

## ROLE OF ILO IN SOCIAL SECURITY BY DR. JYOTI ANGRISH\*

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**Introduction:** At that stage many countries made efforts at their own level for regulation of labour supply, prevention of unemployment and provision of an adequate living wage, protection of the workers against sickness, disease and injury arising out of his employment, protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, organization of vocational and technical education, and other measures.<sup>1</sup> At that time collective efforts were not made at international level. The International Conference of National Unions of Mutual Benefit Societies and Sickness Insurance Funds was launched in Brussels in October 1927. The initiative of creating it was directly linked to the steps being undertaken by the International Labour Organization (ILO) to introduce international regulations for the economic and health protection of workers by means of social insurance schemes.

The two basic trends in social security policy, one aimed at guaranteeing, if possible, a minimum standard of subsistence for everybody and the other aimed at maintaining the individual standard of living according to income from work.<sup>2</sup> The Philadelphia Charter<sup>3</sup> provided that the poverty anywhere constitutes a danger to prosperity everywhere is really appropriate even today. The developed countries have realized that if they have to enjoy the fruits of progress, it is essential for the whole world to unite and work in close co-operation with one another. It has now been recognized that nations do not and cannot live alone by themselves but only as parts of “one world” and political or economic disturbances in one area are bound to create far reaching effects in other parts of the world. Universal peace can be achieved through the contentment of the masses that has come to be the ideal. To help in the attainment of this objective of social justice, the International Labour Organization was established in 1919.<sup>4</sup>

**Establishment of International Labour Organization (ILO)** :The ILO was created in 1919, as part of the Treaty of Versailles that ended World War I, to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice. The Constitution contained ideas tested within the International Association for Labour

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\* Assistant Professor, Bhai Gurdas College of Law, Sangrur (Punjab).

<sup>1</sup> Available at <http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm> (visited on September 18, 2013).

<sup>2</sup> Solomon Barkin and Others, *International Labour*, Integration of Social Security Systems, Armand Kayser, 162(1967).

<sup>3</sup> The Declaration of Philadelphia, May 10, 1944 restated the traditional objectives of the International Labour Organisation.

<sup>4</sup> V.V. Giri, *Labour Problems in Indian Industry*, 492 (1958).

# LAW MANTRA THINK BEYOND OTHERS

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Legislation, founded in Basel in 1901. Campaign for the establishment of an international organization dealing with labour issues began in the nineteenth century, led by two industrialists, Robert Owen and Daniel Legrand. There was keen appreciation of the importance of social justice in securing peace, against a background of exploitation of workers in the industrializing nations of that time. There was also increasing understanding of the world's economic interdependence and the need for co-operation to obtain similarity of working conditions in countries competing for markets.<sup>5</sup>

Over the course of the First World War, the international labour movement proposed a comprehensive programme of protection for the working classes, conceived as compensation for labour's support during the war. Post-war reconstruction and the protection of labour unions occupied the attention of many nations during and immediately after World War I. In Great Britain, the Whitley Commission, a subcommittee of the Reconstruction Commission, recommended in its July 1918 Final Report that "industrial councils" be established throughout the world. The British Labour Party had issued its own reconstruction programme in the document titled Labour and the New Social Order. In February 1918, the third Inter-Allied Labour and Socialist Conference (representing delegates from Great Britain, France, Belgium and Italy) issued its report, advocating an international labour rights body, an end to secret diplomacy, and other goals and in December 1918, the American Federation of Labour (AFL) issued its own distinctively apolitical report, which called for the achievement of numerous incremental improvements via the collective bargaining process.<sup>6</sup>

Even before the establishment of the ILO, attempts were made in the 19th century to form international organizations to bring together the working classes in different countries. As economic problems were considered more as problems relating to labour, the earlier attempts were greatly directed towards improving the conditions of workers. Labour was considered to be the pivot of the whole economic system and "the sole constituent of value". Whereas the League of Nations and other international agencies had either failed to bring positive results or could not stand the onslaught of the Second World War, the ILO alone has survived and has achieved remarkable results.<sup>7</sup>

The ILO is the first international body which is not expressly concerned with the political questions but its role is limited to the problems of industry and with the conditions under which ordinary workers throughout the world work and live. Its motto is that there can be no peace without social justice and no social justice without peace. Its meaning, nature and activities centre around three words peace, social justice and labour.<sup>8</sup>

**Role of The Treaty of Versailles :** As part of the Treaty of Versailles that ended World War I, The ILO was created in 1919. The Constitution was drafted between January and April,

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<sup>5</sup> Available at <http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm> (visited on September 18, 2013).

<sup>6</sup> Available at [http://en.wikipedia.org/wiki/International\\_Labour\\_Organization#cite\\_ref-16](http://en.wikipedia.org/wiki/International_Labour_Organization#cite_ref-16) (visited on September 15, 2010).

<sup>7</sup> *Supra* note 4 at 492.

<sup>8</sup> *Supra* note 5.

1919, by the Labour Commission set up by the Peace Conference, which first met in Paris and then in Versailles. The Commission, chaired by Samuel Gompers, head of the American Federation of Labour (AFL) in the United States, was composed of representatives from nine countries.<sup>9</sup> It resulted in a tripartite organization, the only one of its kind bringing together representatives of governments, employers and workers in its executive bodies.<sup>10</sup> The Treaty to abolish the 'injustice, hardship and privation' which workers suffered and to guarantee 'fair and humane' conditions of labour.

The treaty was registered by the Secretariat of the League of Nations on October 21<sup>st</sup> 1919.<sup>11</sup> Began in early 1919 and completed in April after several months of hard bargaining, it was presented to Germany for consideration on 7 May 1919.<sup>12</sup> The treaty referred to the need for the workers, providing them the right to social security.

There is parity of representation as between government and non-government groups and also between employers and workers groups. The structure of the organization has helped in welding together employers and workers in different countries into independent organizations.<sup>13</sup>

**Objectives of ILO:** The International Labour Organization (ILO) is devoted to promoting social justice and internationally recognized human and labour rights, pursuing its founding mission that labour peace is essential to prosperity. Today, the ILO helps advance the creation of decent work and the economic and working conditions that give working people and business people a stake in lasting peace, prosperity and progress. Its tripartite structure provides a unique platform for promoting decent work for all women and men. Its main aims are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.<sup>14</sup> The Declaration provides its objectives.<sup>15</sup> These are as under:

1. Full employment and rise in living standards;
2. Minimum living wages;
3. Social security;
4. Recognition to the right of collective bargaining;
5. Proper security of health of the workers;
6. Child welfare;
7. Proper arrangements of housing, entertainment, etc;
8. Assurance of equal opportunity in education and employment.<sup>16</sup>

<sup>9</sup> Belgium, Cuba, Czechoslovakia, France, Italy, Japan, Poland, the United Kingdom and the United States.

<sup>10</sup> Available at [http://en.wikipedia.org/wiki/Treaty\\_of\\_Versailles](http://en.wikipedia.org/wiki/Treaty_of_Versailles) (visited on November 18, 2012).

<sup>11</sup> *Id.*

<sup>12</sup> Available at <http://www.firstworldwar.com/source/versailles.htm> (visited on November 18, 2012).

<sup>13</sup> International Labour Organisation and Indian Legislations: Compliance And Comparison, *Labour Law Journal* (37) February 2006.

