

LABOUR RIGHTS AS HUMAN RIGHTS: A COMPARATIVE STUDY OF MULTINATIONAL CORPORATIONS IN INDIA

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ABSTRACT

Labour rights are now increasingly seen as fundamental human rights that safeguard dignity and wellbeing of workers around the world. Multinational corporations (MNCs) are also key players in the global economy and have an impact on the labour standards in the country in which they operate, particularly in emerging economies like India. This paper discusses the conceptualization of labour rights as human rights and the legislation and regulation of labour rights in the Indian context in the MNC operation. The paper critically examines the enforcement challenges and compliance realities in India's MNC sector by analysing the international legal instruments, constitutional provisions, legislative reforms and judicial pronouncements. This first part introduces the basic frameworks and provides a case analysis on important labour rights issues. The next section will build on the comparative jurisdiction insights and suggest policy changes.

Keywords: Labour Rights, Human Rights, Multinational Corporations (MNCs), Regulatory Framework, Compliance, Labour Law, Corporate Accountability

1. INTRODUCTION

Labour rights being considered fundamental Human Rights is a relatively new phenomenon which has developed over a period of over 100 years in the context of industrialization, economic growth and social justice movements. Labour rights were once considered as economic or social guarantees, but the scope has now broadened to encompass the inseparability of these rights from human dignity and freedom. Such recognition can be seen in international human rights treaties, national constitutions, and the developing case law. (Eichenhofer, E. (2024).) It includes various rights such as the right to just and favourable conditions of work, the right to freedom of association, collective bargaining, the right to freedom from child labour and forced labour, and the right to freedom from discrimination.

Multinational corporations have become significant actors in the regulation of the labor conditions around the world. MNCs provide capital investment, technology transfer and employment to developing economies but they also have issues of exploitation, regulatory evasion and human rights violations, particularly in developing countries where labour is poorly governed. While India is an important

destination for foreign direct investment, (Chen, M. A., Jhabvala, R., & Lund, F. (2002).) it is also a country with a large informal workforce and a lack of enforcement of constitutional guarantees and statutory provisions, especially in areas with high MNC presence like the garment, automobile and IT industry.

However, capital mobility has grown much more than labour mobility with the advent of globalization, which has allowed some companies to shift labour-intensive activities to countries with lower wages and less stringent regulations. This increases the likelihood of labour rights abuse and makes it difficult for the domestic legal systems to effectively control the activity of MNCs. (Gilabert, P. (2016).)

Labour laws in India have provided constitutional safeguards and have a detailed set of labour laws to provide protection for workers. In practice though, enforcement is inconsistent and at times inadequate in tackling the scale and complexity of labour issues in MNC-linked supply chains and operations. (Allen, M. (2016).) This paper examines the growing nature of the recognition of labour rights as human rights and examines how far the Indian legal and regulatory regime is in addressing the labour concerns of MNCs.

2. CONCEPTUAL FRAMEWORK: LABOUR RIGHTS AS HUMAN RIGHTS

2.1 Historical Evolution

Labour rights have their roots in the social and economic turmoil that the industrial revolution caused. The early industrial labour was typified by long working hours, inhuman working conditions and child labour, which led to the development of organized labour movements and for the need of protective legislation. (Mishra, L. (2012).) Labour rights were initially directed towards improvement of these conditions and a fair treatment in the workplace.

The horrors of the two World Wars and a general awareness of the dignity of the individual led to the recognition of labour rights within the concept of human rights, culminating in 1948 with the adoption of the Universal Declaration of Human Rights (UDHR). (Reis Monteiro, A. (2014).) This document was of historic importance as it introduced the right to employment, to work under just and favourable conditions, to receive equal pay for equal work, and to join and form trade unions. (Srivastava, H. (2024).) Therefore, labour rights became an issue of international concern based on universal principles and went beyond national policy.

2.2 International Legal Foundations

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted in 1966 and came into force in 1976, and legally obligates States Parties to facilitate the enjoyment of rights related to work, such as the right to work, right to a just wage, right to safe and healthy working conditions and right to form and join trade unions and to engage in collective bargaining. (Atkinson, J. R. (2018).) Since 1919,

when it was first established, the International Labour Organization (ILO) has built up a large body of legally binding conventions that make an integral part of the basic labour standards: freedom of association and the effective recognition of the right to collective bargaining (Conventions Nos. 87 and 98), the abolition of slavery is referred to in 87 and 98), the abolition of forced labour. 29 and 105), and abolition of zamindari system (Nos. 138 and 182), and nondiscrimination in employment (No. 100 and 111).

