

LABOUR TURMOIL IN TIMES OF GLOBAL MELTDOWN

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1.1 THE GLOBAL MELTDOWN NIGHTMARE:

Within the space of a few months, we have seen major banks crash, the biggest one-day fall in the history of the Financial Times Share Index and the largest one-day rise in the Dow Jones; oil prices soar to \$150 dollars a barrel, then drop to a third, and Britain's lowest-ever interest rates.²¹⁵ The world stood stunned as global corporate giants of the like Lehman Brothers, Merrill Lynch, AIG, Morgan Stanley, Freddie Mac, Fannie Mae etc. got ruined. Economies around the world started crashing and there was a collapse of entire financial systems in countries such as Iceland. *Welcome to the nightmare called global meltdown!*

According to the National Bureau of Economic Research, the current global meltdown really started in December 2007.²¹⁶ The International Labor Organization's recent prediction is that lose to 50 million jobs could be lost globally by the end of 2009 making this the most significant risk the world economy has faced in the last fifty years.²¹⁷

1.2 TRIGGERING THE RECESSION: THE US SUB-PRIME CRISIS:

The complex of vicious circles which contributed to this crisis included high oil prices, high food prices and was majorly triggered off by the United States sub-prime crisis. This sparked an interrelated and ongoing financial crisis.²¹⁸ In the booming US housing

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215 John Healey, *Labour leads new frontline in recession battle* as accessed from <http://www.tribunemagazine.co.uk/2009/02/16/labour-leads-new-frontline-in-recession-battle/> (last visited on 6th February, 2009)

216 *National Bureau of Economic Research, Business Cycle Expansions and Contractions* as accessed from <http://www.nber.org/cycles.html>. (Last visited on March 13th, 2009)

217 *ILO European Regional Meeting Calls for Coordinated Response to Economic Crisis* as accessed from http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang-en/WCMS_101462/index.htm (Last visited on March 11th, 2009)

218 Graeme Wearden, *Oil prices: George Soros warns that speculators could trigger stock market crash* as accessed from <http://www.guardian.co.uk/business/2008/jun/03/commodities> (Last visited on March 11th, 2009)

sector, a combination of low interest rates and large inflows of foreign funds helped to create easy credit conditions. This spurred on a situation whereby banks offer 'subprime loans' to people with risky credit ratings. As these people began to default on their repayments, it led to a wave of repossessions and bank losses. This in turn led to the crash in housing prices. As the home prices crashed, the lending companies, found them in a situation where loan amount exceeded the total cost of the house. Eventually, there remained no option but to write off losses on these loans.²¹⁹

1.3 IMPACT ON THE GLOBAL MARKETS:

The effects of these losses were huge. Global banks and brokerages have had to write off an estimated \$512 billion in subprime losses so far, with the largest hits taken by Citigroup (\$55.1 billion) and Merrill Lynch (\$52.2 billion). The crisis has also seen Lehman Brothers - the fourth largest investment bank in the US and the one which had survived every major upheaval for the past 158 years - file for bankruptcy. Freddie Mac and Fannie Mae, two giant mortgage companies of US, have effectively been nationalized to prevent them from going under.²²⁰

Of course, in today's times with the global economies being so inter-connected, the recession in the US market set off a domino effect and soon materialized into the global meltdown completely engulfing the world economy with varying degrees of recessional impact.²²¹ World trade is expected to decline by 2.1 percent during 2009, the first such falloff since 1982.²²²

Problem - recession and labour exploitation

As stated by Cathy Paige, vice-president of Manpower Inc, "This is an equal-opportunity recession. Everyone is feeling it." Enterprises around the world have stopped hiring

219 Adrian Blundell-Wignall, *The Subprime Crisis: Size, Deleveraging and Some Policy Options* as accessed from <http://www.oecd.org/dataoecd/36/27/40451721.pdf> (Last visited on March 13th, 2009)