<sup>14</sup> Available at <http://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang--en/index.htm> (visited on November 20, 2012)

<sup>15</sup> Declaration of Philadelphia of ILO, Article 3.

<sup>16</sup> Dr. S.P.Gupta, *International Organisation*, 82 (2009).

Since its creation in 1919, ILO has actively promoted policies and provided its member States with tools and assistance aimed at improving and expanding the coverage of social protection to all groups in society and for improving working conditions and safety at work.<sup>17</sup> This tripartite structure makes the ILO a unique forum in which the governments and the social partners of the economy of its 185 Member States can freely and openly debate and elaborate labour standards and policies.<sup>18</sup>

**Basic Principles of The Labour Policy of the ILO:** The General Conference of ILO, reaffirmed these principles and adopted a Declaration concerning the aims and purposes of the organization and which were to inspire the policy of its members.<sup>19</sup> The Declaration is popularly known as the 'Philadelphia Charter.' Its basic principles are-

1. Labour is not a commodity.
2. Freedom of expression and of association are essential to continue progress.
3. Poverty anywhere constitutes a danger to prosperity everywhere.<sup>20</sup>
4. War against want requires to be carried on with unending vigour within each nation and by continuous efforts in which the representatives of workers and employers, enjoying equal status with those of Governments, join with them in free discussions and with a democratic way, with a view to the promotion of the common welfare.<sup>21</sup>

**Composition of ILO:** The ILO serves the needs of working women and men by bringing together governments, employers and workers to set labour standards, develop policies and devise programmes for labour welfare. The very structure of the ILO, where workers and employers together have an equal voice with governments in its deliberations, shows social dialogue in action. It ensures that the views of the social partners are closely reflected in ILO labour standards, policies and programmes. The ILO accomplishes its work through three main bodies-

1. The International Labour Conference,
  2. The Governing Body and
  3. International Labour Office
- Which comprise governments', employers' and workers' representatives.<sup>22</sup>

#### **1. The International Labour Conference**

It is the supreme deliberative body of the ILO and acts as the legislative wing of the organization. The International Labour Conference elects the governing body and adopts international labour standards in the form of Conventions and Recommendations collectively known as the International Labour Code and provides a forum for discussion on social and labour questions. This organization holds its session very frequently minimum once a year. These sessions are attended by the members of three hands like government, the employers

<sup>17</sup> Available at <http://www.ilo.org/global/about-the-ilo/decent-work-agenda/social-protection> (visited on February 16, 2013).

<sup>18</sup> Available on <http://www.ilo.org/global/about-the-ilo/who-we-are/lang--en/index.htm> (visited on September 18, 2013).

<sup>19</sup> 26th session held in Philadelphia in 1944.

<sup>20</sup> N.K.Sahni, *Social Security And Labour Welfare*, 13.6 (2010).

<sup>21</sup> G.M.Kothari, *A Study of Industrial Law*, 6 (2000).

<sup>22</sup> R.C.Sexena, *Labour Problems and Social Welfare*, 709-712 (1974).

and the workers. They attend these sessions in the ratio of 2:1:1: i.e. government, employers and the workers respectively. Its scope is very wide. Its main functions relate to formulate labour standards, decide budget, studies the labour problems and appoint committees to deal with different problems etc.<sup>23</sup> This body of law began with the adoption of six Conventions and six Recommendations by the first International Labour Conference in 1919<sup>24</sup> and At present ILO has 189 Conventions and 202 Recommendations.<sup>25</sup>

The ILC provides a forum for discussion and deliberation of international labour problems and then formulates the standards in the form of conventions and recommendations. These conventions and recommendations are collectively known as the International Labour Code. A Convention is a treaty, which when ratified by a member state, creates binding international obligations on that State whereas a recommendation creates no such obligations, but is essentially a guide to national action.<sup>26</sup> India has regularly and actively participated in the Conferences through its tripartite delegations.

### **2. The Governing Body**

It functions as the executive wing of the organization. It is a non-political, non-legislative, tripartite body. It carries out the decisions of the Conference with the help of the International Labour Office. The Governing Body appoints Director-General and prepares the agenda for the International Conference. It consists of 56 members, 28 representing governments, 14 employers and 14 workers.<sup>27</sup> The period of office of this body is for 3 years. It meets several times a year. The Governing Body of ILO functions through its various Committees of ILO e.g., Industrial Committees and Analogous bodies, Committees of Experts and Correspondence Committees, Regional Conferences, Panels of Consultants and other special meetings and conferences.<sup>28</sup>

The work of the Governing Body and of the Office is aided by tripartite committees covering major industries. It is also supported by committees of experts on such matters as vocational training, management development, occupational safety and health, industrial relations, workers' education, and special problems of women and young workers. Regional meetings of the ILO member States are held periodically to examine matters of special interest to the regions concerned.<sup>29</sup> Since 1922 India has been holding a non-elective seat on the Governing Body as one of the 10 countries of chief industrial importance. Indian employers and workers' representatives have been elected as members of the Governing Body from time to time.

### **3. The International Labour Office**

Its headquarter is located in Geneva. It provides the Secretariat for all Conferences and other meetings and is responsible for day-to-day implementation of the administrative

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<sup>23</sup> N.K.Sahni, Dr. Amandeep Kaur and Dr. Punam Aggarwal, *Industrial Relation and labour laws*, 102-103 (2012).

<sup>24</sup> Thomas R. Van Dervort, *International Law and Organization An Introduction*, 214 (1998).

<sup>25</sup> Available at <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0::NO::> (visited on October 16, 2013).

<sup>26</sup> Arun Monappa, *International Relations*, 327 (2010).

<sup>27</sup> *Ibid* at 324.

<sup>28</sup> *Supra* note 6 at 716.

<sup>29</sup> Available at <http://www.ilo.org/global/about-the-ilo/how-the-ilo-works/lang--en/index.htm> (visited on April 5, 2012).

and other decisions of the Conference, and the Governing Body. The Director General of the ILO is the Chief Executive of the office. The International Labour Office is the permanent secretariat of the International Labour Organization, its operational headquarters. Administration and management are decentralized in regional, area, and branch offices in more than 40 countries under the leadership of a Director-General.

There are also some other organs. Those are necessary for the working of ILO.<sup>30</sup> These are-

#### **4. ILO Administrative Tribunal**

The Administrative Tribunal examines employment-related complaints by officials of the International Labour Office and of the other international organizations that have recognized its jurisdiction.

#### **5. ILO Director-General**

A Director-General is elected for five years by the Governing Body. Subject to the instructions of the Governing Body, the Director-General is responsible for the efficient conduct of the International Labour Office and other duties as may be assigned.

#### **6. ILO Centres and Institutes**

The ILO is universally regarded as an authoritative source of knowledge on the world of work. The Organization has established institutes and centres that provide specialized research, training and support for the ILO's offices and constituents.<sup>31</sup> The ILO recommendations have always provided guidelines and useful framework for the evolution of legislative and administrative measures for the protection and advancement of the interest of labour.

**Important Social Security Areas of ILO Activities And Field Operations :** United Nation and ILO have made many efforts regarding social security at international level by number of Conventions and Recommendations. ILO takes part in vocational training, women workers conditions and social security for improving the working conditions of workers at international level. A number of recommendations and conventions deal with workmen's compensation, sickness insurance, invalidity, old-age, and survivor's insurance, unemployment provisions, maternity protection and general aspects of social security.<sup>32</sup> ILO deals with following social security areas and activities at international level:

#### **1. Manpower Organization and Vocational Training**

The ILO as well as the United Nations made concerted efforts in the post second world war period in the manpower field to stimulate the most effective and productive use of human resources in the whole process of economic and social development. The ILO manpower experts have been made available to developing countries seeking help in assessing their manpower needs and in organizing vocational training programmes for meeting skill shortage.

