

AN ASSESSMENT OF LEGAL MECHANISMS TO PROMOTE LABOUR STANDARDS WITH SPECIAL REFERENCE TO ILO

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I. INTRODUCTION

International labour standards (ILS) are crucial for promoting social fairness and peace influencing human rights both at international and domestic level. International competition regulation are linked to fundamental human rights¹. The International Labour Organisation (ILO) whose primary motto is protection and promotion of labour rights has been addressing the potential negative effects of unrestrained international commerce and investment on labour conditions, following the first wave of global economic integration. This issue gave rise to the notion of "social dumping" and the ensuing "race to the bottom"² in labour unions. The ILO emphasizes the importance of adopting humane labour standards by governments for the benefit of its citizens and the development of other nations striving to improve their labour conditions, since "Poverty is danger to prosperity everywhere". With a strong track record in constructing and overseeing international labour standards, the ILO has endorsed 191 Conventions and 208 Recommendations.³

II. IMPORTANCE OF PROMOTING LABOUR STANDARDS

The International Labour Code is crucial for global economic growth, but adhering requires determination, technical skills, and efficient governance. Many regions lack these ingredients, and governments may have a diminished presence due to global economy dynamics. Misconceptions, entrenched interests, and ideological conflicts can impede growth. Economic globalization introduces new ideologies, and different stakeholders have different perspectives. While no clear evidence exists of governments engaging in fierce rivalry to attract foreign capital, some competition does exist.⁴ The phenomenon termed as a "race to the bottom" is not primarily due to investors real attraction to nations with weaker labour standards.⁵ There are substantial differences between these various points of view. It is critical to dispel the myth that restricting freedom of association, particularly in Export Processing Zones (EPZs), is an effective approach for attracting Foreign Direct Investment (FDI). Local governments may perceive firms

¹ Werner Sengenberger, "International Labour Standards in the Globalised Economy: obstacles and opportunities for achieving Progress", In John D.R. Craig and S. Michael Lynk, (ed.), *Globalisation and Future of Labour Law* 331(2006).

² In a race to financing and investment basic human rights are undermined is the allegation.

³ [https://www.ilo.org/dyn/normlex/en/f?p=1000:12020:::~:::](https://www.ilo.org/dyn/normlex/en/f?p=1000:12020:::), last accessed on 22nd January 2022.

⁴ OECD, *Trade, Employment and Labour Standards, A Study of Core Worker Rights and International Trade* (1996).

⁵ Charles Oman, *Policy Competition for Foreign Direct Paris Investment: A Study of Competition among Governments to Attract FDI* (2000).

as attracted by low wage costs and limited labour regulation, while investors may be willing to pay higher manufacturing costs for stability, infrastructure, and favorable labour relations⁶. It is worth mentioning that, according to a poll of investors, labour costs are not often among the most important criteria impacting their choice of Foreign Direct Investment (FDI)⁷ locations. A textile manufacturer invested in dust reduction equipment, resulting in increased labour productivity, reduced absenteeism, lower illness rates, and better job performance. This strategy spread its benefits across the textile industry, outweighing initial costs.⁸ To meet labour standards, a coordinated economic and social strategy is needed at national and international levels. The G-8 Group has made progress, but political and ideological disagreements exacerbate issues. Domestic legislation and compliance with International Labour Standards significantly impact national labour conditions, thus ratification of ILO Conventions are important but not guaranteed.⁹

