CHAPTER-III

LABOUR RIGHTS AS HUMAN RIGHTS

Introduction

One of the questions greatly mooted in the advent of the twentieth century is whether labour rights are human rights? This question has attracted much interest in recent years among lawyers, academic scholars, trade unionists and other activists, and has given rise to heated debates. In human rights law and labour law scholarship, some endorse the character of labour rights as human rights without hesitation, while others view it with skepticism and suspicion.

Labour Rights as Human Rights

A definition of labour rights is necessary before moving on. Labour rights are entitlements that relate specifically to the role of being a worker. Some of these rights are exercised individually and others collectively. They can include a right to work in a job freely chosen, a right to fair working conditions, which may encompass issues as diverse as a just wage or protection of privacy; a right to be protected from arbitrary and unjustified dismissal; a right to belong to and be represented by a trade union; a right to strike. These rights may be based on different foundations, such as freedom, dignity or capability. This article will not discuss the justification of labour rights, but it has to be noted that the foundation of rights is crucial when considering their interpretation1.

The Positivistic Approach

Many scholars have approached this issue in different dimensions. The most straightforward answer to the question whether labour rights are human rights comes from a positivist perspective, and is often found in international law literature. A positivist lists human rights treaties protecting labour rights, or other documents explicitly recognising labour rights as human rights as a starting point, and is satisfied that the answer is positive, if it is sufficiently supported in law.

Looking at the Universal Declaration of Human Rights (UDHR), which is a non-binding but enormously influential document, the positivist finds that several labour rights are human rights: article 4 of the UDHR prohibits slavery and servitude; article 23 provides that everyone has the right to work and that everyone should work in a job freely chosen; that everyone should receive equal pay for equal work; that everyone should get decent remuneration for work performed, which should guarantee a dignified life for herself and her family; and that everyone has a right to form and join trade unions; article 24, in turn, guarantees a right to rest and leisure, including reasonable limitations of working hours, as well as holidays with pay. Listing these provisions, a positivist is satisfied that not only are labour rights human rights, but that there is an extensive list of these rights in human rights law. The positivist would describe the legal protection that the international community affords labour rights, and would find that it decided to divide human rights in

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categories, recognising those varying degrees of protection. Treaties that followed the UDHR separated certain labour rights from some others, classifying a group of them as civil and political rights in the International Covenant on Civil and Political Rights (1966), and others as economic and social rights in the International Covenant on Economic, Social and Cultural Rights (1966). In a way that mirrors the separation of human rights into the two UN Covenants, at a regional level the Council of Europe and the Organisation of American States separated civil and political rights, and economic and social rights, in two documents: in the former case the European Convention on Human Rights (ECHR, 1950) and in the latter the European Social Charter (ESC, 1961), and the American Convention on Human Rights (1978) – containing some more extensive socio-economic guarantees than its European counterpart and the San Salvador Additional Protocol in the Area of Economic, Social and Cultural Rights (1999).

Rights that are found in social rights treaties were weakly worded and monitored. From early on in the history of the UN, the ICCPR recognised a right to individual petition before the Human Rights Committee in an additional protocol. The ICESCR, on the other hand, is only monitored through reporting procedures\(^3\). At regional level, the European and American systems have opted for a model similar to the UN.

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The ECHR provides for a right of individual application before the European Court of Human Rights (ECtHR). The ESC has a procedure for reporting to the European Committee of Social Rights, and since 1998 a Protocol that recognises a right of collective complaints by certain non-governmental organisations, trade unions and other groups.

The American Convention on Human Rights, in a similar vein, is monitored by the Inter-American Court of Human Rights, where individuals can lodge an application for an alleged violation of rights under the Convention, while the San Salvador Protocol in the Area of Economic, Social and Cultural Rights, which was adopted in 1988 and provides for a right to individual petition on the right to education and trade union rights, is not yet operational.

Against this background, rights such as the right to form and join a trade union and the right to privacy were categorised as civil and political rights, and rights such as the right to work, the right to decent working conditions or the right to strike, were categorised as social and economic rights. The implication of this was that some of these were viewed as real human rights, while others were presented as aspirational goals.

To find an answer to the question whether labour rights are human rights, a positivist might also turn to the International Labour Organisation (ILO), the expert branch of the UN in the field of labour rights. The ILO

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predates all the human rights treaties and organisations (having been founded in 1919), which shows that labour issues became a matter of international concern before human rights. Does the ILO view labour rights as human rights? For many decades, the ILO did not explicitly present the documents adopted under its auspices as human rights documents. It adopted binding conventions that incorporated labour standards, and non-binding recommendations that further detailed this list of standards.

In recent years the ILO endorsed a list of labour rights as human rights. In 1998, it adopted the Declaration of Fundamental Principles and Rights at Work. The Declaration binds all ILO Member States, irrespective of whether they have ratified the relevant conventions, and contains four core rights: freedom of association and the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in employment. By listing these rights as fundamental human rights, the ILO left a number of other labour rights outside the scope of the Declaration, and this is important, not only symbolically, but also because the Declaration’s Follow-up procedure requires States to report on their obligations under the core Conventions that they have not ratified. Another recently drafted human rights document, on the other hand, the European Union Charter of Fundamental Rights (EUCFR), which has been made legally binding

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6 There is some literature that from early on approached certain ILO Conventions as human rights conventions. See CW Jenks, Human Rights and International Labour Standards, (Steven and Sons, 1960.)
with the Lisbon Treaty of 2009, contains a list of labour rights as human rights, such as a right to information and consultation, protection from unfair dismissal and the prohibition of forced labour. The positivist would list all these documents, and would claim that labour rights are human rights sometimes, in some jurisdictions.

The International Labour Organization (ILO) is a specialized agency of the United Nations that deals with labour issues. Its headquarters are in Geneva, Switzerland. Its secretariat -the people who are employed by it throughout the world is known as the International Labour Office.

The ILO was established as an agency of the League of Nations following the Treaty of Versailles, which ended World War I. Post-war reconstruction and the protection of labour unions occupied the attention of many nations during and immediately after World War I.

The first annual conference (referred to as the International Labour Conference, or ILC) began on 29 October 1919 in Washington DC and adopted the first six International Labour Conventions, which dealt with hours of work in industry, unemployment, maternity protection, night work for women, minimum age and night work for young persons in industry. The prominent French socialist Albert Thomas became its first Director General. The ILO became a member of the United Nations system after the demise of the League in 1946. Its constitution, as amended, includes the Declaration of Philadelphia

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8 J Hunt, “Fair and Just Working Conditions”, in Hervey and Kenner (eds) Economic and Social Rights under the EU Charter of Fundamental Rights, (Hart, 2003) p 45
(1944) on the aims and purposes of the organisation. As of April 2009, the current director-general is Juan Somavia (since 1999).

Unlike other United Nations specialized agencies, the International Labour Organization has a tripartite governing structure representing governments, employers and workers. Presently there are 181 members.