#### **2. Women Workers**

<sup>30</sup> S.N.Dhyani, *International Labour Organization and India*, 41-52, (1977).

<sup>31</sup> Available at <http://www.ilo.org/global/about-the-ilo/who-we-are/lang-en/index.htm> (visited on August 10, 2013).

<sup>32</sup> Dr.V.K.Anand, *Human Rights*, 162 (2001).

The ILO constitution specifically provides for the protection of women workers. The first Session of the International Labour Conference held in Washington in October 1919, adopted international standards protecting expectant mothers and limiting the amount of night work by women. In 1937, the Conference laid down the ILO's aims in regard to women workers, namely-

- a. the guarantee of all civil and political rights;
- b. full opportunities to improve their education;
- c. better conditions for finding employment;
- d. equal pay for equal work;
- e. legal protection against dangerous working conditions;
- f. legal maternity protection;
- g. the same trade union rights as that of men.

### **3. Social Security**

The ILO has done the pioneering work in the field of social security. One of the most important instruments adopted by the ILO is the Social Security (Minimum Standards) Convention, 1952. Currently, the organization's main object is to extend social security to agriculture and plantation workers.<sup>33</sup> ILO also established the International Social Security Association (ISSA).

The ILO is the UN's agency with a mandate to improve standards, conditions and social security of workers throughout the world. The ILO's most important function is to adopt Conventions and Recommendations, which set minimum labour standards internationally. The principles embodied in the conventions, if adopted and ratified, impose a duty to comply on the ratifying states.<sup>34</sup>

**International Conventions Relating to the Social Security** :The ILO Conventions have been greatly adored by the working class all over the world for their beneficial, humanitarian and missionary influence. The principal means of action in the ILO is the setting up the International Labour Standards in the form of Conventions and Recommendations. Conventions are international treaties and are instruments, which create legally binding obligations on the countries that ratify them.<sup>35</sup>

ILO has number of Conventions relating to social security of workers Main Conventions are given below--

#### **1. Workmen's Compensation (Accidents) Convention, 1925<sup>36</sup>**

The ILO adopted Convention relating to workmen's compensation as early as 1921 followed by other conventions on the same subject in the year 1925.<sup>37</sup> It provides for the payment of compensation for employment injury to all employees except those employed in agriculture, ships and fishermen. Each Member of the International Labour Organization which ratifies this Convention undertakes to ensure that workmen who suffer personal injury due to an industrial accident, or their dependants, shall be compensated on terms at least equal to those provided by this Convention. Injured workmen shall be entitled to medical aid

<sup>33</sup> *Supra* note 8.

<sup>34</sup> *Supra* note 23.

<sup>35</sup> Available at <http://www.ilo.org/public/english/protection/secsoc/areas/legal> (visited on February 16, 2013).

<sup>36</sup> Convention No.17 of ILO.

<sup>37</sup> International Labour Organisation and Indian Legislations: Compliance And Comparison, *Labour Law Journal* (23) February2006.

and to such surgical and pharmaceutical aid as is recognised to be necessary in consequence of accidents. The cost of such aid shall be defrayed either by the employer, or by accident insurance institutions, or by sickness or invalidity insurance institutions.<sup>38</sup>

## **2. Workmen's Compensation (occupational diseases) Convention, 1925<sup>39</sup>**

The list of occupational diseases established in the international and national legal system has played important roles in both prevention and compensation for workers' diseases. Since the first establishment of the ILO list of occupational diseases in 1925, the list has played a key role in harmonizing the development of policies on occupational diseases at the international level. The three occupational diseases<sup>40</sup> in the first ILO list of occupational diseases set up in 1925 as workmen's compensation convention, represented an increase of occupational diseases from the Industrial Revolution. Until the 1960s, 10 occupational diseases had been representative compensable occupational diseases listed in Convention No. 121, which implies that occupational diseases in this era were equated to industrial poisoning.<sup>41</sup>

Since 1980, with advancements in diagnostic techniques and medical science, noise-induced hearing loss, and several bronchopulmonary diseases have been incorporated into the ILO occupational list. Since 2002, changes in the structure of industries, emerging new chemicals, and advanced national worker's compensation schemes have provoked the ILO to revise the occupational disease list. A new format of ILO list appended in Recommendation 194 was composed of two dimensions (causes and diseases) and subcategories. Among 50 Member States that had provided their national lists of occupational diseases, until 2012 thirty countries were found to have the list of occupational diseases having similar structure to ILO list.<sup>42</sup>

## **3. Migration for Employment Convention (Revised), 1949<sup>43</sup>**

This Convention was revision of the Migration for Employment Convention, 1939 and was held on June 8, 1949. Each Member of the International Labour Organization for which this Convention is in force undertakes to make available on request to the International Labour Office and to other Members information on national policies, laws and regulations relating to emigration and immigration; information on special provisions concerning migration for employment and the conditions of work and livelihood of migrants for employment information concerning general agreements and special arrangements on these questions concluded by the Member.<sup>44</sup> Members are required to establish, an adequate and free service to assist migrants for employment, and in particular to provide them with accurate information.<sup>45</sup>

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<sup>38</sup> Workman's Compensation (Accidents) Convention, 1925 at Article 2 to 9.

<sup>39</sup> Convention No. 18 of ILO.

<sup>40</sup> Anthrax, lead poisoning, and mercury poisoning.

<sup>41</sup> Eun-A Kim and Seong-Kyu Kang, Historical Review of the list of occupational diseases recommended by the International Labour Organization, available at <http://www.aemj.com/content/pdf/2052-4374-25-14.pdf> (visited on October 16, 2013).

<sup>42</sup> *Id.*

<sup>43</sup> Convention No. 97 of ILO.

<sup>44</sup> Migration for Employment Convention (Revised), 1949 at Article 1.

<sup>45</sup> *Ibid* at Article 2.



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Each Member for which this Convention is in force undertakes to maintain, within its jurisdiction, appropriate medical services responsible for--

- (a) ascertaining, where necessary, both at the time of departure and on arrival, that migrants for employment and the members of their families authorised to accompany or join them are in reasonable health;
- (b) ensuring that migrants for employment and members of their families enjoy adequate medical attention and good hygienic conditions at the time of departure, during the journey and on arrival in the territory of destination.<sup>46</sup>

Each Member for which this Convention is in force undertakes to apply, without discrimination to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters:

- (a) in so far as such matters are regulated by law or regulations, or are subject to the control of administrative authorities--
  - 1. remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women's work and the work of young persons;
  - 2. membership of trade unions and enjoyment of the benefits of collective bargaining;
  - 3. accommodation;
- (b) social security (that is to say, legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:
  - 1. there may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;
  - 2. national laws or regulations of immigration countries may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension;
- (c) employment taxes, dues or contributions payable in respect of the person employed; and
- (d) legal proceedings relating to the matters referred to in this Convention.<sup>47</sup>

A migrant for employment who has been admitted on a permanent basis and the members of his family who have been authorised to accompany or join him shall not be returned to their territory of origin or the territory from which they emigrated, because the migrant is unable to follow his occupation by reason of illness contracted or injury sustained subsequent to entry, unless the person concerned so desires or an international agreement to which the Member is a party so provides. When migrants for employment are admitted on a

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<sup>46</sup> *Ibid* at Article 5.