International Labour Standards (ILS) are beneficial for economic growth, productivity, labour market flexibility, income equality, democracy, social solidarity, and political stability. They are applicable to all countries, and governments can adjust social norms based on their economic capabilities. Wage and productivity alignment occurs at the corporate level, and social security benefits and workplace safety expenditures should be adjusted accordingly.¹⁰ Labour regulations are not just about governing a country's labour conditions; they also require effective implementation of ILS. To develop ILS, decision-makers and the public need to be made aware of their importance. Traditional economic thinking hinders ILS use, and policymakers should avoid errors associated with monetarism and supply-side economics.¹¹ The implementation of ILS requires political commitment from national and international authorities, prioritizing them in economic and social policies. Low labour standards are often due to political regimes, intentional lower labour requirements, and difficulties in implementing national laws in economically disadvantaged countries. The study aims to categorize the economic ramifications of each mechanism, focusing on whether Private activities and government choices can influence incentives or disincentives. Reforming labor standards in low-income nations and providing technical assistance can improve labor relations. Strengthening ties with the ILO and supporting International Labour Standards can promote economic growth.

⁶ ILO, *Your voice at Work*, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, (ILO, Geneva, 2000).

⁷ Fabrice Hatem, *International Investment: Towards the year 2000* (1997).

⁸ Werner Sengenberger, *Globalisation and Social Progress: The Role and Impact of International Labour Standards* 89 (2005). A report Prepared for the Friedrich Ebert Stiftung,

⁹ Ibid at 99

¹⁰ Maryke Dessing, "The Impact of Trade on Employment in 18 Less Industrialized Countries: An Econometric Analysis" (2002).

¹¹ Frank Wilkinson, "Inflation and Employment: is there a third Way?" 24 CJE (6) (2000).

III. ILO'S SUPERVISORY SYSTEM OF COMPLIANCE

One essential instrument for encouraging decent work and making sure that labour standards are respected globally is the ILO's supervisory System- The ILO effectively addresses labour-related issues and aids member nations in improving their labour practices, with political organizations CCAS and CEACR responsible for enhancing adherence to ILS.¹² The ILO is a global organization that combines technical bodies, non-governmental organizations, and member states to address social, labour and workers' rights issues. Its treaties are subject to rigorous examination upon ratification by nations and actively oversees certain duties associated with membership, enhancing its overall effectiveness.

*The Regular Supervisory System is a crucial ILO component that evaluates member states' implementation of ratified labor conventions for nations that have ratified the Conventions*¹³. The regular supervisory system aims to ensure adherence to labor standards agreements. Governments ratifying a specific Convention must submit a report, which is then reviewed by employers and workers' organizations. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) receives these reports and feedback from various organizations. The final report is discussed during the International Labour Conference plenary session. The ILO takes a different approach to labour standard compliance than ordinary international law, requiring countries to report on their legal framework for a Convention or Recommendation.

The ILO's Complaint Mechanisms ensure adherence to International Standard- The ILO may designate a Commission of Inquiry¹⁴ to look into and offer recommendations if a government does not respond to a complaint in a way that is satisfactory within a reasonable amount of time. The ILO provides a mechanism for governments to appeal to the International Court of Justice or follow recommendations from the Commission of Inquiry to ensure compliance with ratified labour norms. This system has been used in cases involving Nigeria, Myanmar, Chile, Nicaragua, and other countries¹⁵. The ILO uses various supervisory structures, including CEACR, Article 26 complaint procedure, and Commission of Inquiry, to determine if a member has violated its convention. These decisions become legally enforceable when member states adopt them or decide not to bring the case to the International Court of Justice. The Committee on Freedom of Association manages complaints without government approval, ensuring

¹² Kari Tapiola, Executive Director, Standards and Fundamental Principles and Rights at Work Sector of International Labour Office says that: "The Committee of Experts is one of the least criticized, and probably also the best respected, part of the supervisory system".

¹³ Under Article 22 of the ILO Constitution each of members shall report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party.

¹⁴ Under Article 26 (3), The Governing body if it thinks fit may refer the complaint to the Commission of Inquiry

¹⁵ Article 33 of the ILO Constitution provides that: In the event of any member failing to carry out within the time specified the recommendations, if any contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be the Governing body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith.

effective investigation of freedom of association complaints¹⁶, The ILO's Committee on Freedom of Association addresses freedom of association norm abuses by receiving complaints and examining them before making suggestions to the Governing Body, potentially engaging with the nation's government.