The International Labour Organization (ILO) is devoted to advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Its main aims are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue in handling work-related issues. In promoting social justice and internationally recognized human and labour rights, the organization continues to pursue its founding mission that labour peace is essential to prosperity. Today, the ILO helps advance the creation of decent jobs and the kinds of economic and working conditions that give working people and business people a stake in lasting peace, prosperity and progress.

The Governing Body is the executive of the International Labour Office. It meets three times a year, in March, June and November. It takes decisions on ILO policy, decides the agenda of the International Labour Conference, adopts the draft programme and budget of the organisation for submission to the conference, and elects the director-general. The Governing Body is composed of 28 government representatives, 14 workers' group representatives, and 14 employers' group representatives. Ten of the government seats are held
permanently by Brazil, China, France, Germany, India, Italy, Japan, the Russian Federation, the United Kingdom, and the United States. The remaining government representatives are elected by government delegates every three years.

**OBJECTIVES OF THE ILO:**

The objectives of the I.L.O are enunciated in the preamble to its Constitution, supplemented by Article 427 of the Peace Treaty of Versailles, 1919; as well as by the Philadelphia Declaration of 1944. The Declaration of Philadelphia set for 10 objectives, which the International Labour Organisation was to further promote among the Nations of the world. The theme underlying these objectives is social justice.\(^9\)

The objectives are as follows:

a. Full employment and the revising of standards of living,

b. The employment of workers in the occupation in which they can have the satisfaction of giving the fullest measure of their skill and make their contribution to the common wellbeing

c. The provision, as means to the attainment of this end, and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement.

d. Policies in regard to wages and earning forms and other conditions of work. Calculate to ensure a just share of the fruits of progress to

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all, and a minimum living wage to all employed and in need of protection.

e. The effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency and the collaboration of workers and employers in social and economic measures

f. The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care

g. Adequate protection for the life and health of workers in all occupations

h. Provision for child welfare and maternity protection.

The main objectives of ILO contained in the preamble to its constitution are to:

1. Provide social justice to workers.

2. Avoid injustice, depravation and exploitation of labour.

3. Build up human working conditions to the labour

In the 26th session of the International Labour Conference held at Philadelphia in April in 1944 during the Second World War, the principles of

1. ILO were affirmed as follows:

2. Labour is not a commodity.

3. Freedom of expression and of association is essential to sustained growth.

4. Poverty anywhere constitutes a danger to prosperity everywhere.
5. War against want requires to be carried out by joint efforts by government, management and workers together on equal status and with democratic traditions.

The objectives of the ILO were redefined at the Philadelphia conference in 1944. This was termed as “Declaration of Philadelphia. The following 10 objectives were enunciated at the above Philadelphia Conference:

- Full employment and the raising of standards of living.
- Employ workers on jobs for which they have adequate skill and satisfaction to work.
- Provide training and development facilities to achieve the above objective.
- Provide due share of profit as compensation to ensure a minimum level of living standard to all employed and protection as and when needed.
- Accept collective bargaining as a right of workers and a means of improving productivity between employees and management.
- Extend social security measures to provide a basic income to all in need and also medical cover.
- Protect the life and health of workers in all occupations.
- Provision for child welfare and maternity protection.
- Provide adequate nutrition, housing and facilities for recreation and culture.
- Provision for quality education and vocational opportunity.
The Role of the ILO

The ILO Decent Work Team for South Asia/Country Office for India (DWT/CO), will hold the overall management responsibility for the implementation of the DWCP, in close consultation with MOLE and the social partners. The ILO DWT/CO New Delhi will coordinate with the ILO Regional Office for Asia and the Pacific (ROAP) and ILO Headquarters to ensure optimum technical support for the DWCP implementation. The ILO will mobilize national expertise to support DWCP implementation.

Strategic partnerships with the Planning Commission, policy-making bodies, relevant ministries/departments, state governments, the academic community, and others will be strengthened. The ILO will work with the UN under the UNDAF framework. The ILO will continue to collaborate closely with development partners to achieve DWCP outcomes. The ILO will also ensure that the implementation of the UNDAF integrates decent and productive employment for men and women and promotes the establishment of the social protection floor.

Emerging modalities for south-south and triangular cooperation and the VVGNLI-Turin Centre collaboration offer additional opportunities for India to share knowledge and good practices. Efforts for greater visibility of ILO knowledge products and capacity building services will be prioritized both at the national and local levels. In line with the ILO's global focus on knowledge partnerships and research, an advisory group, consisting of leading experts,
will be established to strengthen ILO’s role as a leading centre of excellence in the world of work.

**Annual Work Plan and Reporting**

The ILO will prepare implementation plans for operationalization of the DWCP at the outset of the starting date, along with the tripartite constituents, in order to align DWCP work plan with the priorities of the tripartite constituents. The annual work plan, financial and implementation report on the DWCP will be reviewed jointly with the tripartite constituents. The report will discuss progress, challenges and also identify any areas with resource gaps.

**Monitoring and Evaluation**

The ILO recognises the need for capacity building of both ILO staff and the tripartite constituents on results and outcome-based planning for more focused reviews that could guide timely adjustments to the DWCP implementation. The DWCP results framework (2013-17), including key outputs, indicators, milestones and targets, will be the primary reference point for the monitoring and performance review. The biennium outcome based work plan will be the basis of regular annual reporting. Apart from the regular annual reporting, the progress, achievements and challenges will be reviewed with the tripartite constituents through individual, bipartite and tripartite meetings.

**Country Programme Review**
At least one DWCP review will be undertaken within the DWCP period. This review will also take into account potential new priorities emerging from the post-MDG process during 2015 as well as other important issues of the constituents.

Evaluation

An evaluation of the DWCP will be conducted at the end of the DWCP period.

**International Labour Standards**

ILO Conventions have been ratified by India and are in force, including the four fundamental Conventions –

- Forced Labour Convention (No.29)
- Abolition of Forced Labour Convention (No.105)
- Equal Remuneration Convention (No.100)
- Discrimination (Employment Occupation) Convention (No.111)
- Three governance priority Conventions Labour Inspection Convention (No.81)
- Employment Policy Convention (No.122)

Tripartite Consultations (International Labour Standards) (No.144).

The proposed ratification of ILO child labour Conventions (Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182)) is currently with the Standing Committee on Labour in Parliament.
In addition, efforts are being made to explore ratification of Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) Rights to Organise and Collective Bargaining Convention, 1949 (No. 98).

Work is also progressing in relation to other ILO Conventions which include:

- The Maritime Labour Convention 2006,
- Fishing Convention (No. 188),
- Private Employment Agencies Convention (No. 181)
- Occupational Safety & Health Convention (No. 181)

There is a need to generate better awareness about the ILO’s supervisory mechanisms among constituents. The current challenges in the implementation of labour laws, weak enforcement, exclusionary practices and slow pace of job creation in the formal economy are causes for the persistence of the informal economy. In this regard, International Labour Standards (ILS) play a role in shaping a productive and equitable labour market, on the condition that labour laws are effectively implemented and are widely known by workers.