India has ratified six of these eight core ILO conventions, unfortunately not Convention Nos. 87 and 98, guaranteeing the right to organise and collective bargaining. (Hepple, B. (Ed.). (2002).) This cautious approach is a reaction to concerns on curbing autonomy of States to regulate labour relations and political issues with trade unions and employers.

2.3 Constitutional Protections in India

In India, the rights of labour is guaranteed by the Constitution in terms of Fundamental Rights as well as Directive Principles of States Policy. Article 14 assures equality before the law and equal protection of the laws, which is a general provision for non-discrimination in employment. The right to form associations or unions is included in Article 19(1)(c) and is a crucial part of collective labour rights. The Supreme Court has interpreted Article 21 (right to life and personal liberty) in a very broad manner and included the right to livelihood and decent working conditions. (Kothari, J. (2004).) Forced labour (Article 23) and child labour (Article 24) are explicitly banned.

Directive Principles are not justiciable but impose obligations on the State for bringing social order based on justice - social, economic and political; protection of the interests of workers, humane conditions of work, adequate remuneration or living wages, and social security. (Deswal, V. P. S. (2010).) Articles 38, 39, 41, 42, and 43 outline these social goals. These principles have been repeatedly referred to by the judiciary in interpreting labour rights generously; in *People's Union for Democratic Rights v. Union of India*, the Supreme Court has interpreted the term "free labour" in Article 23 to include any labour that is paid less than the minimum stipulated by law.

3. REGULATORY FRAMEWORK FOR MNCs IN INDIA

3.1 Domestic Labour Legislation

Traditionally, India had more than 40 central legislation and several state legislation on labour law that included wage related laws, industrial relations, social security and occupational safety laws. (Mishra, A., & Dwivedi, A. (2024).) Recently, the government has merged these into four key Labour Codes namely:

1. The Code on Wages, 2019: This code brings together laws pertaining to payment of wages, minimum wages, equal remuneration and bonuses.

2. Industrial Relations Code, 2020: It covers issues related to trade unions, working conditions, and industrial dispute settlement.

3. The Code on Social Security, 2020: This code combines the elements of provident funds, gratuity, maternity benefits and employee state insurance.

4. Occupational Safety, Health and Working Conditions Code, 2020: It contains standards pertaining to health, safety and welfare and working hours for all establishments, including factories, mines, plantations and shops.

All Employers including MNCs doing business in India will be subjected to these codes. However, they are not well enforced, particularly in informal sectors and in the case of contract labour that is prevalent in MNC supply chains. (Narula, R. (2019).) Furthermore, codes are merely a legal floor, and regulation and inspection regimes have not been able to catch up with the changing size and complexity of labour markets.

3.2 The implementation of international norms and soft law.

India is a signatory to a number of international instruments, but it has not ratified all of the ILO core conventions. In addition to treaties, non-binding documents such as the UN Guiding Principles on Business and Human Rights (UNGPs) have come into increasing influence. (Ratnam, C. V. (2000).) The UNGPs demand a corporate responsibility to respect human rights, including labour rights, including the requirement for due diligence, impact assessments and grievance mechanisms. The OECD Guidelines for Multinational Enterprises also promote responsible corporate behaviour, including respect for labour rights. (Cernic, J. L. (2008).)

Although these instruments do not have a binding effect on companies, a lot of global brands and their subsidiaries operating in India may have compliance programmes, which refer to these norms, in order to preserve their reputation in the international market. But voluntary arrangements rely on the goodwill of companies and are not legally binding.

4. CASE ANALYSIS - INDIAN CONTEXT

There are three cases which are analyzed in this section in the context of India.

4.1 Garment Sector

The clothing manufacturing sector is a major supplier to international fashion labels and employs millions of people, sometimes in miniscule subcontracted factories in India. Workers also suffer systemic problems such as low pay, refusal of union rights and gender discrimination, excessive overtime, and an unsafe workplace even as the industry grows. (Devaraja, T. S. (2011).) NGOs and international watchdogs including Human Rights Watch have recorded many instances where workers complained of verbal abuse,

threats to terminate employment, and ineffective grievance redress systems which involve forced overtime working. Sometimes MNC contracts have led suppliers to keep manufacturing costs low but standards low for the labour. (Narula, R. (2019).)