<sup>47</sup> *Ibid* at Article 6.

permanent basis upon arrival in the country of immigration the competent authority of that country may determine shall take effect only after a reasonable period which shall in no case exceed five years from the date of admission of such migrants.<sup>48</sup>

The term migrant for employment means a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment. This Convention does not apply to frontier workers; short-term entry of members of the liberal professions, artistes and seamen.<sup>49</sup>

#### 4. Equal Remuneration Convention, 1951<sup>50</sup>

This Convention was held on June 6, 1951 at Geneva and decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value. The purpose of this Convention is that the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment and rates of remuneration established without discrimination based on sex.<sup>51</sup> Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.<sup>52</sup>

#### 5. The Social Security (Minimum Standards) Convention, 1952<sup>53</sup>

It covers all nine branches<sup>54</sup> of social security and sets minimum standards for these nine branches. It is considered as a tool for the extension of social security coverage and provides ratifying countries with an incentive for doing so by offering flexibility in its application, depending on their socio-economic level. It came into force on April 27, 1955. By May 2009, 44 countries had ratified the Convention.<sup>55</sup> The Convention has been ratified by India in 1964. The 1952 ILO Convention on Social Security (Minimum Standard) has divided social security into nine components:

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<sup>48</sup> *Ibid* at Article 8.

<sup>49</sup> *Ibid* at Article 11.

<sup>50</sup> Convention No. 100 of ILO.

<sup>51</sup> Equal Remuneration Convention, 1951 at Article 1.

<sup>52</sup> *Ibid* at Article 3.

<sup>53</sup> Convention No. 102 of ILO.

<sup>54</sup> (a) Medical care (b) Sickness benefit (c) Unemployment benefit (d) Old-age benefit (e) Employment injury benefit (f) Family benefit (g) Maternity benefit (h) Invalidism benefit (i) Survivor's benefit .

<sup>55</sup> Up-to-date ILO Social Security Standards and their status of ratifications (Classified Guide, 18.05.2009) available on [www.socialsecurityextension.org/.../RessourceDownload.action?](http://www.socialsecurityextension.org/.../RessourceDownload.action?) (Visited on September 19, 2010).

**(a) Medical care**

It covers pregnancy, confinement, and its consequences and any disease which may lead to a morbid condition. The need for pre-natal and post-natal care, in addition to hospitalization, was emphasized. A morbid condition may require general practitioner care, provision of essential pharmaceuticals and hospitalization.<sup>56</sup>

**(b) Sickness benefit**

It includes incapacity to work following morbid condition resulting in loss of earnings. This calls for periodical payments based on the convention specification. The worker need not be paid for the first three days of suspension of earnings and the payment of benefit may be limited to 26 weeks in a year.<sup>57</sup>

**(c) Unemployment benefit**

It covers the loss of earning during a worker's unemployment period. When he is capable and available for work but remains unemployed because of lack of suitable employment. This benefit may be limited to 13 weeks payment in a year, excluding the first seven days of the waiting period.<sup>58</sup>

**(d) Old-age benefit**

This benefit provides for the payment-the quantum depending upon an individual's working capacity during the period before retirement of a certain amount beyond a prescribed age and continues till death.<sup>59</sup>

**(e) Employment injury benefit**

It covers the following contingencies resulting from accident or disease during employment:

- i) Inability to work following a morbid condition, leading to suspension of earning;
- ii) Total or partial loss of earning capacity which may become permanent;
- iii) Death of the breadwinner in the family, as a result of which family is deprived of financial support. Medical care and periodical payment corresponding to an individual's need should be available.<sup>60</sup>

**(f) Family benefit**

It means responsibility for the maintenance of children during an entire period of contingency. Periodical payment, provision of food, housing, clothing, holidays or domestic help in respect of children should be provided to a needy family.<sup>61</sup>

**(g) Maternity benefit**

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<sup>56</sup> *Supra* note 53 at Article 7-12.

<sup>57</sup> *Ibid* at Article 13-18.

<sup>58</sup> *Ibid* at Article 19-24.

<sup>59</sup> *Ibid* at Article 25-30.

<sup>60</sup> *Ibid* at Article 31-38.

<sup>61</sup> *Ibid* at Article 39-45.

This benefit includes pregnancy, confinement and their consequences resulting in the suspension of earnings. Provision should be for medical care, including pre-natal confinement, post-natal care and hospitalization if necessary. Periodical payment limited to 12 weeks should be made during the period of suspension of earnings.<sup>62</sup>

**(h) Invalidism benefit**

This benefit, in the form of periodical payments should cover the needs of workers who suffer from any, disability arising out of sickness or accident and who are unable to engage in any gainful activity. This benefit should continue till invalidism changes into old-age, when old age benefits would become payable.<sup>63</sup>

**(i) Survivor's benefit**

It means periodical payments to the family following the death of its breadwinner and should continue till the entire period of contingency.<sup>64</sup>

The role of the International Labour Organisation in creating international standards of social insurance and in the promotion of social security has been significant. Through its Conventions and Recommendations, the ILO has exerted its influence to extend the range and classes of persons protected and the contingencies covered, and has improved the efficacy of the benefits assured.<sup>65</sup>

**6. Discrimination (Employment and Occupation) Convention, 1958<sup>66</sup>**

The General Convention of ILO convened this Convention on June 4, 1958 at Geneva. The main objective of this convention is that there shall be no discrimination in the field of employment and occupation, and Considering that the Declaration of Philadelphia affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, discrimination constitutes a violation of rights enunciated by the Universal Declaration of Human Rights.

Each Member for which this Convention is in force shall undertake and practice the following by methods appropriate to national conditions<sup>67</sup> --

- (a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (d) to pursue the policy in respect of employment under the direct control of a national authority;

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<sup>62</sup> *Ibid* at Article 46-52.

<sup>63</sup> *Ibid* at Article 53-58.

<sup>64</sup> *Ibid* at Article 59-64.

<sup>65</sup> World Social Security Report 2010-11.

<sup>66</sup> Convention No. 111 of ILO.

<sup>67</sup> Discrimination (Employment and Occupation) Convention, 1958 at Article 3.

- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

#### **7. The Equality of Treatment (Social Security) Convention, 1962<sup>68</sup>**

It has decided upon the adoption of certain proposals with regard to equality of treatment of nationals and non-nationals in social security. The General Conference of the International Labour Organization, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-sixth Session on 6 June 1962, and decided upon the adoption of certain proposals with regard to equality of treatment of nationals and non-nationals in social security. By May 2009, 37 countries had ratified the Convention.<sup>69</sup>

Each Member may accept the obligations of this Convention in respect of any one or more of the following branches of social security for which it has ineffective operative legislation covering its own nationals within its own territory i.e medical care, sickness benefit, maternity benefit, invalidity benefit, old-age benefit, survivors' benefit, employment injury benefit, unemployment benefit and family benefit.<sup>70</sup> These benefits are to be granted in member States who ratify this Convention. They can withdraw from it if they so desire, after giving necessary notice to Director General. These will be implemented without any discrimination regarding nationality.