The principles of ILS need to be spread across men and women workers in the informal economy, who largely remain excluded from labour legislations and are unaware of and unable to exercise their legal rights. Despite the Government’s efforts like the proposed Prohibition of Employment as Manual Scavengers and Their Rehabilitation Bill 2012, which aims to eliminate the

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practice of manual scavenging and address rehabilitation of those liberated from manual scavenging, caste-based discrimination persists for people belonging to scheduled castes, especially women. While inclusion is a key theme of most policies, a large majority of vulnerable groups still need specific attention. A number of pilot initiatives have been implemented, which can be used as building blocks for future interventions.

Enforcement of labour laws must be strengthened through empowered institutions, in and outside the formal economy. Strengthening bipartism and tripartism through social dialogue processes can play a significant role to pave the way for constructive industrial relations processes. Hence, tripartite agreements on a number of issues are urgently required to stabilize industrial peace and reduce decent work gaps. Stronger coordination among various government ministries is needed for an effective implementation of labour standards in India.

**ILO And Decent Work**

**Definition**

Decent Work is a globally accepted goal and instrument for improving the lives of people. The term was first introduced by the Director General of the International Labour Organization (ILO), Mr. Juan Somavia, in his address to the 87th International Labour Conference in 1999. Mr. Somavia defined decent work as ‘productive work in which rights are protected, which generates an adequate income with adequate social protection. It also means sufficient work in the sense that all should have access to income earning opportunities.
It marks the high road to economic and social development, a road in which employment, income and social protection can be achieved without compromising workers’ rights and sound standards.’ He indicated that one of the objectives of Member Countries should not only be to create jobs but to create jobs with acceptable quality.

A decent work deficit is said to occur when:

➢ There is involuntary unemployment and poverty;
➢ There are abuses of rights at work and forced child labour exists;
➢ Basic income security is missing, and workplace anxiety, depression and exhaustion are commonplace;
➢ Workers and employers are either not organized to make their voice heard or have obstacles to effective dialogue; and
➢ Life at work cannot be properly balanced with the claims of the family.

It should be noted that although the term ‘decent work’ was coined by the ILO, it has received international commitment and has been endorsed as a global goal at various high-level meetings including the Fourth Summit of the Americas (2005), the OAS General Assembly (2005) and the United Nations Economic and Social Council (2006 and 2007). At the Sixteenth Americas Regional Meeting (May 2006), a Decade of promoting Decent Work was declared where the Americas committed to taking action aimed at realizing the decent work agenda.
The Decent Work Agenda

Decent work is promoted through the Decent Work Agenda. This Agenda comprises the following four pillars namely:

The Promotion of Standards and Fundamental Principles and Rights at Work

The ILO, in its tripartite approach to setting basic international standards of work, adopts instruments in the form of Conventions and Recommendations. Conventions are international treaties, subject to ratification by ILO Member States while

Recommendations are non-binding instruments, often dealing with the same subject as Conventions, which set out guidelines orienting national policy and action. The adoption of Conventions and Recommendations, (collectively referred to as international labour standards) and the promotion of their provisions by Member States are key strategies in the promotion of decent work internationally.

Certain Conventions are regarded as core or fundamental in that adherence to their provisions ensure certain basic rights of workers. These Conventions are set out in the ILO Declaration on Fundamental Principles and Rights at Work which was adopted by the International Labour Conference in June 1998.

The Declaration marked a reaffirmation of Member States’ willingness to “respect, to promote and to realize in good faith” the principles concerning

four (4) categories of fundamental rights at work. The categories and associated Conventions are outlined in Table 3.6.1. These eight core Conventions are accepted as forming the decent work framework. Trinidad and Tobago has ratified the eight core Conventions.

2. The creation of employment

Decent work cannot be achieved without sustainable jobs. As such, employment creation is a central objective in the promotion of decent employment.

3. The enhancement of social protection

This objective seeks to protect workers from the vulnerabilities and contingencies at work whether these arise from unemployment, loss of livelihood, sickness or old age.

4. The strengthening of social dialogue

Social dialogue refers to meaningful and deliberate consultations among Government, Employers’ and Workers’ representatives. This is an ongoing process used to achieve conflict resolution, social equity and effective policy implementation. It is the means by which rights are defended, employment promoted and work secured.  

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**Decent Work Country Programme (Dwcp) 2013-17**

The Challenge of Promoting Inclusive Growth and Decent Work

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(accessed on 10.4.2017)

Over the last two decades, the Indian economy has accelerated, reaching an average growth rate of 8 per cent during the 11th Five Year Plan period (2007-2012). The country showed resilience during the global financial crisis of 2008-2009 and managed to experience strong growth in 2010. During this era, poverty in India has fallen at a faster rate in comparison with earlier periods. In line with its growing socio-economic status, India emerged as an important leader in regional and global initiatives, including the G20, and strengthened its knowledge-sharing with other emerging economies such as South Africa and Brazil\textsuperscript{14}.

Along with progress on the economic front, the Government of India has made great strides towards formulating policies and flagship programmes to improve access to education, skills development, employment and social protection, among other major priority areas. Key measures include the National Policy on Skill Development (NPSD), and the Rashtriya Swasthya Bima Yojana (RSBY), which has been launched to provide health insurance coverage for below-poverty line (BPL) families.

India has increasingly followed a rights-based approach, as reflected by initiatives like the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005, which provides 100 days of employment to rural households, and the Right to Education Act (2009), which mandates education for all up to 14 years.

Despite the strong economic performance up until 2010 and policy measures, India continues to face a range of challenges that persist in the labour market. Most notably, the majority of workers are in informal employment: the share of workers in the unorganized sector fell only marginally from 86.3 per cent in 2004-5 to 84.3 per cent in 2009-10 (and to 82.2 per cent in 2011-12). If workers without employment benefits and social security in the organized sector are included, 91.2 per cent of workers in India are in formally employed. Moreover, over the period 1999-2000 to 2009-10, there has been a decline in the share of formal workers in the organized sector from 58 per cent to 49 per cent. This suggests that a process of informalization of the organized sector has been taking place.

Though poverty rates have fallen, income inequality has risen, while disparities based on gender, social group, age, migrant status and location continue to persist. Rural-urban migration is, in part, due to insufficient economic development outside the main cities and towns of the country.

As the economy has decelerated rapidly over 2012-13, the urgency in addressing employment as a central policy objective will increase. The non-negligible likelihood of further deterioration over 2013-14 means that jobs will be threatened. On the policy front, though many achievements have been made, bottlenecks have emerged in the implementation of policies and delivery of programmes. In certain areas, fragmentation and coordination of initiatives have become a challenge for policy-makers.

