



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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EMPLOYMENT AND LABOUR MARKET WORKING CONDITIONS IN THE INTERNATIONAL SUPPLY CHAIN IN A GLOBALISED WORLD: LEGAL PERSPECTIVE

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Abstract

In today's time laws, regulations and working circumstances are constantly changing, the abstract focuses on the complex relationship between these three factors, highlighting the challenges encountered and the probable solutions to these problems. Globalization has traced its origin in ancient trade routes to the present rapid technological advancements and growing cross-border commerce. This article explores how the International Labor Organization and World Trade Organization and their role in promoting decent work and equitable globalization by creating global labor standards. There are issues relating to vulnerability of workforces, risk at workplace and the need for sustainable practices specifically in textile and Export Processing Zones (EPZs). This paper also explores the labor legislation reforms implemented by India along with Wage Code of 2019 and related topic such as minimum wage determination and self-certification program. There are some legislative changes suggested like digitization, remote work and changing employment relationships. Enhancement in supply chain, women empowerment, diversity in workplace. This article shall conclude by stressing on the significance of cooperation and proactive policymaking in achieving a just and equitable global economy as well as framing a responsive legal framework.

Globalization and Working Conditions

Since globalisation is a dynamic and ever-changing phenomenon, it has significantly altered working conditions and employment policies around the globe.¹ To properly grasp the

¹ Robertson, Raymond. "Globalization and Working Conditions: A Guideline for Country Studies." *Unpublished, World Bank, Washington, DC* (2007).

complexities of the connection between globalisation and working conditions, it is crucial to explore the historical backdrop of globalisation and evaluate the many effects it has had on labour standards and employment patterns.

Despite its modern connotations, globalisation has been around for centuries. It has its roots in the Silk Road and other ancient trade routes that facilitated the cross-cultural movement of goods, ideas, and even entire civilizations. However, the present period of globalisation began in the second half of the twentieth century, and it is distinguished by accelerating technical progress and increased cross-border commerce.²

The dissolution of the Soviet Union, the development of new communication technologies, and the deregulation of commerce all contributed to the quickening of globalisation. Trade barrier lowering and market expansion facilitated the freer movement of capital, goods, and services across national borders.³ Multinational corporations' push into new markets around the world has increased the complexity and interdependence of supply networks.

International Legal Framework

Fair labour practises and safe working conditions are of utmost importance in today's globalised society, when businesses often operate across international borders. The International Labour Organisation (ILO) and the World Trade Organisation (WTO) play crucial roles in establishing and enforcing global labour standards, which are explored in this section as they relate to the international legal framework governing such standards and conventions.

ILO Report on Globalisation and Working Conditions Perspective:

For millennia, the spread of products and services across international frontiers has constituted the process of globalisation. The intricacy of globalisation has been examined by numerous writers and experts, leading to a range of opinions that range from lauding its advantages to exposing its detrimental impacts on society and the workplace.⁴

² Flanagan, Robert J. *Globalization and labor conditions: working conditions and worker rights in a global economy*. Oxford University Press, 2006.

³ Hiba, Juan Carlos, Marina Jentsch, and Klaus J. Zink. "Globalization and working conditions in international supply chains." *Zeitschrift für Arbeitswissenschaft* 75.2 (2021): 146-154.

⁴ Rossi, Arianna. "Applying the GVC framework to policy: The ILO experience." *Journal of International Business Policy* 2 (2019): 211-216.

The International Labour Organization's (ILO) goal has been to advance environments where all workers can prosper since the organization's founding in 1919. The ILO, a tripartite UN organisation, promotes communication between its 187 member states' governments, corporations, and labour unions. Encouraging dialogue on workplace issues and advancing workers' rights, employment opportunities, and social security are its main goals.

The idea of “decent work” was first introduced by the International Labour Organisation. Worker rights, employment, social security, and open communication between employers and employees are the four interrelated strategic aims of decent work. These objectives are meant to promote more equal social structures and working conditions globally. A good employment considers not just the financial needs of employees but also their social and human rights requirements. In response to the challenges posed by globalisation, the International Labour Organisation (ILO) advocates for a democratic globalisation that benefits people from all nations.⁵ The World Commission on the Social Dimension of Globalisation was established by the United Nations and the International Labour Organisation to offer a thorough response to the social ramifications of globalisation.⁶ The objective of this initiative is to better balance, in the context of globalisation, business objectives with social and labour issues.

The International Labour Organisation reaffirmed its commitment to a model of globalisation that safeguards workers' rights in its Declaration on Social Justice for a Fair Globalisation. Its goal is to create a global economic order that prioritises social fairness.