#### **8. The Employment Injury Benefits Convention, 1964<sup>71</sup>**

It applies to employment injury benefits to the workers. This Convention provides for payment of cash and medical benefits in cases of employment injury and at least 75% of expenses involved for all employees. The General Conference of the International Labour Organization, convened at Geneva by the Governing Body of the International Labour Office<sup>72</sup>, had decided upon the adoption of certain proposals with regard to benefits in the case of industrial accidents and occupational diseases, By May 2009, 24 countries had ratified this Convention.<sup>73</sup>

A Member State whose economic and medical facilities are insufficiently developed may avail itself by a declaration accompanying its ratification of the temporary exceptions provided for in the Articles.<sup>74</sup> Any Member which ratifies this Convention, may by a declaration accompanying its ratification, exclude from the application of the Convention

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<sup>68</sup> Convention No.118 of ILO.

<sup>69</sup> *Supra* note 44.

<sup>70</sup> *Supra* note 43 at Article 2.

<sup>71</sup> Convention No.121 of ILO.

<sup>72</sup> Forty-eighth session on June 17<sup>th</sup> 1964.

<sup>73</sup> *Supra* note 44.

<sup>74</sup> The Employment Injury Benefits Convention, 1964 at Article 2.

seafarers<sup>75</sup>, including seafishermen, public servants. These categories are protected by special schemes which provide in the aggregate benefits at least equivalent to those required by this Convention.<sup>76</sup>

National legislation concerning employment injury benefits shall protect all employees, including apprentices, in the public and private sectors, including co-operatives. Any Member may make such exceptions as it deems necessary in respect of persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employer's trade or business, out-workers, in respect of their work for him, other categories of employees, which shall not exceed in number, 10 per cent of all employees.<sup>77</sup>

The application of national legislation concerning employment injury benefits may be limited to prescribed categories of employees, and prescribed categories of beneficiaries.<sup>78</sup> The contingencies covered shall include where due to an employment injury, a morbid condition, incapacity for work resulting from such a condition and involving suspension of earnings as defined by national legislation, total loss of earning capacity or partial loss thereof in excess of a prescribed degree likely to be permanent, or corresponding loss of faculty and the loss of support suffered as the result of the death of the breadwinner by prescribed categories of beneficiaries.<sup>79</sup>

Each Member State shall prescribe a definition of "industrial accident", including the conditions under which a commuting accident is considered to be an industrial accident, and shall specify the terms of such definition in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organization.<sup>80</sup>

Each Member State shall secure to the persons protected, subject to prescribed conditions, the provision of the benefits including medical care and allied benefits in respect of a morbid condition, cash benefits in respect of the contingencies specified in the Article 6, clauses (b), (c) and (d) of the convention.<sup>81</sup> Medical care and allied benefits in respect of a morbid condition shall comprise general practitioner and specialist in-patient and out-patient care, including domiciliary visiting, dental care, nursing care at home or in hospital or other medical institutions, maintenance in hospitals, convalescent homes, sanatoria or other medical institutions, dental, pharmaceutical and other medical or surgical supplies including prosthetic appliances kept in repair and renewed as necessary, and eyeglasses, the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner and the emergency treatment at the place of work, wherever possible.<sup>82</sup>

Any State which provides medical care and allied benefits by means of a general health scheme or a medical care scheme for employed persons may specify in its legislation that such care shall be made available to persons who have sustained employment injuries on the same terms as to other persons entitled thereto, on condition that the rules on the subject

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<sup>75</sup> Seafarer is the general term for men (and occasionally women also) who work on ships at sea.

<sup>76</sup> *Supra* note 74 at Article 3.

<sup>77</sup> *Ibid* at Article 4.

<sup>78</sup> *Ibid* at Article 5.

<sup>79</sup> *Ibid* at Article 6.

<sup>80</sup> *Ibid* at Article 7.

<sup>81</sup> *Ibid* at Article 9.

<sup>82</sup> *Ibid* at Article 10.

are so designed as to avoid hardship.<sup>83</sup> Cash benefits in respect of loss of earning capacity likely to be permanent or corresponding loss of faculty shall be payable in all cases in which such loss, in excess of a prescribed degree, remains at the expiration of the period during which benefits are payable.<sup>84</sup> Increments in periodical payments or other supplementary or special benefits, as prescribed, shall be provided for disabled persons requiring the constant help or attendance of another person.<sup>85</sup>

The cash benefit in respect of death of the breadwinner shall be a periodical payment to a widow as prescribed, a disabled and dependent widower, dependent children of the deceased and other persons as may be prescribed.<sup>86</sup>

A person employed in the major group of economic activities with the largest number of economically active male persons was protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose. The wages of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost of living allowances, if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.<sup>87</sup> No periodical payment shall be less than a prescribed minimum amount.

Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity. Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose. Each Member shall, under prescribed conditions take measures to prevent industrial accidents and occupational diseases and each Member shall within its territory assure to non-nationals equality of treatment with its own nationals as regards employment injury benefits.<sup>88</sup>

### **9. The Invalidity, Old-Age and Survivors' Benefits Convention, 1967<sup>89</sup> and the Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967<sup>90</sup>**

It covers old-age benefit, invalidity<sup>91</sup> benefit and survivor's benefit. The coverage for payment of compensation in case of invalidity, death or old age is 50% for industrial employees, 25% for all employees including agriculture.

This Convention has got parts namely; General provisions, invalidity benefit, old-age benefit, survivors benefit, standards to be complied with by periodical payments, common provisions, miscellaneous and final provisions. It has total 54 Articles. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of one

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<sup>83</sup> *Ibid* at Article 11.

<sup>84</sup> *Ibid* at Article 14.

<sup>85</sup> *Ibid* at Article 16.

<sup>86</sup> *Ibid* at Article 18.

<sup>87</sup> *Ibid* at Article 19.

<sup>88</sup> *Ibid* at Articles 23, 25, 26, 27, 28.

<sup>89</sup> Convention No.128 of ILO.

<sup>90</sup> Recommendation No.131 of ILO.

<sup>91</sup> Invalid means same as who is so ill that they have to be looked after by other people.

or more of Parts II to IV not already specified in its ratification.<sup>92</sup> Following are provisions relating to social security of workers/employees in it-

**Article 14**

Each Member for which this Part of Convention is in force shall secure to the persons protected the provision of old-age benefit.

**Article 15**

It covers the survival beyond a prescribed age, the prescribed age shall not be more than 65 years or such higher age as may be fixed by the competent authority.

**Article 22**

The persons protected shall comprise the wives, children and as may be prescribed, other dependants of all breadwinners who were employees or apprentices or the whole economically active population.

**Article 29**

Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organization, and shall also specify any action taken.

**PERIODICAL PAYMENTS TO STANDARD BENEFICIARIES UNDER THE CONVENTION**

Part	Contingency	Standard beneficiary	Percentage
II	Invalidity	Man with wife and two children	50
III	Old age	Man with wife of pensionable age	45
IV	Death of breadwinner	Widow with two children	45

**10. The Medical Care and Sickness Benefits Convention, 1969<sup>93</sup> and the Medical Care and Sickness Benefits Recommendation, 1969<sup>94</sup>**

It applies to medical care and sickness benefit of the employees. The General Conference of the International Labour Organization, convened at Geneva on 4 June 1969 passed at by May 2009, 15 countries had ratified the Convention.<sup>95</sup> Following provisions of this Convention are related with social security of workers:

**Article 8**

<sup>92</sup> The Invalidity, Old Age and Survivors Benefits Convention, 1967 at Article 3.