**Relationship between India and ILO:**
India became the member of the ILO in the year 1919 which is from its inception. Though India had was not won independence by that year i.e. 1919, it was admitted to the membership of the ILO However its membership, of the League of Nations and the ILO had not gone unchallenged. For it was argued that it would give an additional vote to the United Kingdom. The British Government gave an assurance that British India was democratically administered and upon this India along with China, Iran, Japan and Thailand were few Asian countries to be admitted to the ILO membership of the 24 States. Out of 40 States represented, India was one which sent a full delegation to the first session of the International Labour Conference held in the year 1919 at Washington.  

The ILO and India have common aims, goals and destiny, for, both of them are committed to world peace freedom and social justice. Both are striving for the socio economic betterment of the long suffering, long forgotten people, the people who are underprivileged and under nourished with the fullest realization that any further delay would fatal for themselves and the whole world.

**Ratification of ILO standards by India**

The ILO Conventions and Recommendations have been greatly honoured by the working class all over the world for their benefice ring humanitarian and

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missionary zeal. These I.L.O standards are considered the embodiment of social justice by the underprivileged, a magna carta of their liberty and proclamation of their freedom and dignity against tyranny, whether social or economic or political.

It can be mentioned here that the I.L.O standards have been ratified by all the countries irrespective of their political complexions or economic development and also varying forms and number depending upon many factors. India is also greatly benefited by the I.L.O standards for the welfare of the workers. There is a detailed procedure for ratification of the Conventions and Recommendations and the Conventions analogues to International Treaties with required ratification by competent authority within a period of 18 months at the latest from the closing session of the conference.

The time limit is intended to induce quicker action by the members’ state. In India the treaty making power is regarded as ‘Executive Act’ with in the competency of the Government of India.

However the power to exact implementation of legislation lies in hands of Parliament, in contrast to the situation obtaining in the U.S.A., Canada and Australia.

Article 253 of the Indian Constitution expressly provides that “notwithstanding anything in the foregoing provisions of this chapter. Parliament has power to make any law for the whole or any part of the territory

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18 Subrahmaya Swamy, *Indian Labour standards and the WTO frame Work*, 2000, p.44
of India for implementing any treaty, agreement or convention with any other decisions made at any international conference association or other body”.

According the scope of implementing legislation in India not limited to subjects with in the legislative jurisdiction of the union parliament. Therefore, the making of the treaty in India is unlimited. As regards the subject matter perhaps the only limitation is that legislation to give effect to treaties and agreements or decision cannot be violate the fundamental rights mentioned in part III of the Constitution of India.

Under Article 13 of the Constitution, any law which violates rights guaranteed under part-III of the Constitution of India is void to the extent of repugnancy.

In other words, there are no constitutional limitations upon the powers of the Union Government to enter into treaties with other States or international organizations except those provided in part III of the constitution

The treaty enables the parliament to override the federal distribution of the powers under the Constitution of India. This concept has been borrowed from the American constitution. The scope of the treaty power was considered by the Supreme Court of the United States.19

The United States and the United Kingdom entered into a treaty in 1916 for the protection of migratory bird, which in their annual migrations traversed certain parts of the United States and Canada. Pursuant to this treaty to give effect to its provisions the Migratory Birds Treaty Act of 1918 was passed in the

19 Missouri V. Holland, 1920, (252), U.S. 416.
United States. It prohibited the killing, capturing or selling of any migratory birds including in the terms of the treaty. Therefore, such procedure will have to be followed in the case of International Labour Standards for incorporation in the respective legislations.

The Director General of International Labour Office is obliged by Article 19 (4) of the I.L.O constitution to send certified copy of the Convention or Recommendation to each of the members. After the receipt of the certified copy the Central Government circulate the same to all the State Governments, Concerned Ministries of the Government of India and also to the employers’ organizations and worker’s organizations inviting their observations, and suggestions with regard to the desirability or otherwise of giving effect to those Conventions or Recommendations. After taking into consideration the views expressed, the central government prepares a statement on action proposal which is placed before the parliament where the statement will be discussed and considered.

The copies of the statements are thereafter forwarded to the I.L.O and to the state governments, and employers and workers organizations. It is there mentioned that in the process of any ratification or recommendation the tripartite consultation is very essential

The social framework

The ILO was established in 1919 in a world which was ravaged by war, threatened by revolution and haunted by the misery and poverty of working people. Its aim was to build a social framework for peace and stability within
which economic processes could generate prosperity with social justice in the life of workers and in the world of work\textsuperscript{20}. Since its inception, it has sought to create this framework through a combination of normative action, institution building and public policies.\textsuperscript{21} Through many social and political struggles, the ILO's message has, in several respects, been embodied in the law and practice of what are today considered the developed societies. The test of time has shown that the ILO stands for values for which people care.

**The Global Economy**

In the last two decades, however, the traditional cornerstones of the ILO's activities have changed, shifted by the transformation of the economic and social environment brought about by the emerging global economy.\textsuperscript{22}

Policies of economic liberalization have altered the relationship between the State, labour and business. Economic outcomes are now influenced more by market forces than by mediation through social actors, legal norms or State intervention. International capital markets have moved out of alignment with national labour markets, creating asymmetrical risks and benefits for capital and labour. There is a feeling that the "real" economy and the financial systems have lost touch with each other.


\textsuperscript{22} ILO, *Decent Work: Report of the Director General, International Labour Conference, 87th Session*
Changes in employment patterns, labour markets and labour relations have had a profound impact on the ILO's constituents, particularly trade unions and employers' organizations.

Globalization has brought prosperity and inequalities, which are testing the limits of collective social responsibility.

For the ILO whose vocation lies at the intersection between society, the economy and the lives of individual human beings these are seismic changes. But they are also setting the stage for its future role. The very forces which transformed the old framework are creating new demands and new opportunities for social action.

Problems of human insecurity and unemployment have also returned to the top of the political agenda in most countries. The social dimension of globalization, and the problems and demands it brings to the world of work, are becoming public concerns. There is growing realization that markets do not function in isolation from their social and political contexts. Social protection and social dialogue, for example, are increasingly seen to be integral elements of the adjustment process itself. The experience of the transition economies; increasing social polarization; the exclusion of Africa; and the recent crisis in emerging markets, have all made evident the need for a strong social framework to underpin the search for a new financial architecture.

**Giving a Human Face to the Global Economy**
The call to give a human face to the global economy is coming from many and very different quarters. Pope John Paul II has emphasized the "need to establish who is responsible for guaranteeing the global common good and the exercise of economic and social rights. The free market by itself cannot do it, because in fact there are many human needs that have no place in the market". Significantly, this concern is now voiced by business itself. The convener of the World Economic Forum at Davos, Klaus Schwab, has warned that "the forces of financial markets seem to be running amok, humbling governments, reducing the power of unions and other groups of civil societies, creating a sense of extreme vulnerability for the individual confronted with forces and decision-making processes way beyond his reach".

At this juncture, the ILO therefore finds itself well positioned. Business, labour and governments sit at its table. Its instruments are social dialogue and policies to promote fundamental principles and rights at work, employment, and people's security.