Measures to strengthen the ILO Supervisory System- The ILO Director-General has proposed measures to improve oversight of key Conventions, such as non-discrimination in employment, forced labor, and freedom of association. These include creating new protocols and promoting ratification of significant Conventions by member countries. The ILO's success is attributed to its integration of periodic reports and complaints, expanding monitoring even without convention ratification, and its proficiency in conducting field investigations and tacit diplomacy.¹⁷ The UN's human rights processes—which include fact-finding commissions, state reporting, direct interaction with governments, compliance promotion, and the possible employment of the International Court of Justice¹⁸—were made possible by the ILO's creative supervisory techniques. The Organisation is committed to improving labor standards, amending conventions, and introducing new protocols. Critics argue for lax oversight and lack of strict enforcement. Strengthening national supervision, collaborating with international cooperatives, and supporting agricultural and informal laborers can increase production and adherence to labor laws.

IV. PROMOTION OF LABOUR STANDARDS BY ILO

The World Commission on Social Dimension of Globalisation (WCSDG) advises¹⁹ the ILO to continue being watchful when it comes to grave and ongoing abuses of basic labour rights. It highlights the strength of the ILO's membership in pressuring countries who disobey their international duties and calls on the organisation to take decisive action when needed²⁰. The WCSDG calls for a review of multilateral organizations' policies and processes to ensure they uphold international law and protect human rights, promoting global discourse on shared values.²¹ The ILO is collaborating with the International Programme on the Elimination of Child Labour (IPEC) to promote technical cooperation and normative action in eradicating child labour and upholding labor standards for millennium development objectives.

Upholding Labor Standards: The ILO's Global Efforts to Combat Child Labor and Promote Workers' Rights- Since the 1950. The ILO has provided technical assistance to nations, allocating over funds. The 1998 Declaration expanded globalisation's social aspect by

¹⁶ ILO, “Fundamental Principles and Rights Work and its Follow-up”, (paragraph 2) adopted by the International Labour Conference in its 86th Session on June 18, 1998.

¹⁷ Wilfred Jenks, “*Human rights, social justice and peace – The broader significance of the ILO experience*”, Norwegian Nobel Institute, Symposium on the international Protection of human rights 25-27 (1967).

¹⁸ V. Leary, “The International Labour Organization”, in P. Alston (ed.), *The United Nations and Human Rights* (1992).

¹⁹ ILO, *A Fair Globalisation: Crating Opportunities for all, report of the World Commission on the Social Dimension of Globalisation*, Para 426 (2004).

²⁰ Article 33 provides for Coercive measure by ICJ a nation which violates Labour Standards.

²¹ Supra Note 19 of Para 602.

emphasizing Core Labour Standards.²² The ILO's international labour standards, including human dignity, freedom, justice, solidarity, and equality, are fundamental to upholding a socially responsible global framework.²³ The ILO's 1998 Declaration on Fundamental Principles and Rights at Work is a crucial governance instrument for promoting balanced economic and social growth, emphasizing the importance of upholding employers' and employees' rights worldwide.²⁴ In terms of improving labour laws and workers' rights, the ILO is a world leader.²⁵ The 1995 Copenhagen summit established a global consensus to protect workers' rights, including freedom of association, collective bargaining, abolition of forced and child labor, and workplace discrimination prevention, which was further reinforced by the 1998 ILO Declaration²⁶. These rights have been recognised by several international programmes as the cornerstone of just development. Growing international support for these fundamental rights is shown in the adoption of key labour standard treaties. The paper emphasises the necessity of strengthening the ILO's promotion capabilities and incorporating fundamental labour standards into the larger international development agenda.²⁷ Prior to 1995, there were not many ILO conventions ratified; however, after the 1995 Summit and especially the 1998 ILO Declaration, there has been a notable surge in ratifications²⁸. The 2004 World Commission for the Social Dimension of Globalisation recommended two areas for ILO to focus: increased technical assistance programs and active support of core labour standards by international institutions. Prioritizing children's welfare, alternative work opportunities for adults, and targeted donor assistance can help reduce financial pressures driving children into labor. The growth of microbusinesses and the private sector can also help²⁹. Women's involvement in development initiatives has significant impact on families, economies, and society, Child labour, initially used to educate children about social duties, has become a dangerous exploitation that requires legal protection. The ILO began attempting to stop child labour right from 1919, enacting agreements and guidelines to establish minimum age requirements and address young employees' and children's working conditions.³⁰ OECD study³¹ finds that child labour is a complex problem influenced by cultural norms, political will, and poverty that calls for effective policy and a focus on reducing poverty. The ILO has enacted laws that forbid child labour and emphasise the necessity of ending it in all of its forms. Launched in 1992, the International Programme for the Elimination of Child Labour³²