<sup>93</sup> Convention No. 130 of ILO.

<sup>94</sup> Recommendation No.134 of ILO.

<sup>95</sup> *Supra* note 55.



Each Member State shall secure to the persons protected, subject to prescribed conditions, the provision of medical care of a curative or preventive nature in respect of the contingency.

**Article 12**

Persons who are in receipt of a social security benefit for invalidity, old age, death of the breadwinner or unemployment and where appropriate, the wives and children of such persons, shall continue to be protected, under prescribed conditions.

**Article 15**

Where the legislation of a Member makes the right to the medical care referred to in Article 8 conditional upon the fulfilment of a qualifying period by the person protected or by his breadwinner, the conditions governing the qualifying period shall be such as not to deprive of the right to benefit persons who normally belong to the categories of persons protected.

**Article 16**

Where a beneficiary ceases to belong to the categories of persons protected, further entitlement to medical care for a case of sickness which started while he belonged to the said categories may be limited to a prescribed period which shall not be less than 26 weeks. Provided that the medical care shall not cease while the beneficiary continues to receive a sickness benefit.

**11. Occupational Safety and Health Convention, 1981<sup>96</sup>**

The General Conference of the International Labour Organisation, convened this Convention at Geneva on June 3, 1981 and decided certain proposals with regard to safety and health and the working environment for the workers. This Convention applies to all branches of economic activity. It covers all branches in which workers are employed, including the public service. The term workers covers all employed persons, including public employees. The term workplace covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer, the term regulations covers all provisions given force of law by the competent authority or authorities. The term health, in relation to work, indicates not merely the absence of disease or infirmity it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work.<sup>97</sup> The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.<sup>98</sup> The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection. The enforcement system shall provide for adequate penalties for violations of the laws and regulations.<sup>99</sup> Measures shall be taken to provide guidance to employers and workers so as to help them to comply with legal obligations.<sup>100</sup>

To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out<sup>101</sup>:

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<sup>96</sup> Convention No. 155 of ILO.

<sup>97</sup> Occupational Safety and Health Convention, 1981 at Article 3.

<sup>98</sup> *Ibid* at Article 4.

<sup>99</sup> *Ibid* at Article 9.

<sup>100</sup> *Ibid* at Article 10.

<sup>101</sup> *Ibid* at Article 11.

- (a) the determination, where the nature and degree of hazards so require, of conditions governing the design, construction and layout of undertakings, the commencement of their operations, major alterations affecting them and changes in their purposes, the safety of technical equipment used at work, as well as the application of procedures defined by the competent authorities;
- (b) the determination of work processes and of substances and agents the exposure to which is to be prohibited, limited or made subject to authorisation or control by the competent authority or authorities; health hazards due to the simultaneous exposure to several substances or agents shall be taken into consideration;
- (c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;
- (d) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;
- (e) the introduction or extension of systems, taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.

A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.<sup>102</sup> Measures shall be taken with a view to promoting in a manner appropriate to national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers.<sup>103</sup>

## **12. Termination of Employment Convention, 1982<sup>104</sup>**

ILO convened this Convention on June 2, 1982 at Geneva. This Convention applies to all branches of economic activity and to all employed persons. A Member may exclude the following categories of employed persons from all or some of the provisions of this Convention:

- (a) workers engaged under a contract of employment for a specified period of time or a specified task;
- (b) workers serving a period of probation or a qualifying period of employment, determined in advance and of reasonable duration;
- (c) workers engaged on a casual basis for a short period.

In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organizations of

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<sup>102</sup> *Ibid* at Article 13.

<sup>103</sup> *Ibid* at Article 14.

<sup>104</sup> Convention No. 158 of ILO.

employers and workers concerned, where such exist, to exclude from the application of this Convention or certain provisions thereof other limited categories of employed persons in respect of which special problems of a substantial nature arise in the light of the particular conditions of employment of the workers concerned or the size or nature of the undertaking that employs them.<sup>105</sup> The employment of a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.<sup>106</sup>

The following, inter alia, shall not constitute valid reasons for termination:

- (a) union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours;
- (b) seeking office as, or acting or having acted in the capacity of, a workers' representative;
- (c) the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
- (d) race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
- (e) absence from work during maternity leave.<sup>107</sup>
- (f) Temporary absence from work because of illness or injury.<sup>108</sup> The employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he is provided an opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity.<sup>109</sup> The bodies referred to in Article 8 of this Convention shall be empowered to examine the reasons given for the termination and the other circumstances relating to the case and to render a decision on whether the termination was justified.<sup>110</sup> If the bodies referred to in Article 8 of this Convention find that termination is unjustified and if they are not empowered or do not find it practicable, in accordance with national law and practice, to declare the termination invalid and/or order or propose reinstatement of the worker, they shall be empowered to order payment of adequate compensation or such other relief as may be deemed appropriate.<sup>111</sup> A worker whose employment is to be terminated shall be entitled to a reasonable period of notice or compensation in lieu thereof, unless he is guilty of serious misconduct.<sup>112</sup>

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<sup>105</sup> Termination of Employment Convention, 1982 at Article 3.

<sup>106</sup> *Ibid* at Article 4.

<sup>107</sup> *Ibid* at Article 5.

<sup>108</sup> *Ibid* at Article 6.

<sup>109</sup> *Ibid* at Article 7.

<sup>110</sup> *Ibid* at Article 9.

<sup>111</sup> *Ibid* at Article 10.

<sup>112</sup> *Ibid* at Article 11.

A worker whose employment has been terminated shall be entitled, in accordance with national law and practice, to –

- (a) a severance allowance or other separation benefits, the amount of which shall be based inter alia on length of service and the level of wages, and paid directly by the employer or by a fund constituted by employers' contributions; or
- (b) benefits from unemployment insurance or assistance or other forms of social security, such as old-age or invalidity benefits, under the normal conditions to which such benefits are subject; or
- (c) a combination of such allowance and benefits.

A worker who does not fulfil the qualifying conditions for unemployment insurance or assistance under a scheme of general scope need not be paid any allowance or benefit.<sup>113</sup>

### **13. The Maintenance of Social Security Rights Convention, 1982<sup>114</sup> and the Maintenance of Social Security Rights Recommendation, 1983<sup>115</sup>**

It provides reinforced protection to migrant workers. It provides rules for the adoption of national legislation implementing the principles of the maintenance of rights in course of acquisition and of acquired rights for migrant workers, in respect of all branches of social security covered by the Social Security Convention 1952.<sup>116</sup>

### **14. Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983<sup>117</sup>**

The General Conference of the International Labour Organization, convened at Geneva by the Governing Body of the International Labour Office on June 1, 1983, and noting the existing international standards contained in the Vocational Rehabilitation (Disabled) Recommendation, 1955, and the Human Resources Development Recommendation, 1975, and since after the adoption of the Vocational Rehabilitation (Disabled) Recommendation, 1955, significant developments have occurred in the understanding of rehabilitation needs. The scope and organization of rehabilitation services, and the law and practice of many Members on the questions covered that Recommendation. The year 1981 was declared by the United Nations General Assembly, the International Year of Disabled Persons, with the theme "full participation and equality" and that a comprehensive World Programme of Action concerning Disabled Persons is to provide effective measures at the international and national levels for the realization of the goals of "full participation" of disabled persons in social life and development. These developments made it appropriate to adopt new international standards on the subject which take account, in particular, of the need to ensure equality of opportunity and treatment to all categories of disabled persons, in both rural and urban areas, for employment and integration into the community. This Convention provides that the competent authorities shall take measures with

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<sup>113</sup> *Ibid* at Article 12.