4.2 Automobile Sector

In 2012, the Maruti Suzuki Manesar plant dispute highlighted the fragile situation of contract employees (in Indian automobile industry, many of which are MNCs or joint ventures). The brutal clashes between workers and management involved wage parity, permanent jobs and union recognition. The incident highlighted the relationship between permanent staff and contract workers, who have not the same rights as permanent staff and are not fully represented by the unions. Labour regulations on contract labour have been subject of judicial reviews and government investigations, which have identified shortcomings in enforcement, with a demand for greater oversight and recognition of rights of informal-sector workers in MNC activities. (Kanbur, R., & Ronconi, L. (2018).)

4.3 Information Technology Sector and Platform Work

The Indian IT sector is dominated by MNCs and Indian Multinational giants and it provides comparatively better wages but has been criticized for its excessive work hours and work-life imbalance, besides harassment. Additionally, the emergence of gig economy companies like ride-hailing and delivery, which are often associated with MNC investments, creates legal ambiguities about the nature of the job and social security coverage. Independent contractor workers are not entitled to fundamental labor rights, and courts and policy makers struggle to catch up with new forms of employment. (Collins, H. (1990).)

5. KEY JUDICIAL PRECEDENTS ON LABOUR RIGHTS AND MNCs IN INDIA

5.1 Steel Authority of India Ltd. v. National Union Waterfront Workers, AIR 2001 SC 1216

The Supreme Court of India in this landmark decision was dealing with the question of liability of the principal employer over the rights of the contract labourers supplied by the third party contractors. The Court ruled that a principal employer, including multinationals working in India, cannot be held off for providing statutory rights to the contract workers. This decision affirmed the “joint employer” doctrine, which is to the effect that an employer is not relieved of his or her labour law responsibilities by contracting out labour. It was a condition that principal employers had to be held responsible for the health, safety and welfare of all workers directly or indirectly engaged.

The ruling will have enormous implications for MNCs, as it will require active compliance and accountability, even for subcontractors and workers, and this is especially relevant in the context of the many subcontractors and workers that are used throughout global value chains.

5.2 Maruti Suzuki India Ltd. v. State of Haryana, (2012) 1 SCC 1

This Supreme Court decision also took forward the cause of contract labour as it held that contract workers have basic labour rights like the right to minimum wages, provident fund, social security etc. The Court reiterated that the main employer is not allowed to wash his hands of the violation of the rights of workers under a contract of employment, thereby enhancing the protection against exploitation. It also emphasized the need for fair employment practices and social responsibility of large corporations and MNCs towards all workers irrespective of the nature of employment.

The ruling is a landmark precedent that could be used to ensure that multinationals in India ensure decent work for all workers, including those working under contract and in outsourcing arrangements.

5.3 Workmen of A.P. State Road Transport Corporation v. Management, AIR 1993 SC 548

The Supreme Court in this case expanded the definition of ‘workman’ under Indian labour law to include casual and contract workers, thus extending statutory protections to these categories of workers. The decision was made in response to the increase in temporary or contract workers to evade labour laws and the rights of such workers to basic labour rights including wages, social security, etc. This case highlights the role of the judiciary in tailoring protections, such as labor rights, to new models of employment, which is of particular significance for MNCs that have a variety of employment models.

5.4 Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180

The 1986 case of Olga Tellis v. Bombay Municipal Corporation is an example of the 5th case in the series. Supreme Court has declared the right to livelihood as an intrinsic part of Article 21 of the Indian Constitution, which is the fundamental right to life. Although not a typical labour law case, Olga Tellis broadened the jurisprudence of human rights by connecting economic and social rights with fundamental rights. The Court ruled that the state is responsible for the livelihood of all, including informal and contract workers, thus giving constitutional protection to labour rights as human rights. This case established the precedent of considering breaches of labour rights as a violation of fundamental human rights, particularly for the informal sector where a large number of MNC workers are active.

5.5 Bandhua Mukti Morcha v. Union of India, AIR 1984 SC 802

It was a fundamental case that addressed bonded labour and forced labour in India, which were found to be unconstitutional and illegal. The Supreme Court gave directions for rehabilitation of bonded labourers and gave directions for strict implementation of anti-bonded labour laws. Judgment made domestic law consistent with international standards on forced labour. The case also highlights the need for multinational corporations to be vigilant and to ensure that they are not complicit in the use of exploitative labour practices and to ensure that they put in place strict prohibitions on forced or bonded labour in their value chains.

5.6 Vishaka v. State of Rajasthan, AIR 1997 SC 3011

This case is not just about sexual harassment in the workplace, but also has wider implications for the right to work and safe working conditions. The Supreme Court issued the Vishaka Guidelines, which were the first comprehensive legal framework requiring employers to create safe workplaces; workplaces free from discrimination; complaints mechanisms; and the dignity of workers. Commitment to the Vishaka principles is a fundamental part of respecting the rights of workers and complying with the UN Guiding Principles on Business and Human Rights for MNCs in India.