ILO In re Natarajan (No. 2) Judgement 1875 noted that the IAEA's Staff Regulations and Staff Rules do not contain any particular provisions that specify a thorough process to address a harassment claim of the kind, first covered in the previous consideration. The IAEA was required to respond to the complainant's allegation of harassment in line with the pertinent case law of the Tribunal as there was no legal, comprehensive method for handling such a claim within the IAEA's Staff Regulations and Staff Rules. The body of case law has clearly established that an international organisation is required to give its employees a secure and suitable workplace. Furthermore, "an international organisation has an obligation to initiate the investigation itself given the serious nature of a claim of harassment" (**ILO Judgement 3347, consideration 14**).

⁵ D'Souza, Errol. "World employment: ILO perspective." *Economic and Political Weekly* (1998): 2537-2545.

⁶ Lerche, Jens. "A global alliance against forced labour? Unfree labour, neo-liberal globalization and the International Labour Organization." *Journal of Agrarian Change* 7.4 (2007): 425-452.

Furthermore, the inquiry needs to be started right away, completed completely, and the facts need to be ascertained impartially and in the context of the whole. The complainant is entitled to a response from the Administration regarding the harassment claim following the investigation's conclusion. Furthermore, as the Tribunal determined in Judgement 2706, consideration 5, "an international organisation is liable for all injuries caused to a staff member when the victim is subjected to treatment that is an affront to his or her personal and professional dignity" (ILO Judgement 2609 In re Abreu de Oliveira Souza). This is because the supervisor was acting in the course of his or her duties. As a result, an international organisation needs to act appropriately to shield a harassing victim.

The Need for Sustainable Working Conditions in Global Supply Chains

One striking illustration of the difficulties related to labour standards in international supply networks is the textile sector. Although labour-intensive textile production should benefit low-income nations, the reality frequently falls short of aspirations in these areas. The sector is plagued by ongoing reports of major accidents, unsafe working conditions, and breaches of human rights.⁷

The following are major issues faced by the textile sector:

- **Susceptible Workforce:** Young, female, and lowly educated workers in the textile industry make up a disproportionately susceptible population with little negotiating leverage.
- **Workplace Hazards:** The lack of fundamental health and safety standards, exposure to dangerous substances, and insufficient protective gear all contribute to the prevalence of health and safety hazards.
- **Low Wages:** Wages that do not meet living expenditures are frequently given to workers, which raises concerns about fair compensation and human rights violations.
- **Child Labour and Modern Slavery:** Modern slavery is a problem that persists in the cotton industry in many ways, while child labour is a constant issue in the production of cotton.

Initiatives like the Accord on Fire and Building Safety, which sought to raise safety standards in Bangladesh's textile sector, are only one example of the efforts made to solve these issues. But structural problems still exist, such as the repression of employees' rights, the absence of union

⁷ Antonini, Carla, Cornelia Beck, and Carlos Larrinaga. "Subpolitics and sustainability reporting boundaries. The case of working conditions in global supply chains." *Accounting, Auditing & Accountability Journal* 33.7 (2020): 1535-1567.

representation, and abusive work practises.⁸

The Future of Export Processing Zones (EPZs):

Export Processing Zones, often known as EPZs, have been instrumental in promoting international trade and foreign direct investment. But in recent times, they have come under scanner, mostly because of worries about the working conditions in these zones.

Financial incentive programmes utilised in EPZs have been the focus of international accords, such as the World Trade Organization's (WTO) Agreement on Subsidies and Countervailing Measures. These agreements raise concerns about the viability of the conventional EPZ incentive structures by attempting to tie payments to the state's degree of development. To comply with sustainable development frameworks and the Sustainable Development Goals (SDGs), EPZs are also under pressure to enhance their social and environmental components. Numerous EPZs have come under fire for failing to sufficiently advance the social and environmental facets of these objectives.⁹

Export Processing Zones, which have been essential in promoting international trade, are confronting changing difficulties. A change to sustainable and responsible practises is required in order to meet the demands of improving environmental and social elements and to be in line with sustainable development goals. International organisations, governments, and corporations must work together in the pursuit of a just and equitable global economy to guarantee the preservation of labour standards, the enhancement of working conditions, and the realisation of the goal of decent work for everyone. The basis for accomplishing these objectives is provided by the international legal system, which is governed by institutions like the ILO and ideas like sustainable EPZs.¹⁰

National Legal Framework

In 2004, India initiated a transformative effort through the formation of the 2nd National Commission on Labour Reforms. The goal was to simplify, amalgamate, and rationalize the provisions of the 44 central labour legislations. Over a decade later, in 2014, the process gained

⁸ Sanders, Nada R., et al. "Sustainable supply chains in the age of AI and digitization: research challenges and opportunities." *Journal of Business logistics* 40.3 (2019): 229-240.

