes internationales en matière de réparation financière des accidents du travail, dans la période allant des années 1880 au déclenchement de la Première Guerre mondiale. Il se concentre à cet effet sur le
traitement des travailleurs étrangers en Grande-Bretagne, Allemagne et Italie. À l'époque, les partisans du droit international visent la création et la mise en œuvre de normes sociales dans différents domaines, à commencer par la politique sociale. Le statut des travailleurs migrants, étrangers ou coloniaux, leur permet de tester la volonté des gouvernements d'adopter des standards légaux minima pour le dédommagement des accidents. L'article montre que les échanges internationaux et transnationaux ont été déterminants dans ce processus. La convergence des politiques de réparation financière des accidents du travail n'en fut pas moins limitée au niveau international durant la période considérée. Les interobservations et échanges entre les pays n'empêchèrent pas, au contraire, le renforcement des spécificités nationales des systèmes de sécurité sociale.

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