A. INTRODUCTION:

Agriculture accounts for almost 60 per cent of aggregate employment in India which is, by and large, rural-based. It is depressing to note that in the rural sector the rate of growth of agricultural employment is abysmally low.¹

Rural workers in agriculture constitute the largest segment of India’s work force. In the absence of any significant land reform measures, a large section of the rural work force is landless and asset-poor. Extreme concentration of land ownership and use persists even today. Illiteracy, lack of schooling, poor conditions of health and sanitation and malnourishment continue to be important problems that haunt Indian villages. Agricultural workers have insufficient and uncertain number of days of employment. Nearly half of the members of agricultural labour households in India are below the income-poverty line.² Informal credit is the dominant source of credit in rural India. Agricultural workers pay unreasonably high rates of interest for consumption loans from the informal sector. In sum, the standard of living of agricultural workers has remained very backward, as deprivation and economic vulnerability mark their lives.³ Even after 60 plus years of independence, the Indian governance has failed to institute a

credible social security system to help rural workers tide over crises of livelihood. The abysmally low standards of living of agricultural workers in India reflect the inadequate efforts, *inter alia*, to address the basic socio-economic problems of class, caste and gender based exploitation in rural areas.

Rural workers suffer high rates of poverty, food insecurity, untimely death, injury and illness. They are also often denied basic human rights. Mainly this is due to the informal character of agricultural production, coupled with other factors such as, incomplete markets, asymmetry of information, high transaction costs, and imperfect functioning of complementary markets (especially land and credit), heterogeneous nature of rural labour entering into a wide range of contractual arrangements and unclear employment relationships. To top it all, lack of adequate self-contained law is adding fuel to the fire. While they suffer the highest poverty vulnerability, lack of homogeneity in the sector and the predominance of informality are some of the main causes for their low level of organization and unionization. This, in turn, is one of the determinants of their continued invisibility with policy-makers and institutions at micro and macro level.

Compared to those working in other economic sectors, agricultural workers are least protected by national labour laws. In some cases, this is because the scope
of the relevant legislations says for e.g., the Factories Act is limited to industrial enterprises and their workforce. In some countries, the agriculture sector is specifically excluded from the scope of general labour legislation. Where it exists, protective legislation may not be fully applicable to the agriculture sector, may be out of date or may simply not be applied.

Application of prevalent general labour laws are problematic in rural areas, where employers and workers are less familiar with the details of the law and compliance is impractical, particularly in small-scale farms. Even in countries where specific legislation has been enacted which accommodates the special characteristics of agricultural work – for example, with regard to working time arrangements, wage structure, and the provision of housing in remote areas – inspection and enforcement tend to be weak. This is because of several lacunas present in the relevant law like for e.g., awareness, irresponsibility of enforcement machinery. Even as the Government is thinking to introduce a new law aimed at labour welfare, it is clear that there is an urgent need to look at this law, iron out

the creases and find ways to make their implementation more rigorous and effective.

**B. STATEMENT OF RESEARCH PROBLEM:**

The principal problem in drafting a purposive legislation for agricultural labour is provision of work excluding when work is available in abundance/peak-season/tillage days. There is no agricultural activity for nearly eight months in a year if we consider traditional way of agriculture. The basic problems of the rural economy are low income, low productivity and lack of continuous employment. Though recently enacted *Mahatma Gandhi National Rural Employment Guarantee Act, 2005* provides 100 days guarantee of employment in a year, there is great deal of fraud in issuing job cards. Moreover, muster rolls are not maintained properly and work is not provided to job seekers who really are in need of such support. Sometimes incidences are found wherein fake names of workers are included and the work was being done with the help of machines which is cost effective. Use of JCB’s, explosives, *etc.*, in the place of man power was reported. Also for how many years cognizance should be taken under the said Act to provide employment is not clear.\(^7\) Planned effort to alleviate the agricultural labourers lot has failed because it consisted of short term solutions unrelated to the general pace and

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direction of economy as a whole. To succeed farm labour policy has to be an integral part of the overall policy of development. This programme for the longer term can then be supported by other short-term programmes aimed at assuring, meanwhile, a more reasonable minimum wage to farm labourers, food and clothing at more reasonable prices through well-organised marketing societies, and off-season employment opportunities for earning supplementary income.

To harness short and long term programme there is necessity of categorisation including those allied activities associated with agriculture wherein there is involvement of agricultural labour. In addition, steps to increase demand of agricultural labour through intensive agriculture need to be prioritised. Additional activities which are associated with agriculture should be encouraged in practical terms by setting targets for a particular district as a unit. Setting up agro-industries at villages wherein the agricultural workers labour in off-season can be utilized by employing them in industries.

The size of the problem of agricultural labour varies from region to region, depending on such factors as pressure of population, availability of land for cultivation, differences in the extent of irrigation and double cropping, fertility of land, cropping patterns and opportunities available for seasonal migration and for
employment outside agriculture. The enormous size, the widespread underemployment that exists, and the fact there is increase in population has borne harshly on this section of the labour population. There is need for specific policies addressing the needs of part-time farm employments which will have a greater chance of success in providing boost for rural employment and economy.