**The New Relevance of the ILO**

All this gives new public relevance to the facilities the ILO provides to the international community: the global reference point for knowledge on employment and labour issues; the centre for normative action in the world of work; a platform for international debate and negotiation on social policy; and a source of services for advocacy, information and policy formulation. It is a moment when the ILO must once again display its historic capacity for adaptation, renewal and change.
The moment of opportunity will not last indefinitely. To take advantage of it, however, the ILO has to overcome two persistent problems.

**Moving Forward: Setting Priorities**

The first is an institutional tendency to generate a widening range of programmes without a clear set of operational priorities to organize and integrate their activities. This has diluted the ILO's impact, blurred its image, reduced its efficiency and confused the sense of direction of its staff. To some extent, the problem arises from the exceptional richness of the ILO's mandate itself.

That mandate, as eloquently expressed in the Declaration of Philadelphia, is to create the conditions of "freedom and dignity, of economic security and equal opportunity" in which "all human beings, irrespective of race, creed or sex, can pursue both their material well-being and their spiritual development". The pursuit of such a vision demands an array of programmes ranging from the promotion of rights at work to institutional development. It requires the scope of ILO activities to extend from the workplace or the workspace to the economy as a whole. It requires responding to changing needs which have to be accommodated within frozen budget levels, leading to activities which are inevitably small and often fragmented. It means that the ILO periodically has to refocus its programme, to restate its message in the idiom of contemporary needs, and to mobilize external partnerships for resources and expertise. It means that focus, excellence and effectiveness must guide the management culture of the house.
THE GOAL

The ILO's mission is to improve the situation of human beings in the world of work. Today, that mission finds resonance in the widespread preoccupation of people at times of great change: to find sustainable opportunities for decent work.

Securing Decent Work for People Everywhere

The primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity.

This is the main purpose of the Organization today. Decent work is the converging focus of all its four strategic objectives: the promotion of rights at work; employment; social protection; and social dialogue. It must guide its policies and define its international role in the near future.

The Policy Implications

Such a goal has several important policy implications, all of which are implicit in the mandate of the Organization. They now need to be made explicit and to be pursued.

A concern for all workers

The ILO is concerned with all workers. Because of its origins, the ILO has paid most attention to the needs of wage workers, the majority of them men in formal enterprises. But this is only part of its mandate, and only part of the world of work. Almost everyone works, but not everyone is employed. Moreover, the world is full of overworked and unemployed people. The ILO must be
concerned with workers beyond the formal labour market with unregulated wage workers, the self-employed, and homeworkers. The participation of the informal sector in total employment has reached almost 60 per cent in Latin America. In Africa, the informal economy accounted for over 90 per cent of new urban jobs during the past decade.23

All those who work have rights at work. The ILO Constitution calls for the improvement of the "conditions of labour", whether organized or not, and wherever work might occur, whether in the formal or the informal economy, whether at home, in the community or in the voluntary sector.

**Promoting Opportunities for Work**

Employment promotion is a central objective. The defence of rights at work necessarily involves the obligation to promote the possibilities of work itself. The ILO's normative function carries with it the responsibility to promote the personal capabilities and to expand the opportunities for people to find productive work and earn a decent livelihood. The ILO seeks to enlarge the world of work, not just to benchmark it. It is, therefore, as much concerned with the unemployed, and with policies to overcome unemployment and underemployment, as it is with the promotion of rights at work. An enabling environment for enterprise development lies at the heart of this objective.

**Ensuring Decent Work**

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The ILO is concerned with decent work. The goal is not just the creation of jobs, but the creation of jobs of acceptable quality. The quantity of employment cannot be divorced from its quality. All societies have a notion of decent work, but the quality of employment can mean many things. It could relate to different forms of work, and also to different conditions of work, as well as feelings of value and satisfaction. The need today is to devise social and economic systems which ensure basic security and employment while remaining capable of adaptation to rapidly changing circumstances in a highly competitive global market.

**Protection against Vulnerabilities in Work**

Protection against vulnerability and contingency - As it is concerned with the human condition of work; the ILO has the responsibility to address the vulnerabilities and contingencies which take people out of work, whether these arise from unemployment, loss of livelihood, sickness or old age.

**The Four Strategic Objectives for Decent Work**

The goal of decent work therefore requires to be pursued through each of the four strategic objectives of the ILO, as well as through a balanced and integrated pursuit of these objectives in their totality. It challenges all the constituents of the ILO alike. Governments, employers and workers have to accommodate their different interests in creative ways to respond to the

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demand for decent work placed upon them by individuals, families and communities everywhere.25

Before turning to the operational implications of this goal, it is necessary to consider the wider context in which all of the ILO's activities will be set in future.

The ILO Declaration on Fundamental Principles and Rights at Work

The Declaration was adopted as a promotional instrument. It must be realized in that spirit. To be effective, to be universal, and to retain legitimacy, there can be no question of conditionality attached to it. On this understanding, it should become a common objective of the multilateral system as a whole. But, to be credible, an effective and speedy follow-up is imperative.

Ensuring respect for fundamental rights at work must be accompanied by promoting their realization in economic and social practice. The Declaration has an important role to play in this respect. By calling on the ILO to assist Members, at their request, not merely to promote but to realize these fundamental principles, the Declaration provides the Organization with a clearer framework for development than it has had hitherto.

An Agenda for Development

Since the undertaking to realize the fundamental principles is independent of the ratification of the Conventions in question, the Declaration enables technical cooperation to develop its full potential within the ILO. The Declaration should therefore be viewed as a promotional instrument to

translate the values of the Organization into programmes of integrated development. Respect for these rights is fundamental and requires no further justification, but respect for them will facilitate development itself. For example, the guarantee of rights at work enables people to claim freely a fair share of the wealth they have helped to generate, and to seek more and better work. The guarantee of those rights is therefore also a guarantee of a permanent process of translating economic growth into social equity and employment at all stages of the development path.

**Technical cooperation**

The Declaration should therefore strengthen and support the ILO's technical cooperation activities as a whole. Those activities must necessarily respond to a variety of constituent needs at the national level, and be guided by the four strategic objectives of the Organization. Since the objectives are interlinked, the realization of fundamental rights at work will facilitate, and be facilitated by, progress made in respect of the other strategic objectives.