²² United Nations, Final Report of World Summit for Social Development (1995)

²³ Ibid Paras-37-51.

²⁴ ILO, *Policies and Social Partnerships for good governance, Governing Body doc. G.B. 288/WB/SDG/2, 288th Session, Geneva, Nov. 2003.*

²⁵ Ministerial Statement of WTO in its 1996 Ministerial Conference and United Nations World Summit on Human Development, 2005.

²⁶ ILO, Fundamental Principles and Rights at Work Para 2 (1998).

²⁷ WCSDB para 426

²⁸ ILO, *The Report of the World Commission on Social Dimension of Globalization* (2004).

²⁹ OECD, Trade Employment and Labour Standards: A study of Core Workers Rights and International Trade 62 (1996).

³⁰ Ibid

³¹ Ibid

³² C138 Minimum Age Convention, 1973 and C182 Worst Forms of Child Labour Convention, 1999.

(IPEC) works in over 88 countries, focusing on the worst types of child labour as defined by the ILO C182 Convention. Even though there has been a significant decrease in child labour, more work is needed to reach the 2022 goal of eliminating the worst kinds of it. The United Nations Convention on the Rights of the Child supports the protection of children against hazardous jobs and economic exploitation.

Abolition of Forced or Compulsory Labour- Forced labour is largely forbidden in the modern world, but can be required by national laws or as punishment. Two ratified ILO agreements cover forced labour. The ILO emphasizes the importance of upholding fundamental labour rights at the national level, encouraging the growth of strong employers and workers' organizations. To achieve universal ratification of core agreements, the ILO urges additional nations to ratify its conventions, particularly in the fight against child labor. The ILO also provides unbiased data on member states' compliance with international labour rules.³³

The Declaration of Philadelphia and the ILO's Constitution emphasize the importance of association freedom for harmony and improved working conditions. The International Labour Conference of 1998 mandates member nations to uphold these fundamental rights, as outlined in Conventions No. 87 and No. 98.³⁴ Maintaining the rights to collective bargaining and association freedom is essential to promoting global growth. Along with enhancing social circumstances and upholding human rights, this also supports a thriving civil society that is intimately linked to progress. Thus, fostering fair economic cultures and institutions requires backing trade unions, professional associations, and other groups.³⁵ The ILO aims to promote global collective bargaining, based on the 1944 Declaration of Philadelphia and the 1949 Right to Organise and Collective Bargaining Convention. The 1998 ILO Declaration on Fundamental Principles and Rights at Work mandates members to recognize and protect these fundamental rights.³⁶ Non-governmental organisations (NGOs), frequently supported by bilateral donors, take the lead in developing and carrying out initiatives related to labour and human rights, particularly in areas where direct government participation is difficult. The OECD study³⁷ suggests that many developing countries lack the institutional and technical capacity to develop comprehensive labour legislation and to enforce it, including labour standards. Labour organisations play a crucial role in civil society growth, but many developing nations face challenges like legal restrictions, persecution, and financial difficulties. To address these, initiatives focusing on accountability, good governance, and rule of law should be implemented. Collaboration with institutions like the World Bank and ILO is essential, as developing countries often lack the capacity to create comprehensive labor laws.