The problem of agricultural labourers is part of the wider problem of unemployment and under-employment in rural areas. There is need for a specific step in this regard with the introduction of effective legislation.8

C. IMPORTANCE OF THE RESEARCH PROBLEM:

The importance of agricultural labour can be traced back to the earlier days of man on earth. Since humans appeared on earth, they are expected to work to secure what they needed to survive or to improve their standard of living. Our earliest ancestors had to gather, hunt and farm successfully or die. Our nomadic ancestors laboured together in gathering the hunt and other tasks and collectively shared results according to the customs of the time. A slaves’ labour was forced, whereas that of many peasants was exchanged for protection and the use of land.9 Labour

was often used as a source of ransom. Colonial leaders imposed taxes payable in the forms of labour.\textsuperscript{10}

Labour was very instrumental and it is still so in social capital investment. Investing in social capital through providing reciprocal labour wherein give and take of labourers for cooperative farming provides a means of commanding labour for the household and a safety net.\textsuperscript{11} Given the fact that societies have grown larger and more complex, labour has become even more important. Today, labour plays a significant role as one of the key factors of production and a source of livelihood.\textsuperscript{12} It greatly contributes to the outputs of organisations, economies and the rural poor, whose use of rudimentary technologies makes their livelihood activities labour-intensive. The sale of labour is a source of livelihood to billions of people worldwide, especially (1) absolute landless farmers who do not rent, own, or sharecrop any area of land, but possess only their physical labour power and skills acquired through experience and traditions, (2) the landless owning one or two animals and supplement their earnings by working occasionally in non-farm activities and (3) the near-landless who own and rent very small areas of land, but


occasionally provide wage labour during peak agricultural seasons. The overwhelming importance of labour in developed countries as a generator of personal income is beyond question. One of the principal manifestations of and factors contributing to the low levels of living in developing nations is their relatively inadequate or inefficient use of labour in comparison with the developed nations. This inefficiency takes many forms ranging from open employment to the unproductive, through underemployment, the visibly active but underutilised like disguised underemployment, hidden unemployment and the prematurely retired and the impaired.

Agricultural labour has not been considered stakeholder in reform in spite of the fact that labour is of critical importance for the livelihood of poor peoples’ in rural areas. It provides income and employment for a large majority of people in India – more than 60 per cent of the rural population live and work in agriculture and agriculture-related activities. It is no surprise than that the poorest people tend to be landless and living in rural areas. For this group especially, labour is often the only asset they possess and access to labour markets is crucial as their only source of income.

The right and proper end of Government in every political community, is the greatest happiness of majority of individuals of which it is composed, say, in other words, the greatest happiness of the greatest number is the foundation of morals and legislation.\textsuperscript{15} Direct and positive purpose of legislation is to add to the happiness of the community. So it becomes essential to bring in a well crafted legislation for protecting the interest of agriculture labour that form majority of working population in India.

Moreover, rural labour provides the nexus between environmental, social and economic sustainability, poverty reduction and food security. The importance of rural employment for poverty reduction cannot be overestimated and that labour is often the only productive asset they own. Indeed, given its importance in relative and absolute terms, it is surprising that betterment of rural labour, ironically, is not central to agricultural and rural development policies. Policies aimed at the creation of sustainable employment opportunities in farm and off-farm activities are often absent in India.

Traditionally, agriculture and rural development policies have focused on agricultural growth with a focus on the production side, and on land and capital,

often without a careful evaluation of their impact on the livelihoods and vulnerability of the largest group of poor in the rural areas: the workers, including the landless and wage-dependent small farmers. However, successful sustainable development and successful agrarian reform require that both small farmers and workers are given considerably more attention as distinct groups, each with its own political, economic and social needs and contributions; that both groups figure in sustainable rural development strategies and programmes; and that more support is given to building and strengthening links between these groups in the interests of sustainable development and poverty eradication.

Apart from the moral and ethical dilemmas surrounding agricultural labour, lack of uniform applicability of legal provisions adds to the urgency of enacting a separate legislation.

D. JUSTIFICATION BEHIND SELECTING THE PRESENT RESEARCH PROBLEM:
There are several evidences to support the contention that small farmers in general, and agricultural labour in particular, are not being well served by the existing legal system in India. A recent FAO study of extension services in Asia and Africa concurs with this observation by concluding that: "[i]n very few countries has an
adequate organizational solution been found for advising rural labour who not only work at home, but also in the fields”. The failure to reach labourers is part of an overall problem related to a lack of support and resources. In looking at agricultural labour as a neglected segment of the farming community, the realities of life in many less developed nations must be realistically addressed. It is aptly said that “[g]eneralizations offer much food for thought, but little basis for action”. Specific situations need to be reviewed and perspective action on the basis of legislative action needs to be taken. The important contribution made by agricultural labour in agriculture justifies the necessity to make the system more equitable. The above background, therefore, provides the necessary basis and justification for this research study.