5.7 Narmada Bachao Andolan v. Union of India, AIR 2000 SC 375

This case involved the displacement of communities which was associated with development projects, but also expressed the state's obligation to safeguard workers and communities impacted by large-scale industrial activity. The Supreme Court gave importance to the principles of social justice, participation and rehabilitation, saying there must be corporate responsibility apart from profit considerations. The judgment is important for MNCs particularly because of the infrastructure and resource extraction projects in India, which brings to attention the wider social and labour obligations companies have to affected populations and workers.

5.8 European Court of Justice – Case C-127/07 Luxembourg v. European Parliament and Council, [2009] ECR I-3641

This was an important case in Europe as it interpreted the scope and boundaries of protections for labour rights under European directives, in this instance in relation to working conditions and employment contracts. It explained the binding nature of some of the labour standards and international jurisprudence itself on the responsibilities of companies. Its ruling, though in another forum, has implications that affect international MNCs operating in India as well as other countries and establishes guidelines on compliance and respect for the rights of workers in international perspective.

5.9 Ruggie Framework and Related Cases (UN Guiding Principles on Business and Human Rights Application)

The UN Guiding Principles on Business and Human Rights (UNGPs) are the key international soft law guidelines for corporate respect of human rights. The UNGPs have been tested in numerous cases worldwide, including for MNCs in the UK, the US and Europe, and focus on the importance of due diligence and remediation obligations. Although not yet legally binding in India, the UNGPs are influencing the country's emerging notions and policies of corporate responsibility, particularly for foreign MNCs doing business in the country.

6. COMPARATIVE ANALYSIS: INDIA AND SELECTED JURISDICTIONS

6.1 European Union

The European Union (EU) is one of the most developed regulatory systems where the rights of workers are clearly included in human rights settings and corporate responsibility. (Von Bogdandy, A. (2000).) The Charter of Fundamental Rights of the European Union provides for the right to fair and just working conditions (Article 31), the freedom to form and join trade unions (Article 28) and protection against unfair dismissal (Article 30). The EU's pledge is extended to laws, such as the recently entered into force Corporate Sustainability Due Diligence Directive (CSDDD), which obliges large companies, including non-EU multinational companies (MNCs) with subsidiaries or value chains in the EU, to undertake mandatory human rights and environmental due diligence. This mandate requires companies to take proactive steps to identify, prevent, mitigate and report on potential negative impacts along their entire value-chain, spanning the globe.

The EU framework is a mixture of binding legal obligations and institutional measures, including labour inspections, workers' representatives on company boards (in some member states) and collective bargaining regimes with relatively strong enforcement. This multi-layered strategy makes sure that the multinationals working in or connected to the EU market are not held off from being held responsible for labour rights violations in India or other countries. (Evju, S. (Ed.). (2014).)

6.2 United States

Labour rights in the United States are governed by sectoral laws, such as the Fair Labor Standards Act (FLSA), the National Labor Relations Act (NLRA) and the Occupational Safety and Health Act (OSHA), which serve as basic laws that protect workers in the country. But the US has historically taken a more narrow view of the extent to which labour rights obligations apply to multi-national corporations overseas. (Rehmus, C. M. (1974).)

Historically, the Alien Tort Statute (ATS) has been applied to human rights actions in the US courts against corporations for abuses on foreign soil. A rule of thumb, however, was that the ATS governed the activities of all foreign enterprises operating in the United States, and it allowed the activities of domestic enterprises abroad to be judged by U.S. courts under certain conditions. This limitation will diminish possibilities of making MNCs liable for labour violations in India under US law.

In addition, the US has passed certain laws, including the Trafficking Victims Protection Reauthorization Act, that include civil liability provisions related to forced labour and trafficking outside of the US. However, the laws are specific in nature and fail to cover wider labour rights violations, and there are many loopholes in protecting workers working for MNCs in other countries. (Commons, J. R., Andrews, J. B., & Perlman, S. (1918).)

6.3 Bangladesh

Bangladesh is a significant jurisdiction to explore labour rights in multinational supply chains because of its extensive garment export industry. (Rahman, S. (2021).) It was the 2013 Rana Plaza building collapse,

which killed more than 1,100 workers, that brought the world attention to labour rights abuses and unsafe working conditions. This tragedy resulted in the creation of the Bangladesh Accord on Fire and Building Safety, which is a legally binding agreement between global apparel brands, trade unions and NGOs.