⁹ Engman, Michael, Osamu Onodera, and Enrico Pinali. "Export processing zones: Past and future role in trade and development." (2007).

¹⁰ Id.

momentum, with the state of Rajasthan introducing labour law reforms in 2015. These reforms, however, faced strong opposition from trade unions.

Fast forward to recent months, and several Indian states have made amendments to labour laws in response to the COVID-19 pandemic. These changes include increasing maximum working hours and suspending labour laws temporarily. The central government, since 2004, has cited reasons for labour reforms, such as improving the ease of doing business, worker protection, technological advancements, and labour cost reduction.

One of the key developments in this journey is the Wage Code of 2019. It consolidated four major wage-related laws, aiming to simplify definitions and authorities involved. While the Indian labour market has a substantial informal sector, the Wage Code brought into focus critical issues, particularly in the wake of the COVID-19 pandemic.

The Wage Code 2019: An Unclear Solution

The Wage Code was intended to address the complexities surrounding wage regulations, but it raised concerns in several areas:¹¹

Fixing Minimum Wage

One glaring issue with the Wage Code is the lack of a defined methodology for fixing an adequate minimum wage. The formula recommended by the Indian Labour Conference in 1957, reiterated in subsequent conferences, was ignored. This omission leaves the setting of minimum wages at the discretion of administrators, endangering the rights of workers to dignified wages.

Floor Minimum Wage

The minimum floor wage, set at INR 178 per day, has been criticized as insufficient and termed a “starvation wage.” It is only marginally higher than the previous national minimum wage. Moreover, allowing state-level minimum wages different from the central floor wage, grants discretionary power to state governments, potentially leading to a race to lower wage rates, further disadvantaging labour.

Factors for Determining Wage

¹¹ Satpathy, Anoop, Xavier Estupinan, and Dr Bikash K. Malick. "Wage code and rules—Will they improve the effectiveness of minimum wage policy in India?." *Available at SSRN 3680034* (2020).

The factors considered for determining wages, such as skill, arduousness, and geographical location, are challenging to measure accurately. This leaves room for bureaucratic red tape and potential misuse at the state level.¹²

Schedule of Employment

The Schedule of employment, which specified industries covered by minimum wage regulations, has been eliminated. The new standardized minimum wage, applicable to all sectors, may lead to wage reduction in industries that previously enjoyed protection through the Schedule.

Employers' Self-Certification

The introduction of a web-based self-certification scheme for employers to certify their compliance with labour regulations raises concerns. In a country like India, where compliance is a challenge, self-certification might not accurately reflect the state of compliance. This shift diminishes the effectiveness of inspections and regulatory oversight.

New Establishments

Expanding the definition of new establishments may exempt them from paying bonuses, eroding the rights of existing employees.¹³

A glaring fault of the Wage Code is its failure to define or outline the methodology adopted for fixing an adequate minimum wage. The formula, recommended unanimously by the Indian Labour Conference ("ILC") in 1957 and reiterated in the 44th and 46th ILCs in 2012 and 2015, respectively has been blatantly ignored.

A concept of *web-based self-certification scheme*, where employers can certify themselves as being compliant to the provisions of the Wage Code has been introduced. "Self-certification scheme is presumptuous of employees being keen towards employers of willingly complying with regulations. India is not a mature manufacturing market where self-certification could be an accurate depiction of the status of compliance. Dismantling the inspections system have already been in action in some states for inspecting compliance to several labour laws

¹² Siddaramu, B. "Labour Reforms in India: Issues and Concerns." *AAYAM: AKGIM Journal of Management* 11.2 (2021): 7-10.

¹³ Marshall, Shelley. *Living wage: Regulatory solutions to informal and precarious work in global supply chains*. Oxford University Press, 2019.

following which violations have allegedly increased.” In its endeavour to include a permeable minimum wage concept, the GoI has taken a completely contrary view from Supreme Court judgements like *Sanjit Roy v State of Rajasthan* where that non-compliance with minimum wages amounts to forced labour, which is constitutionally, prohibited.¹⁴

Reducing criminal liabilities could aid ease of doing business for the MNC employer, but on-ground management will largely be at the hands of the managers with misuse and manipulated use, becoming rampant.