Broad processes of change in agriculture, characterised by increased commoditisation, liberalisation and globalisation, are affecting the nature of people’s relations around resources, production processes and the nature of land-based inequalities. These processes have direct implications for rural labourers. The private sector has become an increasingly influential force in shaping

agriculture and its development impact. National and regional agri-food markets in developing countries are changing fast. There is growing concentration in food processing and retail sectors with a significant role played by supermarkets private as well as public, standards for production, food quality and safety, and labour conditions. This has impact on and implications for rural livelihoods and communities. Private sector development, \textit{i.e.}, commercial agriculture and transnational corporations and food chains, have led to increased production of higher value crops for global markets, changing work patterns and increasing ‘flexibilisation’ of labour.\footnote{www.regoverningmarkets.org, [accessed on 13-06-2011].}

Against the backdrop of increasing globalisation and commercialisation in agriculture an important change is the growing casualisation of agricultural labour. More workers are employed in the farming sector than ever before, and the number of casual workers is increasing at a faster rate than permanent workers. The growing significance of agricultural employment was discussed during the Electronic Forum on Sustainable Agriculture and Rural Development in preparation for the World Summit on Sustainable Development in 2002: \textquoteleft\textquoteleft There are more workers in wage employment in agriculture than at any time. The share of waged employment in agriculture including the number of wage-dependent
smallholders in agriculture is continuing to increase in virtually all regions, and it is now a central feature of employment and income in rural areas”\(^\text{20}\).

Lack of adequate policy reflects in insufficient levels of job safety and security. Looking at livelihoods at the household level, many rural households in developing countries depend on a ‘portfolio’ of income generating activities. In addition, smallholder and subsistence farming, this can include agricultural wage labour on plantations and large commercial farms or working for fellow smallholder farmers, with payments in cash or in-kind. Rural households also both hire-in and hire-out labour. The hiring of labour is widespread even among low-income smallholder households, particularly to meet seasonal demand for cultivation and harvesting tasks.\(^\text{21}\) The same smallholder households are likely to hire out labour at specific times of the year, which beyond representing an alternative source of income could have negative short and long term effects as labour is withdrawn from productive uses in the family farm.

More generally, employment is central to the objective of poverty reduction. Labour is often the only asset possessed by poor people and therefore access to labour markets is of vital importance because hiring out their labour is often their


only source of income. Small scale farmers often also depend on hiring out their labour as an essential and sometimes principal source of income at least at specific times of the year. Farm workers incomes also have important multiplier effects in local rural economies. The way to improve productivity of their main asset is to improve the functioning of rural labour markets – this also means taking labour concerns into consideration alongside access (and terms of access) to land, given the clear links between land, labour and livelihoods.  

A few more important justifications required to be incorporated here are:

- To find how a suitable law meant only for agricultural labour in India can be drafted.
- To incorporate attributes of international labour standards in agriculture in real sense into the domestic law.
- To check whether the available Constitutional measures are sufficient or there is need for any new amendment to be introduced.
- To examine the work done in allied setup associated with agriculture can be considered as agricultural labour.
- To look for viability of available statutes which are partially dealing to safeguard agricultural labour.

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• To frame a model law making it suffice the essentials of agricultural labour issues.

E. SCOPE OF RESEARCH:

India is predominantly agricultural country with an increasing population i.e., 2\textsuperscript{nd} most populous and 7\textsuperscript{th} largest in area in the world. 58 per cent of total workers are working in agricultural sector.\textsuperscript{23} The bulk of employment in agriculture is rural-based (97 per cent) and it is astonishing that rural employment growth in agriculture is abysmally low (0.06 per cent) and insignificant.\textsuperscript{24}

The Constitution of India was drafted in such a way as to ensure that all workers, men and women were equally protected by the law. The Directive Principles of State Policy which encapsulate the directives to the Government while formulating its policies are very clear about many of these rights.\textsuperscript{25} These Principles contained in Part IV of the Constitution have been read into Article 21 of the Fundamental Rights in Part III to safeguard and guarantee the workers their rights. However, with globalization and liberalization it can be observed that majority of these rights have been eroded by both the Government and the

\begin{thebibliography}{99}
\bibitem{24} Jha Brajesh, Rural Non-Farm Employment In India: Macro-Trends, Microevidences And Policy Options\textsuperscript{27}, Delhi: Institute of Economic Growth University Enclave, 2005.
\bibitem{25} Municipal Corporation of Delhi v. Female Workers (Muster Roll), 2000 (2) SCR 171.
\end{thebibliography}
Judiciary through their decisions and interpretations in the cases that have come up before them since the 1990’s. However, there are a few instances that demonstrate the ability and power that they possess to safeguard human rights if they have the inclination and commitment to ending discrimination in the work place.