The Accord set up mandatory safety checks, corrective measures, worker grievance systems and open reporting to the public. This is because the Accord is a legally binding agreement, unlike voluntary CSR measures which are driven by brands themselves, and the enforcement mechanisms are monitored by independent inspectors and civil society.

Although India has a bigger garment industry, it has not developed a similar binding and enforceable model. Some brands and suppliers have introduced voluntary safety programmes, but there are no compulsory accords and there is not sufficient accountability of MNCs along the supply chain.

6.4 South Africa

There is an advanced model of the South African constitution that explicitly recognizes labour rights as human rights. (Heyns, Christof & Brand, D. (1998).) The Constitution of India guarantees in Article 23 the right to fair labour practices, right to form and join a trade union and the right to collective bargaining. The Labour Relations Act 1995 also provides for the entrenchment of protection in the areas of collective bargaining, dispute resolution and unfair dismissal claims.

South Africa has ratified all eight of the core ILO conventions, whereas India has only ratified six. Labour court and commissions set up in South Africa offer relatively accessible and effective fora to tackle labour conflicts with multinationals.

Furthermore, South Africa has introduced a system of sectoral determinations and industry specific codes which have a direct impact on foreign and domestic employers and provide for a standard across the board in terms of rights in the workplace. (Malherbe, S., & Segal, N. (2001).) Despite the challenges of informal labour and contract workers, this regulatory framework helps to make a regime of labour rights more enforceable.

7. CHALLENGES IN ENFORCEMENT AND COMPLIANCE IN INDIA

7.1 Weak Enforcement Mechanisms and Institutional Capacity: Institutional capacity is limited, and enforcement mechanisms are weak.

India has an elaborate labour legislation system but it is one of the issues that has been continuously challenging the enforcement of the law. Nearly 90% of the workforce is engaged in the informal economy and the sheer scale puts the capacity of the regulatory institutions under considerable stress to monitor and enforce compliance to existing rules. (Anant, T. C. A., Hasan, R., Mohapatra, P., Nagaraj, R., & Sasikumar, S. K. (2006).) The number of labour inspectors is seriously insufficient. The ILO has suggested

that there should be at least one labour inspector for every 10,000 workers, but India seriously lacks this ratio and some of the states have only one inspector per 50,000 workers.

In addition, existing inspections tend to be cursory, lacking the technical expertise or resources to inspect the project thoroughly. However, corruption in enforcement agencies can also affect inspections, as some employers have been known to pay bribes to avoid penalties, and political interference can also be a problem, especially in those states with strong industrial lobbies affecting labour administration.

Labour law enforcement is weak and fragmented in several ministries and agencies leading to coordination gaps and inefficiencies. (Fine, J. (2017).) The jurisdiction of the Labour Department and the Factory Inspectorate as well as that of the social security agencies is sometimes overlapping and not coordinated, resulting in inconsistent enforcement and delays.

7.2 Judicial Delays and Access to Justice

Over burdened courts and tribunals make it difficult to resolve labour disputes, which frequently take years. Labour courts and tribunals are required to solve such disputes under the Industrial Disputes Act and these courts are facing a dreadful backlog. (le Roux, R., & le Roux, P. (2022).) The deterrent effect of legal remedies is decreased when justice is delayed and workers are deprived of timely redress.

Furthermore, the expenses and complicated procedures required for litigation make it unattainable for many workers – especially unorganized and contract labourers – to seek their claims. Vulnerable workers are further marginalized by limited legal literacy, by not having any union representation, and by fear of retaliation.

7.3 Contractualisation and Fragmentation of Employment Relations

Many of the MNC and suppliers are opting for contractualisation of labour due to the need for cost cutting and flexibility in labour. In general, contract workers are paid less and are not entitled to any benefits like provident fund/gratuity and they are not covered under social security schemes. (Rao, M. P. (2005).)

This type of work also undermines the employer responsibility as contract labour providers act as middlemen, making it hard to hold MNCs to account. Indian courts have ruled time and time again that the main employer is not entitled to wash their hands of the contract employees, but enforcement is lax.

The growing trend of subcontracting arrangements in industries such as electronics and garments compounds this issue, as MNCs become even further removed from conditions on the ground with multiple layers of contractors.

7.4 Informalisation and Unregulated Workplaces

Large number of workers in MNC related work are informal. Informal workers are generally not covered by any written contract, do not have social security benefits, or grievance redressal mechanisms. A significant number are in unregistered factories or workshops, out of the government's reach.

In unregulated workplaces, it is more likely that an individual will face exploitation, such as being forced to work overtime, having to face sexual harassment, no breaks, no vacations, and so on. It is difficult to identify and investigate labour rights violations in the informal sector because it is opaque. (Hatipoglu, O. (2026).)