The Follow-up to the Declaration also opens the way for a more substantive policy debate on development issues and rights at work within the ILO. This could lead to a better understanding of the problems and perspectives of different countries and regions, and suggest better ways of addressing them. The effectiveness of the Follow-up will be crucial in reducing the political tensions of global adjustment. Its transparency, the feedback to technical cooperation, the emphasis on promotion and development, integration of a gender perspective, and greater public awareness of social
progress and successful development, these are all key elements in building public credibility in the ILO approach to social reform in an interdependent world.26

**The ILO and Human Rights and Work**

**ILO Priorities in Human Rights**

One of the hallmarks of the twentieth century has been the promotion of human rights. The ILO has made a major contribution to this process, but it needs to concentrate its efforts and to explore fresh approaches. It has three priorities. First, it will promote the Declaration on Fundamental Principles and Rights at Work and it’s Follow up. Second, it will step up the struggle to eliminate child labour. Third, it will renew its work on ILO standards. In all cases, the aim is to promote development with human dignity and social justice. Promoting the Declaration on Fundamental Principles and Rights at Work and its Follow up

**Declaration on Fundamental Principles and Rights at Work**

In June 1998, the International Labour Conference reaffirmed its commitment to the founding ideals of the ILO when it adopted the Declaration on Fundamental Principles and Rights at Work and its Follow-up. The Declaration is a pledge by all Members to respect, promote and realize in good faith the principles and rights relating to:

a) Freedom of association and the effective recognition of the right to collective bargaining;

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b) The elimination of all forms of forced or compulsory labour;

c) The effective abolition of child labour; and

d) The elimination of discrimination in respect of employment and occupation.

Application of the Declaration

Declarations are instruments that the ILO has used sparingly. Unlike an international labour Convention, which binds only Members that ratify it, the Declaration applies automatically to all countries that have accepted the ILO Constitution, whether or not they have ratified the fundamental Conventions of the ILO\textsuperscript{27}. All countries are encouraged, however, to move towards ratification of these Conventions.

Safeguarding and Respecting Basic workers' Rights

The Declaration responds to a widespread concern that economic growth should be accompanied by social justice.

The World Summit for Social Development in Copenhagen in 1995 voiced this concern with a call to safeguard and respect workers' basic rights. The Ministerial Meeting of the World Trade Organization in Singapore in 1996 then reaffirmed the ILO's role as the competent body to set and deal with core labour standards. The ILO has taken up this challenge by adopting the Declaration, a central policy guidepost to development.

Promoting the Declaration

\textsuperscript{27} C.W. Jenks, \textit{Human Rights and International Labour Standards}, (1960) p. 5-6
The new programme to promote the Declaration on Fundamental Principles and Rights at Work will have a threefold purpose: to raise awareness of the Declaration within countries and regions as well as at the international level; to deepen understanding of how these fundamental principles and rights reinforce development, democracy and equity and help empower all women and men; to promote policies that implement these principles and rights in practice in the development conditions of each country in line with the promotional nature of the Declaration and its Follow-up, the programme will comprise: media and educational campaigns, targeted at various cultural and economic contexts; research, investigating how each of the rights and principles relates to economic growth, employment creation, poverty reduction and gender equity; social reviews, responding to countries' requests to examine what is hindering or facilitating implementation of the Declaration; policy advice, advising on job creation and social protection underpinned by respect for the fundamental principles and rights; legal support, strengthening the capacity of lawmakers and labour administrations to enforce laws that give expression to the fundamental rights and principles; widening involvement, working with employers' organizations, trade unions and other civil society groups and regional and international organizations to make use of the Declaration; and permeating the ILO, refining the ways in which respect for these principles and rights can be woven into ILO work across the board.

**New information for technical cooperation and development**
The Follow-up to the Declaration will provide the ILO with new channels of information. These will include annual reports for countries that have not ratified the relevant Conventions, as well as global reports covering both ratifying and non-ratifying States. They should aid in identifying areas for technical assistance to help countries realize the fundamental principles and rights\textsuperscript{28}. The Declaration will therefore inspire the ILO’s technical cooperation and advisory services, offering practical assistance to governments, employers' organizations and trade unions. At the same time the Organization will utilize the information available to deepen understanding of the interactive processes between these principles and rights and social and economic development.

**International Labour Standards**

International labour standards refer to conventions agreed upon by international actors, resulting from a series of value judgments, set forth to protect basic worker rights, enhance workers’ job security, and improve their terms of employment on a global scale. The intent of such standards, then, is to establish a worldwide minimum level of protection from inhumane labour practices through the adoption and implementation of said measures. From a theoretical standpoint, it has been maintained, on ethical grounds, that there are certain basic human rights that are universal to humankind.\textsuperscript{29}

\textsuperscript{28}http://www.ilo.org/public/english/standards/relm/ilc/ilc87/rep-i.htm (accessed on 2.5.2017)

Thus, it is the aim of international labour standards to ensure the provision of such rights in the workplace, such as against workplace aggression, bullying, discrimination and gender inequality on the other hands for working diversity, workplace democracy and empowerment.

While the existence of international labour standards does not necessarily imply implementation or enforcement mechanisms, most real world cases have utilised formal treaties and agreements stemming from international institutions. The primary international agency charged with developing working standards is the International Labour Organization (ILO). Established in 1919, the ILO advocates international standards as essential for the eradication of labour conditions involving "injustice, hardship and privation". According to the ILO, international labour standards contribute to the possibility of lasting peace, help to mitigate potentially adverse effects of international market competition and help the progress of international development.

Implementation, however, is not limited to the ILO nor is it constrained to the legislative model that the ILO represents. Other alternatives include direct trade sanctions, multilateral enforcement, and voluntary standards. In addition to controversies that arise over each of these models, greater issues have also been raised concerning the debate over the need for international labour standards themselves. However, while critics have arisen,

the international community has largely come to a consensus in favour of basic protection of the world’s labour force from inhumane practices.\textsuperscript{31}

Associated with the development of successful international labour standards is proper monitoring and enforcement of labour standards. Most monitoring occurs through the ILO, but domestic agencies and other NGOs also play a role in the successful monitoring of international labour standards.\textsuperscript{32}

**ILO Instruments on Labour Standards Concerning Women Workers**

ILO Standards take the form of international labour Conventions and Recommendations. ILO Conventions are international treaties, subject to ratification by ILO member States. The Recommendations are non-binding instruments – typically dealing with the same subjects as Conventions – which set out guidelines that can orient national policy and action. Both forms are intended to have a concrete impact on working conditions and practices in every country of the world.

Although most international labour standards apply without distinction to men and women workers, there are a number of Conventions and Recommendations that refer specifically or are particularly relevant to women. ILO standards regarding women address three key issues:

a. The elimination of sex-based discrimination in the employment relationship;


\textsuperscript{32}"Applying and promoting International Labour Standards". International Labour Organization.
b. The balance of work and family responsibilities; and

c. The protection of maternity and the health of women in order to promote effective equality

**Elimination of Discrimination**

Equal remuneration for work of equal value:

The Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951 apply to all workers in all economic sectors, private or public. These instruments set out principles for national policy on how to promote and secure equal remuneration for men and women workers for work of equal value. The accompanying Recommendation gives guidelines and sets out special procedures for a step-by-step application of these principles.