The Fundamental Rights in Part III of the Indian Constitution reflect some of the basic human rights of all people. Article 14 guarantees equality before law and equal protection of the law, while Article 15 prohibits discrimination on the grounds only of sex amongst other forms of discrimination. Article 15 (3) provides for special provisions to be made for women and children. Article 16 prohibits discrimination in matters of employment. Article 19 (1) (g) gives the right to freedom to practice any business, trade or occupation and Article 21 guarantees the right to life and personal liberty.

In addition are the provisions in Part IV as mentioned earlier. While Article 38 secures by way of promotion of welfare of all the people Article 39 (a) specify

27. Supra note 25.
about right to an adequate means of livelihood for men and women equally.\(^{34}\) Article 39 (d) addresses the issue of equal pay for equal work for both men and women\(^{35}\) and Article 39 (e) particularly directs the State to ensure that its policies secures that the health and strength of workers, men and women and children are not abused and that the citizens are not forced by economic necessity to take to vocations unsuited to their age or strength.\(^{36}\) Article 41 adds strength to Article 39 (a) by stating that within the limits of its economic capacity and development the State should make effective provisions for securing the right to work amongst other things to its entire people.\(^{37}\) Article 42 is one of the hallmarks of the Indian Constitution as it takes into consideration the very specific context of pregnancy related discrimination in the context of employment and therefore it directs the State to make provisions for securing not only just and humane conditions of work but also for maternity relief.\(^{38}\)

Inspite of all these provisions agricultural workers are poorly protected by national labour laws and codes, either because they are explicitly excluded (legislation often does not apply to agricultural workers) or because existing laws de facto cannot be applied to the agricultural sector as employment categories do

\(\text{34. Randhir Singh v. Union of India, (1982) 1 SCC 618.}\)
\(\text{35. Municipal supra at 14.}\)
\(\text{36. M.C. Mehta v. Union of India, 2002 (2) SCR 963.}\)
\(\text{37. Union of India v. Pritilata Nanda, 2010(7) SCALE 269 = AIR 2010 SC 2821.}\)
not match among other things. Working conditions are generally poor in agriculture, especially for waged workers. Moreover, child labour is also widespread.\footnote{ncpcr.gov.in/.../Chairperson_Address_on_Child_Labour_in_Agriculture_at_ILO_Conference_on_12_June_2007_Delhi.pdf [accessed on 14-07-2011]}

Labour laws in the country are not evenly applied. That is to say, several groups of workers or groups of establishments including agriculture are expressly excluded from their scope. It is generally the formal or organized sector (typically the larger scale manufacturing and service sector) that is covered by existing labour laws. At present, labour laws often apply only to certain sectors of the economy, or in some cases to what are interpreted judicially to be an “industry”. This is achieved by having laws dealing with the safety and health of workers limited to factories, mines, plantations or certain specific sectors. Exclusion is achieved in other ways also. The labour laws variously determine minimum levels of employment as conditions for their applicability hence exclude agriculture which is smaller establishment.\footnote{Thus, in India most of the labour laws have a threshold limit of 10 or 20 employees for laws relating to social security or conditions of work to apply; the limit is even higher, fixed at 50 or 100 in the case of laws which deal with terms of employment and procedures to be followed for disciplinary action and lay down retrenchment, lay-off and closure compensation. See, the Industrial Disputes Act, 1947 and the Industrial Employment (Standing Orders) Act, 1946 as examples of the latter category.}
Agriculture establishments in India mostly employ without muster roll that too less than 10 workers and are thus below the threshold limit. This aspect coupled with definitions of workers based on functional or remunerative criteria excludes certain categories of workers such as those in domestic work, carpentry, etc., associated with agriculture whose work does not fall within the description of workmen which results in limiting the coverage of labour laws. Casual workers and workers engaged by contractors are often excluded from the definition of ‘worker’ or ‘workman’ in these laws, on the grounds that they have not put in the requisite minimum eligibility period (in the case of social security benefits) or are not ‘employed’ (in the sense of being under direct control and supervision) and are thus not deemed to be within the scope of a ‘contract of service’ vis-à-vis the principal employer.

Reasons for this marginalisation lie in part in the hiring and contractual arrangements for agricultural workers/labourers. The sector is “…characterised by high levels of non-permanent work (temporary, seasonal, casual, migrant and contract) and female employment, with women often concentrated in the most labour-intensive and insecure forms of work. Long working hours and hazardous conditions are also common.”
The most ‘invisible’ of workers are those in increasingly casualised positions, employed by third-party contractors, who do not appear in national labour statistics and have no rights because they are not seen as being employees. The same is true for those labouring ‘informally’ on smaller-scale farms. Labour codes and laws, while they can be successful in raising employment standards of workers, often neglect conditions men and women face in insecure forms of employment. This can constitute a large proportion of the overall agricultural labour force. It is of course true that “[f]or codes to deliver substantive changes in working conditions, they need to ensure that the rights of all workers are protected, including those of marginalised workers.” 41

However, people in less formalised and insecure forms of employment tend also to lack access to legal institutions and processes, and therefore are not aware of their rights. High fragmentation of the labour force in agriculture, especially in small farms aggravates this problem, as these workers are not easily “unionisable”. The labourers being isolated, insecure and exploited are mostly unorganized in rural areas.