220 John Kiff and Paul Mills, *Money for Nothing and Checks for Free: Recent Developments in U.S. Subprime Mortgage Markets*, IMF WP/07/188 as accessed from http://works.bepress.com/cgi/viewcontent.cgi?article=1006&context=john_kiff (last visited on 6th February, 2009)

221 *Introduction, Global Economic Prospects 2009: Outlook Summary* as accessed from <http://web.worldbank.org/external/default/main?theSitePK=612501&pagePK=2904583&contentMDK=20656835&menuPK=612508&piPK=2904598> (Last visited on March 11th, 2009)

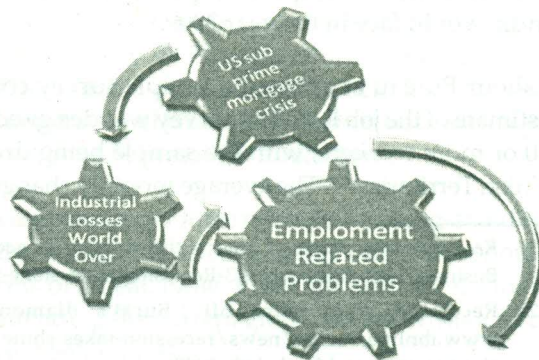
222 *Prospects for the Global Economy, Global Economic Prospects 2009: Commodity Markets at the Crossroads* as accessed from <http://web.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/EXTGBLPROSPECTS/0,,menuPK:615470~pagePK:64218926~piPK:64218953~theSitePK:612501,00.html> (Last visited on 6th February, 2009)

and are downsizing the existing staff and cutting down perks and salaries. It is important to consider why the downturn which started in the American economy is leading to job losses in diverse and far away places like Switzerland, Australia and even India, which is at the other end of the globe.

2.1 The Link: We live in the age of globalization, where the economies are interconnected. The American economy is the hearts of this inter connected structure. When sub prime mortgage crisis affected its financial system, its industries were affected. Its industries employ people from all over the world directly or indirectly. They import raw materials from almost all developing nations across the globe and export its products world over. So as these industries suffering losses the other countries are getting affected too. When the industries are running in losses or anticipating low demand in future, they are resorting to cost cutting measures.

2.2 Impact on Indian Labour: The global slowdown has affected the Indian economy. During the last three years Indian economy grew at an average annual rate of 8.6 per cent.²²³ For the first time, the economy has shown signs of deceleration and grew at 7.8 per cent in the first half year of 2008-09.²²⁴

According to the International Monetary Fund, the growth of exports from emerging and developing economies is likely to fall from a positive 9.6 per cent in 2007 and 5.6 per cent in 2008 to a negative 0.8 per cent in 2009. It is small recompense that the rate of growth is projected to rebound sharply in 2010. Such projections are suspect since the IMF has made it a habit of putting out optimistic projections and then revising them downwards.²²⁵



The economic crisis is taking a huge toll on jobs across India. Global economic downturn has become a widespread reality in India leaving no sector or segment untouched be it

223 Indian Budget 2009-10 accessed from [http://indiabudget.nic.in/ub2009-10\(I\)/bs/speecha.htm](http://indiabudget.nic.in/ub2009-10(I)/bs/speecha.htm) (last visited on 10th March, 2009)

224 *Ibid*

225 C.P. Chandrasekhar, *Down and out*, Frontline Volume 26 - Issue 05 :: Feb. 28-Mar. 13, 2009

the silk industry of Bhagalpur, Bihar²²⁶; the diamond industry of Surat, Gujarat²²⁷; granite quarries in Chimakurty, Andhra Pradesh²²⁸ or export houses in Gurgaon, Haryana.²²⁹ With increase in job cuts, overload on existing work force and a greatly oppressive work environment with no alternative to turn to, labour exploitation has become a widespread reality under the garb of recession.