7.5 Gender and Caste Discrimination

In India, labour rights abuses frequently exacerbate other forms of discrimination that occur on the basis of gender, caste and ethnicity. Women workers, who make up a significant part of the labor force in some industries like textiles and domestic workers, are exposed to gender gaps in wages, sexual harassment and the lack of access to high-ranking positions. (Haq, R. (2013).)

One of the main reasons for this is the discrimination faced by Dalit and Adivasi workers during recruitment and in the workplace, including documented instances of wage theft and withholding, denial of promotion, and workplace abuse. Though there are constitutional and statutory protections, these social hierarchies remain embedded in employment systems, and they are barriers in achieving equal rights to employment.

7.6 Reforms of Labor Law and Their Ambiguities

The recent labour code consolidations were intended to rationalise and make India's complicated labour laws simpler. But critics say the codes weaken the rights of workers by increasing thresholds for application, making it easier to retrench and verifying contract workforce in more areas.

The language used in the codes is ambiguous, which presents interpretative challenges for courts and enforcement agencies, and so slows down the effective implementation of the codes. (Santos, A. (2009).) For instance, the interpretation of 'fixed-term employment' can be used improperly to affect job security.

7.7 Labour Rights Enforcement and the nature of the impact of COVID-19

The COVID-19 pandemic has laid bare and intensified India's labour market's vulnerabilities. The lockdown led to significant loss of employment, cuts in wages, and increased informal employment. The migrant workers were affected most; they didn't have adequate social security and they were forced out of their employer-provided housing.

The pandemic also had an impact on labour law enforcement, which was suspended or postponed, and court proceedings. (Abd Razak, S. S., Shukor, S. F. A., Ishak, M. K., & Yaacob, T. Z. (2021).) Some States made temporary adjustments to their labour laws to encourage investment, but the concern was that they would be compromising worker protections in perpetuity.

The pandemic underscored the need to have robust labour governance systems to safeguard workers during crises and facilitate adherence by MNCs in India.

8. SOFT LAW AND INTERNATIONAL PRESSURE

8.1 Soft Law in the Context of Labour Rights

Soft law encompasses non-binding norms, principles and standards that affect state and corporate conduct in the absence of binding legal requirements. Soft law plays an important role in the realm of labour rights for filling the gaps where there is a lack of or weak binding law, especially in global value chains of multinational companies. (Blanpain, R. (2004).) The compliance with labour standards that is sought with soft law instruments is based on voluntary adoption, reputational incentives and stakeholder pressure, rather than on binding commitments.

Such flexibility permits soft law to evolve more quickly in response to new challenges, including the gig economy, precarious work and intricate subcontracting arrangements. But they are also non-binding, which gives rise to questions regarding their effectiveness, accountability and potential 'window dressing' by companies wanting to preserve public credibility without real change.

8.2 Major Soft Law Framework relevant to MNCs in India

8.2.1 UN Guiding Principles on Business and Human Rights (UNGPs)

The UNGPs, adopted by the UN Human Rights Council in 2011, are the leading global framework for business respect for human rights, including labour rights. They are built on three pillars: the responsibility of the State to protect human rights, the responsibility of the companies to respect human rights, and the importance of remedy systems.

While the UNGPs are not legally binding for companies, they have helped to drive national policies and corporate practices around the world. (Venkatesan, R. (2019).) To illustrate the responsible business behavior, many Indian MNCs and foreign investors in India have built into their operations the UNGP aligned due diligence, impact assessment and grievance mechanisms.

8.2.2 The OECD Guidelines for Multinational Enterprises

In 2011, the OECD Guidelines were updated to include recommendations for responsible company behaviour with regard to labour rights, environmental protection, anti-corruption and consumer interest. (Branco, M. C., & Delgado, C. (2012).) The Guidelines include provisions for forced labour, child labour, discrimination and occupational health and safety; and stress the importance of respecting internationally recognised labour standards.

National Contact Points (NCPs) created in adherence countries, such as India, to mediate and grievance on the problems that might come up from the operations of the MNCs is a unique feature of the OECD framework. Although NCPs are not binding, the mediation role of the NCPs has been utilized by workers'

and civil society organizations to raise awareness of a labour issue and to pressure the company to take corrective measures.

8.3 Multi-Stakeholder Initiatives and Voluntary Codes of Conduct

Multi-stakeholder initiatives (MSIs) are the cooperation of governments, companies, labour organisations and NGOs for better labour conditions than required by law. (Baumann-Pauly, D., Nolan, J., Van Heerden, A., & Samway, M. (2017).) Some examples of such organizations in India are the Ethical Trading Initiative (ETI), Fair Labour Association (FLA), and the Accord on Fire and Building Safety in Bangladesh.