Research areas in rural setup include agricultural labour and employment, rural labour other than agricultural, self-employed, self-employed artisans and craftsmen, rural women, migration of agriculture labour for employment, etc.

A significant number of agricultural workers fall outside the scope of labour laws either *de jure or de facto* throughout the country. Changing patterns of production and work, a weakening regulatory role of the national State over the socio-economic sphere and diminishing capacity of labourers for collective representation have been identified as major challenge to the protective function of labour laws today. So a specific law should be meant to cover overall aspects dealing with employment relations, dispute resolution, conditions of work, wages and social security for agricultural labour.

The following laws are applicable to the agricultural labourers:

*The Minimum Wages Act, 1948* is applicable *inter alia* to employment in agriculture. The Act empowers the States to fix the minimum wages for various categories of agricultural workers. The implementation of the various provisions of *the Minimum Wages Act, 1948*, in agriculture, is beset with considerable difficulties because of the nature of work, fragmentation of holdings, payment of wages in kind, borrowings by the agricultural labour, vagaries of weather, traditions and customs, lack of adequate organization among the agricultural labour
and illiteracy among the employers and the employees alike. Further, *the Payment of Bonus Act, 1965*, is equally applicable to agricultural labourers. *The Workmen’s Compensation Act, 1923* is applicable *inter alia* to workers employed in farming with tractors and other contrivances driven by steam or other mechanical power or by electricity. *The Trade Unions Act, 1926* which provides for the registration of unions is applicable to registered unions *inter alia*, of agricultural workers. *The Industrial Disputes Act, 1947*, applicable to labourers on agricultural farms run on commercial lines but this Act does not apply to other labourers engaged in agriculture. However, *the Employees’ Provident Fund and Family Pension Act, 1972* and *the Payment of Gratuity Act, 1972* do not cover agricultural labour as a class by itself, but both the Acts are applicable to labourers employed by plantations, fruit orchards, *etc*.

*The Kerala Agricultural Workers Act, 1974*, has introduced a new dimension in legislation for agricultural labour which is limited to State of Kerala. This enactment provides for the security of employment and welfare of agricultural workers. An important feature of this Act is the setting up of the Agricultural Workers Provident Fund to which both the employer and the employee make contributions at a given rate. Similarly *the Tripura Agricultural Workers’ Act, 1986* was brought in for protecting the interests of agricultural workers. In fact, the
All India Agricultural Workers Bill which is pending in the Parliament for the past several years should be considered after making required changes as suggested in this research.

The study of all these Laws, Bills and International Instruments fall within the scope which is selectively undertaken and brought in as per the requirement at relevant places in the thesis.

F. HYPOTHESIS:

The nature of work differs from time to time and it is difficult to define as the activity of agriculture differs from one geographical area to another and from season to season. Also difficulties in defining agricultural labour are compounded by the fact that many small and marginal farmers also work partly on the farms of others to supplement their income. It is not easy to answer to what extent should they (or their family members) be considered as agricultural labourers. To safeguard them against all odds it is necessary that the concept of agricultural labour should be defined precisely.

In the Indian context there are serious obstacles to be overcome, obstacles that have not been confronted by the presently developed nations. Hierarchy and
attendant inequality presented an entirely new aspect in India in the shape of the caste system which stifled the creative energies of vast numbers condemned to agricultural labour in conditions of degrading exploitation. The exploiter and the exploited are both stripped of human dignity and worth. Patriarchy added yet another element of subjection of women and children to this enormously tragic blockage of initiative and innovation. It should be recognised that Constitutional rights of the citizenry, human dignity, Human Rights, human security are not rewards of development but are critical to development itself. Self-governance must necessarily include developmental autonomy for agricultural labour through empowered special institutions on their behalf and empowerment.

Agriculturists including labour face certain adverse effects of sudden and unprepared exposure to the regimes of WTO, IPR, etc. In order to protect them from these adverse effects while, at the same time, to secure the benefits of those regimes, a national convention should be convened involving Ministers in charge of Ministries connected with globalisation to identify remedial steps arrive at a consensus about them and these should be implemented quickly. There should be a continuing mechanism involving all these to continuously monitor, correct, modify and implement all positive steps from time to time.
Further agriculturists and many other traditional producing classes suffer from the adverse effects of natural calamities like drought, cyclone, floods, etc. A similar national convention should identify the measures required to protect them from such adverse effects of natural calamities including crop insurance, preparedness etc., arrive at a consensus about these measures and institute a continuing machinery of continuous monitoring and corrections and modifications.