³³ Kari, Tapiola, *The ILO system of regular supervision of the application of Conventions and Recommendations: A lasting paradigm*, Geneva 2006.

³⁴ ILO, *Fundamental Rights at Work and International Labour Standards* 5 (2003).

³⁵ OECD, 65 (1996).

³⁶ ILO, *Fundamental Rights at Work and International Labour Standards* 21 (2003).

³⁷ OECD, *Trade Employment and Core Labour Standards* 66 (1996).

Equality of Opportunity and Treatment and in Employment and Occupation- The ILO has always supported fair treatment and equality of opportunity, with its constitution emphasizing fair labor conditions and equal compensation. The Equal Remuneration Convention (1951) and the Discrimination (Employment and Occupation) Convention (1958) further aimed to address discrimination based on racial, gender, religious, and political convictions. In the mid-1970s, the ILO shifted its focus to equality and protection for all, particularly women.

V. PROMOTION OF LABOUR STANDARDS BY WTO

The WTO's dispute settlement process plays a crucial role in resolving disputes between trade agreements and labor standards- The dispute settlement process's ability to handle socially entwined legal issues, particularly within the WTO, is under scrutiny. This issue stems from the collapse of the third WTO Ministerial Conference in Seattle and the confirmation at the fourth Ministerial Conference in Doha that the ILO is the appropriate forum.³⁸ The opposition of developing nations to the WTO's integration of labour standards aims to limit their policy change and pressure the system, arguing that the ILO should support CLS. Demands for trade linkage include general trade penalties against noncompliant nations and targeted actions for child or jail labor.

Generalised Trade Sanctions- The Havana Charter of 1948, which acknowledged the link between unjust labour practices and international trade challenges, influenced later trade agreements like the 1953 International Sugar Agreement. It aimed to prevent declining living standards and unfair competition in the sugar industry, highlighting the ongoing relationship between labor conditions and global trade.³⁹ There were no particular labour standards clauses in the 1947 General Agreement on Tariffs and Trade (GATT). For purposes such as safeguarding human, animal, or plant life and health (Article XX(b)) or preserving finite resources (Article XX(g)), it permitted members to implement trade restrictions as exceptions. The Havana Charter discussions rejected the concept of using Article XX(d) to ensure adherence to labour standards⁴⁰. The GATT, established on the non-discrimination principle, does not specifically address labour standards beyond Article XX(e). An expansion of Article XX may include products that violate other labor norms, such as freedom of association. The ILO's claim of jurisdiction over labor rights matters overlooks the WTO's role in restricting trade sanctions, which are necessary for ensuring compliance with the Convention on the Laws of the Sea (CLS). Some opponents argue that these restrictions may extend beyond protectionist purposes.⁴¹ The Turtle case brought up the question of whether trade sanctions may be used for ecological

³⁸ Kofi Addo, *Core Labour Standards and International Trade: Lessons from the Regional Context* 135 (2014).

³⁹ The wording was influenced by recommendations of an ILO Technical Conference in 1937; Steve Charnovitz, "The influence of international labour standards on the world trading regime A historical overview", Vol. 126 *International Labour Review* 567 (5) (September-October 1987).

⁴⁰ Drusilla K. Brown, "International Trade and Core Labour Standards: A Survey of the Recent Literature", *OECD Labour Market and Social Policy Occasional Papers* 6 (43) (2000) Available at <http://dx.doi.org/10.1787/677200103808>.