Unlike Bangladesh, there is no binding agreement in India, but there are some global brands that source from India who subscribe voluntarily to such codes which frequently stipulate standards on wages, working hours, freedom of association and workplace safety. These programs generally include third-party audits, employee education, and plans for corrective action. (Birkmire, J. C., Lay, J. R., & McMahon, M. C. (2007).)

While beneficial in some situations, MSIs are criticised for their lack of scope, variability in enforcement and reliance on supplier self-reporting. Critics have said that voluntary audits might not detect systemic abuses and that the MSIs do not have the power of sanctions or to require systemic changes.

8.4 The effect of international consumer and investor pressure

Consumer awareness and consumer activism have emerged as a powerful force for corporate compliance with labour rights. Boycotts, damage to reputations and demands for transparency are a result of campaigns exposing sweatshop conditions, forced labour and child labour within supply chains. Social media networks allow these voices to be amplified and put MNCs on the spot in almost real-time.

Environmental, social and governance (ESG) factors are becoming more important in the investment process of institutional investors, and companies are accordingly under pressure to make a positive contribution to working conditions. (Seidman, G. W. (2007).) There is an increased demand for India's MNCs who are connected to international capital markets to adopt comprehensive human rights due diligence, report on the risks of labour rights, and take corrective action to address violations.

8.5 Criticism and limitations of Soft Law and International pressure

But there are intrinsic limits on soft law mechanisms. The voluntary nature is why enforcement action is seldom legally follows non compliance, and corporations can practice 'bluwashing', the appearance of responsibility but no real difference.

Furthermore, supply chains are inherently power asymmetric and compliance is often the responsibility of small suppliers and subcontractors who are unable to afford or are not incentivized to comply with tough standards. This can result in abuse reduction and spreading of abuse down the chain, reducing accountability.

A potential danger of soft law instruments is that they may be de-politicizing labour rights since they are stated as a problem of compliance. This de-politicization can hinder the process towards the systemic reforms that are needed for durable protection of labour rights.

8.6 Complementarity with National Legal Frameworks

Soft law and international pressure are most effective in conjunction with strong national laws and implementation. In India, they have been encouraging MNCs to have corporate social responsibility policies and tighter monitoring of their supply chains. But voluntary mechanisms, in the absence of increased legal measures, labour inspections and judicial protections, fall short of safeguarding the majority of vulnerable workers. (Foo, L. J. (1994).)

Law scholars suggest soft law be understood as a component of a larger governance system that helps but does not supplant government regulation and court supervision. In terms of their effectiveness and effective implementation, it is possible for India to incorporate the spirit of soft law into existing national laws, for example, by introducing a concept of human rights due diligence.

9. RECOMMENDATIONS AND POLICY REFORMS

The changing economic landscape of India, with mounting presence of Multinational Companies (MNCs), calls for timely and targeted policy interventions to safeguard the rights of labour as human rights. (Deva, S. (2003).) Based on comparative analysis and existing challenges, the following recommendations are made to improve the legal, institutional, and social mechanisms of labour rights in the Indian context of MNCs.

9.1 Legislative measures for binding mandatory human rights due diligence.

India should implement a law based on the European Union (EU)'s Corporate Sustainability Due Diligence Directive (CSDD Directive) mandated human rights due diligence (HRDD) requirements for all MNCs and their supply chains operating in the country. This would force businesses to identify, prevent, and address labour rights risks in an proactive manner, while having a clear legal accountability. (Chambers, R., & Vastardis, A. Y. (2020).)

Such legislation should:

- Institute risk mapping of direct operations and extended supply chains.
- Require public reporting and involve stakeholder consultations as part of this, including with worker representatives and civil society.
- Introduce provisions of liability that would enable victims to pursue judicial relief against the companies for negligence or complicity in violations of labour rights.

This is a way to go beyond voluntary CSR by integrating CSR into corporate governance or contractual relations, focussed on labour rights.

9.2 Improve Labour Inspection Systems and Institutions

The independence and institutional resources are essential for effective enforcement. (Arrigo, G., Casale, G., & Fasani, M. (2011).) India should:

- Increase significantly the number of labour inspectors, ensuring compliance with ILO recommended ratios.
- Implement specific training on risks of the MNC sector with particular emphasis on subcontracting and informal employment.
- Implement digital tools and data analytics for real-time monitoring of labour conditions.
- Protect whistleblowers to make it easier to report violations without facing repercussions.