Given the ongoing crisis of employment and lack of rights for agriculture workers, concrete actions from the ILO are imperative. International steps are haphazard for providing protection. After many years of what can only be described as policy neglect – it was almost like policy makers had decided that in future we would all be working in call centres and the service sector – agriculture and rural employment must be back in the agenda. There should be awareness that the Millennium Development Goals will not be achieved unless attention is paid to agriculture and rural areas.

Hunger in rural areas is nothing new, indeed to be living in hunger the vast majority are in rural areas. It is indeed a cruel irony that those workers and small farmers who feed the world often have the least resources to feed themselves and their families. The law should include measures to efficiently provide food-grains
varyingly on subsidised rates instead of being degraded in the custody of Government stocks.

Maybe it is stating the obvious, but the best way to ensure these people have food is decent work – providing decent rural employment is the way of ensuring poverty reduction. While there is now a quite discernible trend to include farm workers in government policy, and a new progressive tendency among especially younger commercial farmers, much work remains for civil society groups in the area of strengthening the voice of farm workers at the level of local government. It has in practical terms been difficult for farm workers to participate meaningfully in the Rural District Schemes, not at least because the schemes are dominated by commercial farmers, unused to sharing power or ideas with their employees. Going now beyond the voluntarist welfare approach, based, in the absence of minimum standards governing the sector, on the individual sense of responsibility of each farm employer, and shaped still by a master-servant relationship, farm workers need to be given the means to articulate their own demands and to themselves set the pace for democratic change in their sector.

Markets work against smallholders and agricultural labour for the simple reason that they both exercise little power in their ability to negotiate. Empowering
smallholder farmers and labourers is ultimately the only way in which they will be able to secure a better share of the value chain. And achieving that is more than simply providing more job openings or treating smallholders as commercial entities. Law should bring in organisational supporting farmer and labour organisations so that both groups can have a stronger voice to negotiate contracts and secure themselves a better deal.

Law must include therein land made available under reclamation and surplus land acquired through the policy of ceiling should be distributed among them. This will not only raise their income and economic level but will also improve the social status. It is necessary also that these people with tiny pieces of land, form themselves into co-operatives. Further, necessary production inputs should be made available to them for efficient farming. The study indicates that illiteracy, unemployment, lack of basic amenities like non-availability of drinking water, housing etc., continue to be the major problems of the rural labourers, many of them though were implemented on paper but in de facto nothing exists in working condition. Further, agricultural labourers are shifting away from the agricultural occupation due to various reasons like less attractive remuneration, hazardous work, lack of adequate job status, etc.
The laws available till now have relevance in letter but not in spirit. What Indian agricultural labours really need is a legal system of entry with documented legal rights and legal responsibilities. This would protect both the workers and our society at large.

Following hypotheses are formulated over the research problem selected:

- A comprehensive legislation for the benefit of the agricultural labourers needs to be applauded.

- Concept of agricultural labour should be inclusive of the required allied practices on farm depending on working conditions and regulation of hours to work.

- *The Mahatma Gandhi National Rural Employment Guarantee Act, 2005* should be linked by the new enactment to avoid differences seen in implementation like for *e.g.*, off-season period should be utilized for employment, increase in minimum guaranteed days, wages following price rise on essential commodities.

- Provisions in the Act for inclusion of the right to association and combination should be incorporated.

- Separate social security measures including protection against accident, sickness, invalidity and old age should be brought within the ambit of new
enactment. Farm workers are not practically brought in due to failure of registration of majority in the *Unorganised Workers' Social Security Act*, 2008.

- Conciliation machinery should be conceived as has been planned to be incorporated in the Model Law to deal with cases of dispute on the issue of wages. The Act must provide that the executive authority of every local body shall prepare a register of agricultural workers residing within the jurisdiction of the local authority and the Act should enjoin on every landowner that he/she shall maintain such registers and records as may be prescribed by the rules.

These hypotheses will be put to test in the light of research data collected by the researcher in the present research.

**G. REVIEW OF LITERATURE:**

A literature review is usually organized around ideas, not the sources themselves as an annotated bibliography would be organized.

First, to put the study in its proper context, agriculture labour enquiry reports on employment and unemployment carried out in 1956 till 2009 have been used to track changes in condition of agricultural labour.
Majority of relevant written material on the topic like books, journal articles, newspaper clippings, historical records, government reports have been referred. Interpretation made by the judiciary on various relevant issues has been taken into account. UGC info-net journals were also accessed through internet to trace the latest changes in cyber world about agricultural labour as an issue. Some of the additional resources accessed through internet are Annual Review, Blackwell Publishing, Cambridge University Press, J-Stor, Oxford University Press, etc.

Clearly with such broad scope, both in terms of subject matter and judicial context requires clear guiding principles and an unambiguous methodological approach, so that limited resources are efficiently deployed. In the current thesis three broad approaches are used:

• Critical evaluation of conventional literature, and

• Analysis of judicial approach.

• to provide consistent and comparable measures.

Based on the study carried on following above mentioned approaches an attempt ultimately is made to draft a self-contained Model Law for agricultural labour in India.