<sup>114</sup> Convention No. 157 of ILO.

<sup>115</sup> Recommendation No. 167 of ILO.

<sup>116</sup> *Supra* note 55.

<sup>117</sup> Convention No. 159 of ILO.

a view to providing and evaluating vocational guidance, vocational training, placement, employment and other related services to enable disabled persons to secure, retain and advance in employment; existing services for workers generally shall, wherever possible and appropriate, be used with necessary adaptations.<sup>118</sup> Measures shall be taken to promote the establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and remote communities.<sup>119</sup>

**15. The Employment Promotion and Protection against Unemployment Convention, 1988<sup>120</sup> and the Employment Promotion and Protection against Unemployment Recommendation, 1988<sup>121</sup>**

It relates to unemployment benefit. It is a revision of the Unemployment Provision Convention of 1934. It provides standards in the field of employment and unemployment protection, notably for the promotion of full, productive and freely chosen employment, the principles of equality of treatment and non-discrimination, the methods of providing unemployment benefit.

**16. Working Conditions (Hotels and Restaurants) Convention, 1991<sup>122</sup>**

This Convention lays down standards of general application concerning working conditions as are applicable to workers in hotels, restaurants and similar establishments. It also provides that the particular conditions characterising work in hotels, restaurants and similar establishments make it desirable to improve the application of these Conventions and Recommendations in these categories of establishments and to supplement them by specific standards designed to enable the workers concerned to enjoy a status corresponding to their role in these rapidly expanding categories of establishments and to attract new workers to them, by improving working conditions, training and career prospects. Collective bargaining is an effective means of determining conditions of work in this sector, and considering that the adoption of a Convention together with collective bargaining will enhance working conditions, career prospects and job security, to the benefit of the workers, and decided upon the adoption of certain proposals with regard to working conditions in hotels, restaurants and similar establishments.

**17. Safety and Health in Mines Convention, 1995<sup>123</sup>**

According to this Convention workers have a need for, and a right to, information, training and genuine consultation on and participation in the preparation and implementation of safety and health measures concerning the hazards and risks they face in the mining industry, and recognizing that it is desirable to prevent any fatalities, injuries or ill health affecting workers or members of the public, or damage to the environment arising from mining operations, and the need for co-operation between the International Labour Organization, the World Health Organization, the International Atomic Energy Agency and other relevant institutions and noting the relevant instruments, codes of practice, codes and guidelines issued by these organizations and Having decided upon the adoption of certain

<sup>118</sup> Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 at Article 7.

<sup>119</sup> *Ibid* at Article 8.

<sup>120</sup> Convention No. 168 of ILO.

<sup>121</sup> Recommendation No. 176 of ILO.

<sup>122</sup> Convention No. 172 of ILO.

<sup>123</sup> Convention No. 176 of ILO, held on June 6, 1995 at Geneva.

proposals with regard to safety and health in mines. This Convention applies to all mines. In the light of national conditions and practice and after consultations with the most representative organizations of employers and workers concerned, the Member shall formulate, carry out and periodically review a coherent policy on safety and health in mines, particularly with regard to the measures to give effect to the provisions of the Convention.<sup>124</sup> National laws and regulations pursuant to Article 4 shall designate the competent authority that is to monitor and regulate the various aspects of safety and health in mines. Such national laws and regulations shall provide for:

- (a) the supervision of safety and health in mines;
- (b) the inspection of mines by inspectors designated for the purpose by the competent authority;
- (c) the procedures for reporting and investigating fatal and serious accidents, dangerous occurrences and mine disasters, each as defined by national laws or regulations;
- (d) the compilation and publication of statistics on accidents, occupational diseases and dangerous occurrences, each as defined by national laws or regulations;
- (e) the power of the competent authority to suspend or restrict mining activities on safety and health grounds, until the condition giving rise to the suspension or restriction has been corrected; and
- (f) the establishment of effective procedures to ensure the implementation of the rights of workers and their representatives to be consulted on matters and to participate in measures relating to safety and health at the workplace.<sup>125</sup>

Such national laws and regulations shall specify:

1. requirements relating to mine rescue, first aid and appropriate medical facilities;
2. an obligation to provide and maintain adequate self-rescue respiratory devices for workers in underground coal mines and, where necessary, in other underground mines;
3. protective measures to secure abandoned mine workings so as to eliminate or minimize risks to safety and health;
4. requirements for the safe storage, transportation and disposal of hazardous substances used in the mining process and waste produced at the mine; and
5. where appropriate, an obligation to supply sufficient sanitary conveniences and facilities to wash, change and eat, and to maintain them in hygienic condition.<sup>126</sup>

Employers shall take all necessary measures to eliminate or minimize the risks to safety and health in mines under their control. The employer shall prepare an emergency response plan, specific to each mine, for reasonably foreseeable industrial and natural disasters.<sup>127</sup>

The employer shall ensure that adequate training and retraining programmes and comprehensible instructions are provided for workers, at no cost to them, on safety and health

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<sup>124</sup> *Ibid* at Article 3.

<sup>125</sup> *Ibid* at Article 5.

<sup>126</sup> *Id.*

<sup>127</sup> *Ibid* at Article 8.

matters as well as on the work assigned; in accordance with national laws and regulations, adequate supervision and control are provided on each shift to secure the safe operation of the mine; a system is established so that the names of all persons who are underground can be accurately known at any time, as well as their probable location; all accidents and dangerous occurrences, as defined by national laws or regulations, are investigated and appropriate remedial action is taken; and a report, as specified by national laws and regulations, is made to the competent authority on accidents and dangerous occurrences.<sup>128</sup> Whenever two or more employers undertake activities at the same mine, the employer in charge of the mine shall coordinate the implementation of all measures concerning the safety and health of workers and shall be held primarily responsible for the safety of the operations. This shall not relieve individual employers from responsibility for the implementation of all measures concerning the safety and health of their workers.<sup>129</sup>

**18. The Maternity Protection Convention, 2000<sup>130</sup>, and the Maternity Protection Recommendation, 2000<sup>131</sup>**

This Convention revised a 1952 ILO Convention (C103), which in turn was a revision of the original 1919 ILO Convention (C3). The revision was aimed at gaining more ratification by easing the requirements of the 1952 convention.

It covers maternity benefit to women workers. This Convention provides comprehensive protection to pregnant working women in case unemployment is due to child birth. By May 2009, 17 countries had ratified the Convention.<sup>132</sup>

It provides for 14 weeks of maternity benefit to women to whom the instrument applies. Women who are absent from work on maternity leave shall be entitled to a cash benefit which ensures that they can maintain themselves and their child in proper conditions of health and with a suitable standard of living and which shall be no less than two-thirds of her previous earnings or a comparable amount. The Convention also requires ratifying States to take measures to ensure that a pregnant woman or nursing mother is not obliged to perform work which has been determined to be harmful to her health or that of her child, and provides for protection from discrimination based on maternity. The standard also prohibits employers to terminate the employment of a woman during pregnancy or absence on maternity leave, or during a period following her return to work, except on grounds unrelated to pregnancy, childbirth and its consequences, or nursing. Women returning to work must be returned to the same position or an equivalent position, paid at the same rate. It also provides a woman the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.<sup>133</sup>

**19. Safety and Health in Agriculture Convention, 2001<sup>134</sup>**

The purpose of this Convention was to wider the term agriculture. According to this

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<sup>128</sup> *Ibid* at Article 10.