In India, the crisis hit the financial sector first, being transmitted through the exodus of foreign financial capital from the country for meeting commitments or covering losses incurred by these firms in the source countries. The worst affected due to the recession is the Indian service industry which includes BPO, KPO, IT, ITeS etc. Service industry contributes about 52% to India's GDP growth.²³⁰ The elite institutions such as the Indian Institutes of Technology and the Indian Institutes of Management are not getting their desired placements, layoffs and redundancies are at an all time high in software services and BPO firms, and evidence of job losses are seen not only in US but also in the Gulf and across the Indian subcontinent.

2.3 The Labour Bureau Report, 2009: The government of India had asked the Labour Bureau to prepare a report on the increase in unemployment problem which India would face in the year 2009.

Labour Bureau conducted a sample survey covering eight sectors²³¹ to arrive at an estimate of the job loss. The survey was designed to cover a sample of units employing 10 or more workers, with the sample being drawn from 20 centers in 11 States and Union Territories.²³² The average monthly change in employment has been in negative.

226 *Recession takes shine off Bihar's silk industry* as accessed from <http://www.andhranews.net/Business/2009/February/23-Recession-takes-shine-91357.asp> (Last visited on March 10th, 2009)

227 *Recession takes shine off Surat's diamond industry* as accessed from <http://www.ibnlive.in.com/news/recession-takes-shine-off-surats-diamond-industry/75753-7.html> (Last visited on March 11th, 2009)

228 *US recession hits Indian quarries* as accessed from http://news.stonebtb.com/Industry_News/15634-US-recession-hits-Indian-quarries.shtml (Last visited on March 11th, 2009)

229 Tanushree Roy Chowdhury, *Gurgaon hit by global recession, many export houses shut, others on way out* as accessed from www.indianexpress.com/news/gurgaon-hit-by-global-recession-many-export-houses-shut-others-on-way-out/383655/ (Last visited on March 11th, 2009)

230 Mr. Tanveer Malik & Ms. Shweta Pandit, *Impact of recession in American economy on India* accessed from <http://www.indiastudychannel.com/resources/12740-Times-India-American-Indians-employment-impact-economic-recession-US-recession-hit.aspx> (last visited on 31st January, 2009)

231 These sectors include mining, textile & textile garments, metals & metal products, automobile, gems & jewellery, construction, transport and the information technology/business process outsourcing industry

232 Report On Effect Of Economic Slowdown On Employment In India (January, 2009) accessed from http://labourbureau.nic.in/Rep_Jan09_Trends_V1.pdf (last visited on 6th February, 2009)

(as shown in Table1). Five lakh people were rendered jobless between October to December 2008 due to the recession, according to this government study. Owing to low demands globally, the export & import has considerably reduced.

Besides the financial route, the crisis was also spread by the direct impact of the global trade slowdown on traditional export industries such as textiles and garments, gems & jewellery, and leather and carpets.²³³

Table 1 : Trends in average employment, India (million)

Period	Average Employment	Percentage change
September '08	16.2	
October 08	16	-1.21
November '08	15.9	-0.74
December '08	15.7	-1.12
Average monthly change		-1.01

2.4 Excessive work and Forced Leave: Putting workers on forced unpaid leave, often for one or more days a week, is a tactic being adopted around the world as firms seek to cut costs and keep skilled workers on the payroll, even if there is little work to do, so that they will have resources when orders pick up. Workers are being asked to go on a three-day forced leave and three-day leave on half-pay. It will be a six-day forced leave for employees. One such forced leave day each week typically equates to a loss of anywhere from 15-20 percent of a person's salary.²³⁴ Steel giant SAIL has decided to cut production at Rourkela plant on fall in global demand and TELCO has followed the suit.²³⁵ The main problem is that though several labour legislations deal with right to leave but none of them has a mention about right against forced leave.