International instruments like for *e.g.*, *International Labour Organisation* formulated Conventions and Recommendations ratified by India, a* Universal Declaration of Human Rights*, *International Covenant on Economic, Social and Cultural Rights*, and the *International Covenant on Civil and Political Rights*, etc., have been referred. Statues which are based on these bearing provisions for betterment of agricultural labour from foreign bases like for *e.g.*, *Agricultural Labour Act*, 1993 of South Africa, *The California Agricultural Labor Relations Act*, 1975 of State of California, *Employment Standards Act*, 2000 of Ontario,

42. (i) Freedom of Association and Protection of the Rights to Organize Convention, 1948 (No.87); (ii) Rights to Organize and Collective Bargaining Convention, 1949 (No.98); (iii) Equal Remuneration Convention, 1951 (No.100); (iv) Discrimination (Employment and Occupation) Convention, 1958 (No.111); (v) Forced Labour Convention, 1930 (No.29).
Migrant and Seasonal Agricultural Worker Protection Act of United States of America, Bonded Labour System Abolition Act of Pakistan, have also been consulted.

In Indian context, separate law for agricultural labour like the Kerala Agricultural Workers Act, 1974 and the Tripura Agricultural Workers’ Act, 1986 which are presently in force in Kerala and Tripura respectively to benefit agricultural labour have been critically evaluated. The situation before the enactment has been carefully studied. Also Acts applicable for whole India like The Dangerous Machines (Regulations) Act, 1983, The Bonded Labour System (Abolition) Act, 1976, The Unorganised Workers' Social Security Act, 2008, etc., are thoroughly dealt with to track the provisions which are distinctly applicable to agricultural labour. The Agricultural Workers Welfare Bill, 2001, The Agricultural Workers (Employment, Conditions of Service and Welfare) Bill, 2009 and The Poor and Destitute Agricultural Workers and Artisans (Welfare) Bill, 2009 which were presented in Lok Sabha and various reports submitted by The National Commission for Enterprises in the Unorganised Sector have also been exhaustively dealt with in this research. Agricultural Labour Enquiry Committee Reports, Report of National Commission on Labour have been emphasised upon.
Writings of Internationally-renowned researchers, formulators, consultants, and authors in the field of agriculture labour for e.g., Kulamani Padhi, Hansen, Breman, Jan, Brass, Tom, McMurdy, Mitra, Rosenzweig, Supriya Garikipati, Krishna Iyer, Seervai and Basu are studied in detail. Judicial findings on all important issues pertaining to agricultural labour are culled out from cases decided by the Supreme Court and various High Courts which are brought under proper reference as and when required. Various journals and magazine among other writings apt as a source for information to rely upon for knowing the status of agricultural labour are also perused.

H. RESEARCH METHODOLOGY ADOPTED:

The researcher is concerned with drafting of a self-contained law covering all aspects of Agricultural Labour. For this, it is imperative to find out overall developments in the form of enacted laws, judicial interpretation of such laws, evolved legal doctrines in the process, etc. To shape this research, data is collected by following doctrinal research method. In this method the researcher ought to heavily rely on libraries both conventional and e-generated.

In a nutshell, library based research is about finding the “right answer” to a particular legal problem or set of problems. Thus, the doctrinal methodology is
aimed at specific enquiries in order to locate already recorded information as per the requirement. The key steps in library-based research include analysing and unpacking the legal issues in order to identify, *inter alia*, the need for further research. At this stage a significant amount of background reading was done in order to thoroughly get acquainted with the subject of research. Background reading included sources such as, dictionaries for clearing the cobweb of confusion surrounding definitions of important terms, a list of legislations and cases where they have been used and interpreted, accompanied by footnoted sources, major textbooks and treatises on the subject and journals.

Having established the issue requiring further investigation, the researcher has attempted to determine the relevant rules of law applicable to the identified issues. This stage involved locating and analysing the relevant primary material.

Relying upon primary sources alone would be a lop sided attempt in research however adequate they are by themselves. Often, the concepts and standards that were embodied in the International Conventions, Legislations and Cases have been investigated, analysed and elucidated by many different authors in a variety of contexts and from wide ranging perspectives. These writings constitute an important resource for understanding and elaborating the principles in the
primary study. It is also useful to have regard to secondary sources. This observation influenced the researcher consequently, use is made of relevant books and journal articles covering the area of present research.

Moreover, having established the relevant rules, the research is set out to analysing the facts in terms of the law. This is perhaps the most critical stage of the doctrinal or library based methodology as it seeks to inter-link the issues that were identified with the applicable rules. All the issues that are sought to be investigated are synthesised in the context of the applicable legal rules.

Lastly, having conducted the analysis, the researcher comes to probable conclusions which are based on the facts established and the law considered. In the light of conclusions arrived at certain suggestions have been incorporated emphasising the need for having a self-contained purposive legislation for governing all the aspects of agricultural labour. In this regard the Model Law drafted by the researcher may be of great relevance.