⁴¹ Random House, *Development as Freedom* (1999).

concerns. The Appellate Body in this instance confirmed the Panel's conclusions that the US measure prohibiting the import of prawns harvested in a way that endangered sea turtles was appropriate under Article XX.⁴² The World Trade Organization (WTO) emphasizes the importance of upholding globally recognized labour standards in trade agreements to promote fair global commerce. However, concerns have been raised about the applicability of ILO Article 33, which permits economic sanctions against non-compliant Member States, to WTO responsibilities. The only specific mention of labour standards in WTO agreements is found in GATT 1947 Article XX(e), which permits imports produced using labour obtained from prisons. The Vienna Convention on the Law of Treaties (VCLT) mandates that the general rule of interpretation be adhered to when addressing these issues. The terms of WTO agreements should be interpreted with common sense and any relevant international legislation must be taken into consideration. The ILO is seen as the most suitable organization to enact labor-related legislation and deal with these concerns.⁴³ The enforcement of labour standards within the World Trade Organisation (WTO) faces significant challenges due to the binding nature of ILO treaties and the need for state approval. The WTO must demonstrate that labour standards are a customary and binding component of international law, which is challenging, especially for labour rights not related to manufacturing costs. The WTO's economic law concepts of Most Favoured Nation (MFN) and National Treatment (NT) further complicate the enforcement of labour rights, as fair global commerce relies on the MFN principle for non-discrimination.⁴⁴ GATT Article I.1 mandates that benefits or privileges granted to a product of one nation must be offered unconditionally to all other contracting parties. GATT Article III prohibited discriminatory fiscal measures on imported goods relative to local ones, ensuring equal treatment for goods entering another nation's territory.

Navigating the Complex Intersection of Trade Sanctions, Social Labeling, and Labor Standards- Trade sanctions can exert moral pressure on regimes, as seen in the embargo against apartheid in South Africa and sanctions related to Ian Smith's independence. The United Nations endorses these measures, but successful embargoes are more effective when they address universally condemned issues like slavery or apartheid. Multilateral embargoes carry more moral weight than unilateral ones, making it harder to argue actions are driven by moral motives. With civil society and media coverage, exposing morally objectionable practices has increased, making them a complex tool for fostering dissent.⁴⁵ International trade cannot be considered free trade if

⁴² United States- import prohibition of certain Shrimp and Shrimp products, Report of the Appellate Body, 12 October 1998. WT/DS58/AB/R. The Appellate Body found that although the United States conservation scheme itself could be justified in principle under the "Conservation of natural resources" exception in Article XX(g), the manner of application of the scheme did not meet certain in the "Chapeau" or general preambular provision of Article XX.

⁴³ VCLT. Art. 31.3 (c).

⁴⁴ JH Jackson, *The World Trading System: Law and Policy of International Economic Relations*, 158 (2000); See the ongoing ILC study group on the most-favoured-nation clause at http://untreaty.un.org/ilc/summaries/1_3_parttwo.htm; also see Notes by Prof. J. Pauwelyn, Graduate Institute, Geneva, on The Role of Opinio Juris in customary International Law, Geneva, 12-13 July 2013.

⁴⁵ Jagdish Bhagwati, *In Defense of Globalization* 242 (2008).