It has been held by the Bombay High Court in the case of *Bombay Gas Public Ltd. Co. V/s. Papa Akbar and Anr.*¹⁵ that “the provisions of Sec. 4 (6) (a) of the payment of Gratuity Act do not come into force unless there is a termination of service. Merely stating that the employee went on strike and thereby caused a heavy loss to the company could not be a ground to deny gratuity to the employees. Re-employment under same employer under fresh contract will not militate against concept of gratuity. When an employee retires and earns gratuity and the same employer offers such employee a job under a fresh agreement and the new agreement provides for the payment of gratuity, that would, in no way, militate against the concept of gratuity if such gratuity is paid on the first retirement - *CIT v. Smt. Savitaben N. Amin.*”¹⁶ *Steel Authority of India v. National Union Water Front*¹⁷, it was held that “Central / State Government can issue notification u/s 10 abolishing contract labour only after following prescribed procedure regarding consultation etc. It was also held that even if such a notification is issued, the employees with contractor will not be automatically absorbed in the employment of the company, if the contract was genuine. However, company will give preference to them. However, if the contract was not genuine but a mere camouflage, the so called contract labour will have to be treated as employees of principal employer.”¹⁸

Challenges and Opportunities

In the pursuit of improving working conditions in a globalized world, several legal challenges and opportunities arise. As the global landscape evolves, it becomes essential to adapt and respond to emerging issues while also addressing long-standing labour concerns.

¹⁴ AIR 1983 SC 328.

¹⁵ (1990) 2 LLJ 220.

¹⁶ [1986] 157 ITR 135 (Guj.).

¹⁷ AIR 2001 SC 3527.

¹⁸ Id.

Digitalization and Changing Nature of Work

Digitalization and automation are rapidly transforming industries and employment patterns. While these technological advancements offer efficiency gains, they also raise concerns about job displacement and the erosion of traditional labour rights. Contract work through digital labour platforms has created a new category of workers with limited job security and social protections. Legal frameworks can adapt to these changes by extending labour protections to gig workers and fostering dialogue between technology companies, labour unions, and governments. Policies should encourage the responsible use of technology to enhance working conditions, ensure data privacy, and protect workers from exploitation.

Remote Work and Telecommuting

The COVID-19 pandemic accelerated the adoption of remote work, blurring the lines between work and personal life. Remote work poses challenges related to worker isolation, mental health, and the right to disconnect from work-related communication outside of working hours. Labour laws can be updated to address remote work challenges, emphasizing the importance of work-life balance and the right to disconnect. Employers should be encouraged to provide suitable remote work environments and mental health support for remote workers.

Shifting Employment Relationships

The gig economy and the prevalence of short-term contracts have disrupted traditional employment relationships. Workers in non-standard employment arrangements often lack access to benefits like health insurance, retirement plans, and paid leave. Legal reforms can redefine employment relationships to ensure that gig workers receive appropriate labour protections and social benefits. Policies can encourage collective bargaining for non-standard workers and promote portable benefits that move with the worker, irrespective of the job.

International Supply Chain Complexity

Global supply chains span multiple countries and jurisdictions, making it challenging to enforce labour standards consistently. Subcontracting practices and the lack of transparency within supply chains can lead to labour exploitation without accountability. International agreements can require companies to trace and disclose their supply chain networks, enabling better oversight and enforcement of labour standards. Collaboration between governments, businesses, and non-governmental organizations can drive responsible sourcing practices.

Recommendations

To address the legal challenges and leverage opportunities for improving working conditions in a globalized world, policymakers, international organizations, businesses, and other stakeholders can consider the following recommendations:

1. **Enhance Supply Chain Transparency:** Governments can require companies to disclose their supply chain networks and monitor compliance with labour standards. Auditing mechanisms and sanctions for non-compliance should be in place.
2. **Empower Women and Promote Diversity:** Enforce equal pay laws and strengthen anti-discrimination legislation. Encourage diversity initiatives within organizations and set diversity targets.
3. **Support a Just Transition to Sustainability:** Develop policies that balance environmental sustainability with labour interests. Facilitate reskilling and job placement for workers affected by industry transitions.
4. **Strengthen International Cooperation:** Collaborate with international organizations such as the ILO and the WTO to harmonize labour standards globally. Promote cross-border information sharing and best practices.

Conclusion

The challenges and opportunities associated with improving working conditions in a globalized world underscore the need for dynamic and adaptable legal frameworks. As technological advancements, changing employment relationships, and supply chain complexities redefine the world of work, the legal landscape must evolve in tandem. The COVID-19 pandemic has accelerated changes in the workplace, emphasizing the importance of adaptability and resilience in labour laws. Ensuring the protection of workers' rights, regardless of their employment arrangements, is imperative for a fair and just global economy.

In conclusion, addressing labour issues in a globalized context is an ongoing and multifaceted endeavour. The legal challenges are considerable, but the opportunities for positive change are equally significant. Through collaboration between governments, international organizations, businesses, and civil society, a future with improved working conditions and labour rights on a global scale is achievable. Continued research, dialogue, and proactive policy-making will be essential in navigating this complex and ever-evolving landscape.