I. SCHEME OF DOCTORAL THESIS:
The doctoral thesis consists of six chapters which have been arranged in the following way:
It is aptly averred that “a page of history is worth a volume of logic”.43 Any legal research having direct impact upon the members of civilized society if undertaken devoid of historical analysis would be exercise in futility. While involved in research, *inter alia*, in law “[t]oday we study the day before yesterday, in order that yesterday may not paralyse today, and today may not paralyze tomorrow”.44 Realizing the importance of history, in the *First Chapter* the researcher has attempted to cover the historical developments in the area of evolution of agricultural labour in India. This apart, it is said those who venture upon research and drafting of any law they should be well acquainted with the terminology frequently used in such law.

Legal drafting, according to Reed Dickerson, involves “crystallization and expression in definitive form of a legal right, privilege, function, duty or status”.45 Such drafting embodies twin aspects *i.e.*, “conceptual aspect, in which the drafter ascertains and perfects the concepts to be employed in his draft, and the literary aspect, in which the drafter selects the best means of expressing those concepts”.46 Thus, conceptual clarity is *sine quo non* for effective drafting of law. To add the most needed clarity to the concept it is incumbent to define atleast the most

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44. *Id.*, at 54.
important terms often used in a particular law. Because definition “gives a meaning to a word or expression; or limits or extends the meaning of a word or expression”.

It adds “certainty to its meaning”. Moreover, definition helps either to “limit” or to “extend” the boundaries of ordinary meaning of a said concept so as to provide contextual meaning. In addition, even to “avoid repetition” definitions become handy. Similar is expected in case of researching in the area of agricultural labour. In the last segment of this Chapter some of the important terms like for e.g., Agricultural Labour, Agricultural Dispute, Agricultural Land, Agricultural Tribunal, Agricultural Landowner/ Farmer, etc. are dealt with.

If the task of drafting law is being undertaken for a particular country covering a specific area it has to be done with an open mind. It is necessary to find out what is already available in other countries to tackle the issue on hand so as to identify the strong points from the working of such laws that may be of great relevance while drafting a purposive legislation. For this, the research need to be broad based. Therefore, in the present work the researcher has brought in an overall study pertaining to agricultural labour and law in various countries where agriculture is dominant in the Second Chapter. The existing measures taken by

Government over there whether could help in Indian context with possible inclusions after situational modification has also been researched over in this Chapter. The statutes where-all available have been studied to look into applicability of the same in Indian conditions. The framework to what extent could prove helpful in every regard is also verified. Every precaution has been taken to keenly identify the drawbacks prevailing in the already existing statutes.

In Chapter Three critical evaluation is incorporated of existing statutes like for e.g., *Kerala Agricultural Workers Act, 1974, Tamil Nadu Agricultural Labourers Farmers (Social Security and Welfare) Act, 2006, The Tripura Agricultural Workers’ Act, 1986*. Further, the pending *Bills* before the Parliament pertaining to agricultural labour *viz.*, *The Agricultural Workers Welfare Bill, 2001, The Agricultural Workers (Employment, Conditions of Service and Welfare) Bill, 2009* and *The Poor and Destitute Agricultural Workers and Artisans (Welfare) Bill, 2009* have been specially emphasised and dealt with in this Chapter. In addition, various provisions having scattered existence under several labour laws which have been made applicable to agricultural labour have also been thoroughly scrutinized to identify the reasons for their non-effective impact on the welfare and security of agricultural labour. Moreover, the human rights challenges faced by agricultural labour in India due to ineffective laws, adverse climate and conditions
of work which also provide an insight to draft a model law covering all aspects of agricultural labour have also found their way into this Chapter.

In the *Fourth Chapter* an attempt is made to draft a model law covering all aspects of agricultural labour because in the opinion of the researcher there is an urgent need to enact a full-fledged purposive independent legislation to protect the interest of agricultural labour in India. The model law includes various aspects which are required for efficient workability. First and foremost is about who should be called an agricultural labour. What all activities can be brought in so as to cover the population for whom it should be meant. The various authorities to be appointed and entrusted with the task of settling agricultural disputes is covered. What are the powers to be conferred and duties entrusted upon these authorities for effective hassle-free implementation of the overall schemes meant for agricultural labour is also incorporated. The importance of Alternative Dispute Resolution Mechanism is emphasised in this segment for resolving agricultural disputes. Whether the prevalent measures taken by the Government in the form of schemes can be incorporated in the draft model law is also verified in this *Chapter*.

It is an irony that India being agricultural country having majority of workforce serving in farming has failed to have effective laws to protect the interest of
agricultural labour even after sixty plus years of independence. No doubt, the problem of agricultural labour is of huge magnitude. It is rather difficult but not impossible to enact a purposive legislation provided there is a political will. Relying upon research conducted that has culminated in drafting of a model law in the last Chapter of the thesis certain conclusions are drawn based on which some suggestions are made which may be considered by the legislators while reforming the laws governing agricultural labour.