it doesn't promote individual freedom⁴⁶. Social labeling, a form of sanctions or embargo, requires specific labor standards in manufacturing to prevent access to markets for certain goods. However, these demands often overlap with protectionist measures, raising concern social Labelling. NGOs are frequently the ones who start social labels, which have gained popularity as a way to raise labour standards. WTO laws do not directly oversee these schemes; nonetheless, member nations ought to refrain from endorsing measures that are in opposition to the WTO's Agreement on Technical Barriers to Trade (TBT). To encourage socially conscious manufacture, certain nations—like Belgium and France—have implemented fair trade policies and social labelling. Talks on mandatory social labelling programmes and their adherence to WTO regulations, in particular, continue to centre on the legal ramifications of these initiatives under WTO regulations. Since social labelling programmes usually distinguish products based on manufacturing standards rather than national origin, they may be in violation of Article III of the GATT when they seek to safeguard local products. Important considerations include whether local and imported items are treated differently than "like products" and if imports are given preferential treatment. International review procedures are less powerful in the global marketplaces of today than media influence, financial decisions, and consumer choices. A company's social performance may be evaluated using information and criteria provided by social labels e.g., Rugmark⁴⁷ and corporate codes of conduct, which allow individual economic players to take into account the behaviour of both the producer and the product. Employers and developing countries resist market-oriented tools, fearing unjustified discrimination and potential conflict with ILO conventions due to poor design and potential divergence from the marketplace⁴⁸. Government-supported social labelling schemes, despite passing GATT's Article III.4 test, face challenges in the Agreement on Technical Barriers to Trade (TBT)⁴⁹, which prevents protectionist measures disguised as technical standards, requiring imported goods to be treated equally as domestic goods.⁵⁰ Linking labor standards and human rights to trade market access is not a suitable approach. Instead, focusing on moral persuasion and enhancing international agencies' review and monitoring capabilities is more promising. Democratic politics and judicial activism can translate international norms into effective domestic legislation or enforcement, considering local traditions and circumstances.

The connection between trade regulations and labor standards is a longstanding issue, dating back to the 1948⁵¹ Havana Charter. Article 7 of the Havana Charter emphasized the importance of social conditions in the trading system, urging governments to collaborate with the

⁴⁶ W. Safire, "The Clinton Round", New York Times of 6 December 1999, A 32.

⁴⁷ [www.http//rugmark.org/about/index.html](http://rugmark.org/about/index.html)

⁴⁸ K. Hagen, "Issues Involving Codes of Conduct from an ILO Perspective", ASIL Proceedings (92) 267 (1998).

⁴⁹ Article 3 requires WTO members to take reasonable measures to ensure compliance by their local government or non-governmental organisations with the provisions of Art. 2 and they must not require or encourage such bodies to act in a manner inconsistent with those provisions. Article 4 requires to ensure compliance with a Code of Good Practice for the Preparation, Adoption and Application of Standards (annex 3).

⁵⁰ Article 2.2 of TBT.

⁵¹ Havana Charter of 1948 was to Create International Trade Organisation (ITO) which was forerunner of GATT.

ILO to address labor rights in trade agreements. However, the GATT and WTO did not include labor rights. After the WTO's establishment, developed nations raised concerns about unfair economic advantage due to weak enforcement systems and low labor standards. WTO members reaffirmed ILO's support for labor standards.⁵² Social labelling is a certification process that verifies export products using fair labor practices, ensuring they are produced without exploitation or abuse, and assumes developed countries' consumers are willing to pay higher prices.⁵³ Social labelling, a strategy that certifies products free from labor exploitation, originated in consumer movements in the 1970s. Examples include the "Rugmark" campaign in India, Nepal, and Pakistan, which aimed at elimination of child labor in the carpet industry. These programs targeted consumer goods and allow ethical choices. However, there is disagreement about how social labelling initiatives affect commerce. Some argue that it might operate as a non-tariff trade barrier, while others believe it could be an upgrade over and possible replacement for unilateral trade activities. Tying labor standards to commerce might impede trade liberalization, leading to tighter labor standards than individual agreements. Legal issues arise when fundamental labor norms and global trade are formally linked, such as consistency and substance of legal paths leading to decision-making.⁵⁴

VI. A NEW APPROACH TO PROMOTE LABOUR STANDARDS

The Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998 has been a new approach to promote labour Standards- International organisations frequently make reference to core labour standards, also known as "enabling rights". According to the ILO Declaration, which are designed to guarantee equitable pay and human potential.⁵⁵ The requirements for multinational enterprises are outlined in the United Nations Global Compact, OECD Guidelines, and the International Covenant on Economic, Social, and Cultural Rights.⁵⁶ The commitment of member nations to the ILO's fundamental labour standards is unclear due to the automatic ratification of the ILO Declaration, which encourages inconsistent international labour standards.⁵⁷ The interpretation of labor standards provisions in trade agreements is crucial to acknowledge the inconsistent application of these standards by countries.⁵⁸ The OECD asserts that ratification of conventions differs significantly from their actual enforcement on the ground, raising questions about its meaning.⁵⁹ The acceptance of ILO treaties by a nation does not

⁵² WTO, "Labour Standards: Consensus, Coherence and Controversy", online report at http://www.wto.org/english/thewto_e/whatis_e/tif_/bey5_e.htm.