An independent Labour Regulatory Authority free from political and commercial influences could streamline the enforcement and coordination of various ministries, thereby increasing accountability and efficiency.

9.3. Reform Contract Labour and Informal Work Regulations

Due to the extensive use of contract and informal labour, reforms should:

- Explicitly extend core labour protections, such as minimum wages, social security and collective bargaining rights, to contract and platform workers.
- Set clear limits and definitions on how much and how long to allow contract labour to be engaged to stop perpetual outsourcing.
- Demand transparency of subcontracting chains, public disclosure by MNCs of all contractors and suppliers.
- Introduce compulsory registration and licensing of contract labour providers to enforce labour laws.

These reforms will lead to less labour market segmentation and better labour conditions. (Agarwala, R. (2008).)

9.4 Encourage Sectoral Agreements and Collective Bargaining

Incentive and, if necessary, require sector specific binding agreements in high-risk industries such as garments, construction and electronics between MNCs, trade unions and civil society in India. (Haufler, V. (2013).) These agreements would provide for minimum standards of labour, workplace safety, grievance procedures and independent monitoring.

The collective bargaining rights should be backed up by:

- Facilitating and streamlining the registration of unions and the procedures of registration.

- To ensure workers are not discriminated against for being a union member and not discriminated against for not being a member.
- Introducing new methods to track collective bargaining coverage and identify what employers are doing to expand coverage beyond their own operations.

9.5 Improve judicial remedies and access to justice

Access to timely and affordable justice is important to make labour rights real. (Greenbaum, L. (2020).) Recommendations include:

- To minimize delays and set-up fast-track labour courts with jurisdiction over MNC related disputes.
- Facilitating legal assistance and services for vulnerable workers such as contract and informal workers.
- Supporting alternative dispute resolution (ADR) processes, such as mediation and arbitration, that are fair and impartial.
- Improving the level of penalties for violations of labour rights, making sure that any penalties and sanctions are sufficiently significant to act as a deterrent to corporate misconduct.

9.6 Labour Rights to be Included in Public Procurement and Investment Policies

The Government should use purchasing power and investment policies in a manner that encourages adherence to labour rights. (Payton, A. L., & Woo, B. (2014).) This could involve:

- Using certifications and/or audits to verify that companies bidding for government contracts are adhering to labour standards.
- Tying foreign direct investment to commitment to responsible labour practices.
- Promoting public-private partnerships for labour rights capacity development, including supply chain transparency and labour training.

9.7 Promote multi-stakeholder involvement and worker empowerment.

Workers and civil society must be engaged in the effective reforms. (Bhargava, V. (2015).) India should:

- Encourage building capacity of trade unions and worker organizations for improved collective bargaining and advocacy.
- Increase corporate uptake of grievance processes in line with the UN Guiding Principles to enable workers to have safe avenues for reporting abuse.
- Discuss, with government, MNCs, workers and NGOs, platforms for dialogue and co-design of labour policies and monitoring their implementation.

9.8 Respond to Social Discrimination in the Workplace

Labour reforms need to address the entrenched caste, gender and ethnic discrimination specifically (Phillips, C. (2005).) by:

- Mandatory diversity and inclusion policies by MNCs, which include monitoring of recruitment and wages as well as promotions.
- Strengthen enforcement of anti-discrimination laws and sensitisation training throughout workplaces.
- Implementing affirmative action provisions, where applicable, for contract and informal workers.

9.9 Improve Data Collection and Transparency

Good, high quality, complete labour market data are essential to making informed decisions. (Hofer, A. R., Zhivkovikj, A., & Smyth, R. (2020).) The government should:

- Invest in modernisation of labour statistics systems to ensure accurate measurement of informal employment, contract workers and platform workers.
- Make companies publish their labour practices, wage information and grievance records to increase transparency and facilitate civil society oversight.

10. CONCLUSION

Labour rights form part of the whole basket of human rights and their enjoyment is vital for dignity, equity and justice at work. This paper, in the context of the multinational enterprises in India, has pointed to the interaction between the national legislation, international standards and practice of the enterprises. Judicial interventions and soft law mechanisms have played an important role, but there are many points that remain to be resolved, including enforcement and supply chain accountability, as well as the protection of contract and informal workers.

Mandatory due diligence, improved labour inspection, collective bargaining and labour rights in corporate governance are key measures to ensure sustainable and responsible business. Labour rights as human rights are key to ensuring that economic growth fueled by MNCs does not be achieved at the cost of the labourers but helps to build an inclusive and equitable society.

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