Non-discrimination in the employment relationship:

The Discrimination (Employment and Occupation) Convention (No.111) and Recommendation (No. 111), 1958 aim at the elimination of discrimination in the employment relationship through effective application of appropriate national policies and measures to implement such policies. They apply to all workers in all sectors of activity. The Convention defines seven specific types of discrimination, including discrimination based on the sex of a worker. States which ratify the Convention are obliged to formulate and apply appropriate policies with the aim of promoting equality of opportunity and treatment and eliminating discrimination. The accompanying Recommendation suggests specific principles for implementing such policies.
Moreover, the Indigenous and Tribal Peoples Convention (No. 169), 1989 stipulates that indigenous men and women shall enjoy equal opportunities and equal treatment in employment, and protection from sexual harassment.

Work and Family Responsibility

Full equality of opportunity and treatment between men and women workers also requires the promotion of equality with regard to workers with family responsibilities.

The Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), 1981 aim at creating equality of opportunity and treatment in employment and occupation between men and women workers with families, and establishing equality of opportunity and treatment in employment and occupation between men and women workers with family responsibilities and those without such responsibilities. The Convention is applicable to all workers with family responsibilities in all sectors of activity. It requires ratifying States to make equality of opportunity and treatment for workers with family responsibilities the objective of national policy, to be promoted by appropriate measures. The supplementing Recommendation stipulates more detailed policies and appropriate measures regarding vocational training, employment and employment conditions, and contains additional provisions on family and childcare services and institutions as well as social security.
Protection of Maternity and the Health of Women

Raising a family is a cherished goal for many working people. Yet pregnancy and maternity are an especially vulnerable time for working women and their families. Expectant and nursing mothers require special protection to prevent harm to their or their infants' health, and they need adequate time to give birth, to recover, and to nurse their children. At the same time, they also require protection to ensure that they will not lose their job simply because of pregnancy or maternity leave. Such protection not only ensures a woman's equal access to employment, it also ensures the continuation of often vital income which is necessary for the well-being of her entire family. Safeguarding the health of expectant and nursing mothers and protecting them from job discrimination is a precondition for achieving genuine equality of opportunity and treatment for men and women at work and enabling workers to raise families in conditions of security.

The main instruments for maternity protection are the Maternity Protection Convention (No. 183) and Recommendation (No. 191), 2000.

These instruments apply to all women in all employment relationships. The Convention sets out specific provisions to ensure the health and well-being of a woman and her child during maternity, e.g. by providing health protection at work, maternity leave, social benefits, protection against dismissal and discrimination based on maternity, and breast-feeding breaks. The Convention provides for 14 weeks of maternity leave, while the Recommendation provides for 18 weeks in certain circumstances. Convention No. 183 is considered the
most up-to-date instrument on maternity protection. Previous instruments on the subject, the Maternity Protection Convention (Revised), 1952 (No. 103) and the Maternity Protection Convention, 1919 (No. 3), remain in force for States that have ratified them, although they are encouraged to consider ratifying the more recent Convention No. 183.

Convention No. 183 provides for 14 weeks of maternity benefit to women to whom the instrument applies. Women who are absent from work on maternity leave shall be entitled to a cash benefit which ensures that they can maintain themselves and their child in proper conditions of health and with a suitable standard of living and which shall be no less than two-thirds of her previous earnings or a comparable amount. The convention also requires ratifying states to take measures to ensure that a pregnant woman or nursing mother is not obliged to perform work which has been determined to be harmful to her health or that of her child, and provides for protection from discrimination based on maternity. The standard also prohibits employers to terminate the employment of a woman during pregnancy or absence on maternity leave, or during a period following her return to work, except on grounds unrelated to pregnancy, childbirth and its consequences, or nursing. Women returning to work must be returned to the same position or an equivalent position paid at the same rate. Also provides a woman the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.
**Night Work and Underground Work**

The Night Work Convention (No. 171) and Recommendation (No. 178), 1990 apply to men and women. Especially for women workers, the Convention requires alternatives to night work before and after childbirth and during pregnancy, if it is deemed necessary to protect the health of the mother or child. The Night Work (Women) Convention (Revised) (No. 89), 1948 obliges ratifying States to prohibit women from working in industrial undertakings at night. The 1990 Protocol to the Convention permits variations in the duration of night work and exemptions from the prohibition of night work.

The Underground Work (Women) Convention (No. 45), 1935 prohibits the employment of women in mines, which exposes them to specific underground work hazards.

**Other ILO Instruments of Relevance to Women Workers**

The ILO Declaration on Fundamental Principles and Rights at Work adopted in 1998 contains the principles embodied in the standards on equal remuneration for work of equal value and non-discrimination in the employment relationship.

The Declaration on Equality of Opportunity and Treatment for Women Workers adopted in 1975 sets forth principles for international and national action as targets to be achieved progressively in relation to the overall objective of equality of opportunity and treatment of women, and their integration into economic and social life.
A Resolution and Plan of Action of 1975 of the International Labour Conference laid out more concrete national and international action to be taken with a view to ensuring the implementation of the principles and targets of the 1975 Declaration, specifically emphasizing the importance of ratifying and applying ILO Conventions and Recommendations. The Conference later examined the progress achieved in this regard and adopted a new resolution and plan of action, adopted in 1985.

**International Labour Standards on Child Labour**

Child labour is a violation of fundamental human rights and has been shown to hinder children's development, potentially leading to lifelong physical or psychological damage. Evidence points to a strong link between household poverty and child labour, and child labour perpetuates poverty across generations by keeping children of the poor out of school and limiting their prospects for upward social mobility. This lowering of human capital has been linked to slow economic growth and social development. A recent ILO study has shown that eliminating child labour in transition and developing economies could generate economic benefits nearly seven times greater than the costs, mostly associated with investment in better schooling and social services. ILO standards on child labour are primary international legal tools for fighting this problem.

**Selected Relevant ILO Instruments**

- Minimum Age Convention, 1973 (No. 138)
This fundamental convention sets the general minimum age for admission to employment or work at 15 years (13 for light work) and the minimum age for hazardous work at 18 (16 under certain strict conditions). It provides for the possibility of initially setting the general minimum age at 14 (12 for light work) where the economy and educational facilities are insufficiently developed.

Worst Forms of Child Labour Convention, 1999 (No. 182) This fundamental convention defines as a "child" a person under 18 years of age. It requires ratifying states to eliminate the worst forms of child labour, including all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of children. The convention requires ratifying states to provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. It also requires states to ensure access to free basic education and, wherever possible and appropriate, vocational training for children removed from the worst forms of child labour.

Child labour can generally be described as “work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.” The difference between acceptable child
work and child labour depends on “the child’s age, the types of work performed, the conditions under which it is performed and the objectives pursued by individual countries.”

While significant advances have been made to combat child labour, there are still approximately 168 million child labourers worldwide, constituting 11 per cent of the global child population.