⁵³ Werner Sengenberger, *Globalisation and Social Progress: The Role and Impact of International Labour Standards*, Friedrich Ebert Stiftung 113 (2005).

⁵⁴ Steve Charnovitz, "The Influence of International Labour Standards on the World Trading System: An historical Overview" 126 *ILR* (5) 565 (1987).

⁵⁵ Doumbia-Henry, Cleopatra, and Eric Gravel. "Free Trade Agreements and Labour Rights: Recent Developments" 145 *ILR* (3) 185-206 (2006).

⁵⁶ Department for International Development, Labour Standards and Poverty Reduction, (DFID, UK, 2004).

⁵⁷ Michael A Cabin, "Labour Rights in the Peru Agreement: Can Vague Principles Yield Concrete Change?" 109 *CLR* 1047 (2009).

⁵⁸ Ibid

⁵⁹ OECD, International Trade and Core Labor Standards 30 (2000).

necessarily indicate a desire to improve labor standards or ratify treaties due to prior compliance. It is suggested that⁶⁰ these standards are often symbolic and have minimal impact on working conditions or labor rights. The 1998 Declaration was partly influenced by the ILO's desire to expand the Committee on Freedom of Association's focus on other fundamental rights.⁶¹ The 1998 ILO Declaration aimed to maximize its influence by focusing on universal recognition of fundamental labor rights and expanding the social dimension beyond minimal provisions. It aligned market demands with human rights and dignity, encouraging member states to use ILO conventions for social progress and addressing concerns about social labelling hiding protectionist motives.⁶² According to the UN Charter and general principal of international law, all UN members are legally required to protect human rights, as confirmed by the International Court of Justice.⁶³ The 1998 Declaration focuses on labor rights, including freedom of association, coercive labor, child labor, and employment discrimination, and emphasizes technical collaboration. The ILO is primarily responsible for advancing labor standards, but struggles to press member nations to adopt them.

VII. CONCLUSION

The ILO ever since its establishment has done commendable work in the field of labour standards. In the area of enforcement and promotion of labour standards ILO stands in a different footing all-together in comparison with other international organisations. The ILO's approach for enforcing labour rights through compliance mechanism has achieved significant progress. Nonetheless if given economical support by member states ILO would do wonders in the area of enforcement and promotion of labour standards.

1. Globalisation and Future of Labour Law”, Edited by John D.R. Craig and S. Michael Lynk, 2006
2. Website - <https://www.oecd-ilibrary.org/>
3. Website – www.ilo.org
4. Website = <https://press.un.org/>
5. <https://library.fes.de/pdf-files/iez/02980.pdf>
6. F Wilkinson, *Cambridge Journal of Economics*, Volume 24, Issue 6, November 2000, Pages 643–670, <https://doi.org/10.1093/cje/24.6.643>
7. <https://www.ilo.org/declaration/lang--en/index.htm>.

⁶⁰ Flanagan (2003)

⁶¹ Katherine A Hagen, “The International Labour Organization: Can It Deliver the Social Dimension of Globalization”? *Dialogue on Globalisation*, 12 (11) 2003.

⁶² ILO, ILO Declaration on fundamental Principles and Rights at Work, (International Labour Conference 86th Session (1998).

⁶³ ICJ cases of Barcelona Traction, ICJ reports 1970, 32) and Nicaragua Judgement (ICJ Reports 1986, 114).