<sup>129</sup> *Ibid* at Article 12.

<sup>130</sup> Convention No.183 of ILO.

<sup>131</sup> Recommendation No.191 of ILO.

<sup>132</sup> *Supra* note 55.

<sup>133</sup> *Supra* note 130.

<sup>134</sup> Convention No. 184 of ILO, held at Geneva on June 5, 2001.

Convention agriculture covers agricultural and forestry activities carried out in agricultural undertakings including crop production, forestry activities, animal husbandry and insect raising, the primary processing of agricultural and animal products by or on behalf of the operator of the undertaking as well as the use and maintenance of machinery, equipment, appliances, tools, and agricultural installations, including any process, storage, operation or transportation in an agricultural undertaking, which are directly related to agricultural production.<sup>135</sup> The term agriculture does not cover subsistence farming; industrial processes that use agricultural products as raw material and the related services; and the industrial exploitation of forests.<sup>136</sup> Workers in agriculture shall have the right to be informed and consulted on safety and health matters including risks from new technologies; to participate in the application and review of safety and health measures and, in accordance with national law and practice, to select safety and health representatives and representatives in safety and health committees; and to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health and so inform their supervisor immediately. They shall not be placed at any disadvantage as a result of these actions. Workers in agriculture and their representatives shall have the duty to comply with the prescribed safety and health measures and to co-operate with employers in order for the latter to comply with their own duties and responsibilities.<sup>137</sup>

Measures shall be taken to ensure that temporary and seasonal workers receive the same safety and health protection as that accorded to comparable permanent workers in agriculture.<sup>138</sup> Measures shall be taken to ensure that the special needs of women agricultural workers are taken into account in relation to pregnancy, breastfeeding and reproductive health.<sup>139</sup> National laws and regulations or the competent authority shall prescribe, after consultation with the representative organizations of employers and workers concerned the provision of adequate welfare facilities at no cost to the worker; and the minimum accommodation standards for workers who are required by the nature of the work to live temporarily or permanently in the undertaking.<sup>140</sup> Hours of work, night work and rest periods for workers in agriculture shall be in accordance with national laws and regulations or collective agreements.<sup>141</sup>

Workers in agriculture shall be covered by an insurance or social security scheme against fatal and non-fatal occupational injuries and diseases, as well as against invalidity and other work-related health risks, providing coverage at least equivalent to that enjoyed by workers in other sectors. Such schemes may either be part of a national scheme or take any other appropriate form consistent with national law and practice.<sup>142</sup>

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<sup>135</sup> Safety and Health in Agriculture Convention, 2001 at Article 1.

<sup>136</sup> *Ibid* at Article 2.

<sup>137</sup> *Ibid* at Article 8.

<sup>138</sup> *Ibid* at Article 17.

<sup>139</sup> *Ibid* at Article 18.

<sup>140</sup> *Ibid* at Article 19.

<sup>141</sup> *Ibid* at Article 20.

<sup>142</sup> *Ibid* at Article 21.



**20. The Maritime Labour Convention, 2006<sup>143</sup>**

The Maritime Labour Convention, 2006 is an international labour Convention adopted by the International Labour Organization (ILO). It provides international standards for the world's first genuinely global industry. Widely known as the "Seafarers' Bill of Rights," was adopted by government, employer and workers representatives at a special ILO International Labour Conference in February 2006. It is a unique feature of this Convention as it aims both to achieve decent work for seafarers and to secure economic interests through fair competition for quality ship owners. The Convention is comprehensive and sets out, in one place, seafarers' rights to decent working conditions.<sup>144</sup> It covers almost every aspect of their work and life on board including:

- minimum age;
- seafarers' employment agreements;
- hours of work or rest;
- payment of wages;
- paid annual leave;
- repatriation at the end of contract;
- onboard medical care;
- the use of licensed private recruitment and placement services;
- accommodation, food and catering;
- health and safety protection and accident prevention and
- seafarers' complaint handling.

The Convention was designed to be applicable globally, easy to understand, readily updatable and uniformly enforced and will become the "fourth pillar" of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO) dealing with safety and security of ships and protection of the marine environment. It is important because it brings together, in one place, international minimum standards that ensure decent work for the estimated more than 1.5 million seafarers around the world whose work is essential to international trade as well as to an increasingly important form of tourism and recreational activity. Under this Convention every seafarer has the right to a safe and secure workplace that complies with safety standards, fair terms of employment, decent working and living conditions on board ship, health protection, medical care, welfare measures and other forms of social protection.<sup>145</sup>

**21. Work in Fishing Convention, 2007<sup>146</sup>**

This Convention addresses such matters as minimum age for work on a fishing vessel, medical standards, work agreements, occupational safety and health, and social security.

**22. Domestic Workers Convention, 2011<sup>147</sup>**

Recognizing and considering the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for women and men workers with family responsibilities, greater scope for caring for ageing populations, children

<sup>143</sup> Available at [http://en.wikipedia.org/wiki/Maritime\\_Labour\\_Convention](http://en.wikipedia.org/wiki/Maritime_Labour_Convention) (Visited on December 20, 2013).

<sup>144</sup> The Maritime Labour Convention, 2006.

<sup>145</sup> Available at [http://www.ilo.org/global/standards/maritime-labour-convention/WCMS\\_219665/lang-en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_219665/lang-en/index.htm) (visited on December 28, 2013).

<sup>146</sup> Convention No. 188 of ILO.

<sup>147</sup> Convention No. 189 of ILO.

and persons with a disability, and substantial income transfers within and between countries, and considering that domestic work continues to be undervalued and invisible is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights. Considering also that in developing countries with historically scarce opportunities for formal employment, domestic workers constitute a significant proportion of the national workforce and remain among the most marginalized. Recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers so as to enable them to enjoy their rights fully. The Convention declares that domestic workers are an important segment of labour and are entitled for decent working conditions proper rest, food, clothing etc. They are entitled for social security, health security, maternity benefit and other benefits.

**Conclusion:** Moreover, many rights, benefits and practices, which are popularly recognized today as legitimate rights of workers, are those that have accrued as a result of the struggles carried out by the earlier generation of workers. However, harsh working conditions were prevalent long before the industrial revolution took place. The main objective of labour laws is that poor and downtrodden should partake gains of globalization and economic growth and to bridge the wide gap between existing social infrastructure and aspirations of the masses. The workers demanding better conditions and rights to organize so as to improve their standard of living.

ILO is the most appropriate entity, which is already protecting the labour rights. ILO has worked efficiently as the guidelines and useful framework for the origination of legislative and administrative measures for the protection and advancement of the interest of labour. The ILO was created for determining and administration of international labour standards. The ILO has been successfully fighting labour problems, since its foundation. The ILO is the finest forum for addressing labour standards but other organizations and countries worldwide, will only serve to increase its effectiveness. ILO is a tripartite body of which 185 countries are members. Its members are in the ratio of 2:1:1 i.e. government, employers and employees. The ILO through its organs passes labour Conventions. It has passed many Conventions on social security. It is therefore setting of labour standard in the world Conventions on social security divided social security into nine components. In the present times ILO is playing a major role for achieving the objectives of UNO to eradicate poverty, to maintain peace and to bring prosperity in the world.