Research indicates that the prevalence of child labour ranges from 6.5 per cent of children in Vietnam to 56 per cent of children in Cambodia. In Indonesia, approximately 1.76 million children were engaged in child labour. In Lao PDR, 67 per cent of working children are child labourers. Most child labour takes place in the agricultural sphere, although increasing numbers may be found working in the services and manufacturing sectors, particularly in the informal economy. Statistics from the International Labour Organization (ILO) indicate that the majority of child labourers aged 5–17 are boys (99.8 million boys compared to 68.2 million girls), although the gender gap is far more pronounced among older children (aged 15–17). This trend also does not account for the number of girls involved in household chores or undetected domestic work in private homes.

Article 2 of the Worst Forms of Child Labour Convention 1999 (No. 182) identifies the following four categories: (i) “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage

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33 ILO and Inter-Parliamentary Union, Eliminating the worst forms of child labour: A practical guide to ILO Convention No. 182, Handbook for Parliamentarians No. 3 2002, p 16
and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;” (ii) “the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;”(iii) “the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;” (iv) “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”

Most of the labour legislations in India are before independence. The Fundamental Rights of the Constitution for providing safeguards to labourers. Although most of the pre – constitutional labour legislations have been revoked or curtailed following the Doctrine of Severability and Doctrine of Eclipse, but not a lot of changes had been made to the labour legislation which were came before the adoption of Constitution. The achievement of these labour laws must be credited to the ILO. The ILO guidelines provided basic principles on which most of labour legislations were drawn. By observation on various amendments and enactments in labour laws it can be easily seen that the ILO have a countless impact on the Indian Labour Laws. A large number of laws were passed to incorporate the guidelines of the resolutions of the ILO. All these revised and ratified legislations create provisions for the common welfare and protection of importance of the Indian labourers. The constructive effect of ILO is seen in form of appreciation of many new kinds of rights that were previously
not available for the Indian labour class, but were made available after creation of ILO.

**Impact of Globalization on Indian Labour Laws**

India is second highly populated country of world and has consequently big labour force in the world. Labour is divided into two parts organized and unorganized sector. In Manu Samriti there are references of contracts of master and servant relations. In this period, master and servant suits were not maintainable in the courts because servant was not an independent legal person. The Arthasastras of Kautalya speakes of harmony and benefit for all the people on the earth. In Sultanate and Mugal period there existed village panchyats, workers guilds which helped in solving the disputes of artisans and workers. There co-existed Mugal and Company rule in India when factory system was established.

First factory was established at Surat in 1612. The plantation industry in Assam was the first to attract legislative control and number of Acts were passed from 1863 onwards. Bombay (Maharashtra) was the pioneer in formulation of legislation on labour. The Indian Factory Act was enacted in 1881. As a result, employment of child labour was prohibited.

A social worker M.Lokhande prepared a study report on their working conditions and submitted report of the Factory Labour Commission. In 1886 May Day demonstration in Chicago showed to the workers of the entire world the need to join hands in the struggle against capitalism. Bombay Mill-Hands
Association came into existence in 1890. The Royal Commission on Labour was appointed in 1929 and discussed working conditions of the workers in organized and unorganized sectors.

The labour movement has been instrumental in the enacting of laws protecting labour rights in the 19th and 20th centuries. Labour rights have been integral to the social and economic development since the Industrial Revolution. The workers began demanding better conditions and the right to organize so as to improve their standard of living. Most people of the world depend upon the day’s work for a day’s wages. If for any reason, they are unable to work, they find themselves in financial difficulties. In ancient and medieval times, such persons were cared for by the village community as a whole or by the joint family. In present times, the setting up of industries and the growing complexity of socio-economic order, the need of social security is necessary. Every society plays an important role in social policy formulations. Social security is an important pillar on which the structure of “welfare state” rests. Present time is the time of modernization, it effects on urban areas and organized industrial sector, which enjoy various social security schemes.

Social Security is increasingly seen as an integral part of the development process. It helps to create a more positive attitude not just too structural and technological change but so the challenge of globalization and to its potential benefits in terms of greater efficiency and higher productivity. In the last five decades, considerable progress in extension of social security cover
at both State and Central level has been made. However, a universal social security programme for the country remains a distant goal. Improved health care and resultant increase in longevity call for redoubled effort to plan for and put in place appropriate institutional mechanisms and programmes to cover a much wider population base. The social security laws in India at present can be broadly divided into two categories, namely, a) The contributory and b) The non-contributory.

Large scale unemployment and availability of labour in plenty in developing nations made employers to devote less attention to the labour. In past labour was treated as a commodity exchanged for wages and were considered as Cogs in the machines. They were hired and fired at will. But due to the evolution of industrialization, globalization and privatization the concept has changed. Globalization is the process of international integration arising from the interchange of world views, products, ideas, and other aspects of culture.

“Globalization” means the closer integration of economies via trade and factor flows. India like any other nation of the world could not afford itself to remain outside the clutches of impact of globalization on its economy and industrial relations. In the present economic order, the working class has a dominant role to play because no system can work smoothly by neglecting this important segment of the society. Globalization has its impact on labour and social security laws. Due to preference for contract labour by the employer the
job security of an industrial worker is under threat in the era of globalization. In 1999 National Labour Commission was appointed to study the effects of globalization on Indian Labour Laws and its report was submitted in 2002 with suggestions to modify existing labour laws. Many efforts were made to give security and protection to workers at the international level i.e. establishment of ILO, International Social Security Association and Social Security Alumni Association etc. ILO has convened many Conventions for the protection and welfare of labourers. There are inherit guidelines in Universal Declaration of Human Rights, 1948, International Covenant on Human Rights, 1966. The Preamble of the Constitution of India guarantees justice and security to its citizens. The Constitution of India enacted upon independence of the country though does not provide for compulsory institution of social security for all, yet, its Directive Principles of State Policy contained in Part IV for theme idea in this regard explicitly.

Social Security to the workers in the organized Sector is provided through five Central Acts, namely, the Employees” Compensation Act, 1923, the Industrial Disputes Act, 1947, the Employees State Insurance Act, 1948 the Employees Provident Funds and Miscellaneous Provisions Act, 1952, the Maternity Benefit Act, 1961 and the Payment of Gratuity Act, 1972. The Government has enacted certain legislations for the protection of unorganized workers. Some of the legislations applicable to the workers include the Beedi Workers Welfare Fund Act, 1976, the Building and Other Construction Workers (RECS) Act, 1996 and the Building and Other Construction Workers
Welfare Cess Act, 1996, the Unorganized Sector Workers Social Security Act, 2008 etc. A detailed discussion on these Acts are made in the Fourth Chapter.

The interpretation of labour laws has been continuously changing since independence. Thus, the labour laws can be called dynamic and a piece of social welfare measures. At present information technology has developed a lot. Many Multinational Companies and Business Process Outsourcing have come to India in this field. They are pressing for amendments in different present labour laws, since these companies feel that the labour laws in India are very strict and believe in the policy of Hire and Fire. Aim of research is that what legal steps can be taken in order to improve or modify the present social security laws in the era of globalization and how globalization effects our labour laws in organized and unorganized sector.