2.5 Legal Obligations during Recession: Under force majeure²³⁶, a long-standing legal doctrine, companies can argue that natural disasters or other calamities should excuse them from living up to the terms of a deal. Now, there has been an alarming increase in litigation by companies contending the current global meltdown as a force majeure in order to escape previous legal obligations.

DOW Chemicals Case: In a Feb. 3 filing in Delaware Chancery Court, the facts are as follows - Dow Chemical (DOW) tried to walk away from a July 2008 agreement to

233 *Supra* note 225

234 *Asia tech firms cut costs with forced leave for workers*, 27 Dec 2008, The Economic Times accessed from http://economictimes.indiatimes.com/Asia_tech_firms_cut_costs_with_forced_leave_for_workers/articleshow/3898875.cms (Last visited on March 13th, 2009)

235 *Slowdown hits Tata Motors, Lucknow Plant Shutdown* accessed from <http://ibnlive.in.com/news/recession-hits-tata-sail-plants-shutdown/77837-7.html> (Last visited on March 11th, 2009)

236 *Force majeure* occurs when the law recognizes that without default of either party a contractual obligation has become incapable of being performed because the circumstances in which the performance is called for would render it impossible.

acquire Rohm & Haas. Rohm sued the chemical giant in January to force the \$15.4 billion deal to go through. DOW contended that “a cascading sequence of market failures of historic proportions” (i.e. current recession) justifies its effort to walk away from the deal. The case is still under trial.²³⁷

Deutsche Bank Case: In a case filed in a New York State court, the facts are that a construction loan pact between Donald Trump and Deutsche Bank (DB) also included the unusually broad phrase “any other event or circumstance not within the reasonable control” of the borrower. Trump is now arguing that the “calamitous economy” falls under that definition and should preclude Deutsche Bank from collecting \$40 million on a loan that he personally guaranteed for a hotel and condominium tower in Chicago.²³⁸

*Hoosier Energy Rural Electric Cooperative, Inc. v. John Hancock Life Insurance Co.*²³⁹: In federal court in Indiana, electric cooperative Hoosier Energy is contending that “one of the worst financial crises in our nation’s history” entitles it to more time to avoid a \$120 million payment demanded by John Hancock (MFC). In a Nov. 25 ruling, U.S. District Court Judge David F. Hamilton noted, “The credit crisis facing the world’s economies in recent months is unprecedented.” He temporarily stopped Hancock from pursuing payment, a ruling that is now on appeal.

Such cases and decisions are indeed alarming and seem to justify putting-off legal obligations and contractual debts with the excuse of global recession. With absence of a proper legislation to tackle the problems arising from this critical situation, many employees are left stranded with such judicial precedents only serving to add insult to injury.

2.6 Impact on Migrant Labourers: The global recession is causing a heightened sense of job insecurity among millions of migrant workers making them more vulnerable to abuse, say migrant rights advocates.

237 Michael Orey, *Should a Severe Recession Void Legal Obligations?* As accessed from http://www.businessweek.com/magazine/content/09_08/b4120032082134.htm?campaign_id=rss_null (Last visited on March 7th, 2009)

238 Robert Daniel & William Spain, *Trump faces Deutsche Bank suit* as accessed from <http://www.marketwatch.com/news/story/trump-entertainment-miss-interest-payment/story.aspx?guid=%7B7C187DC9-F04B-4225-A202-648889E4413E%7D&dist=TNMostRead> (Last visited on March 11th, 2009)

239 *Hoosier Energy Rural Electric Cooperative, Inc. v. John Hancock Life Insurance Co* 2008 WL 5068649 (S.D. Ind. Nov. 25, 2008) as accessed from <http://beckandlee.wordpress.com/2008/12/31/federal-court-endorses-financial-crisis-as-basis-for-relief-from-pre-existing-contractual-duties-could-real-estate-contracts-be-affected/> (Last visited on March 11th, 2009)

There are about 100 million migrant workers worldwide, most of whom crossed borders to escape poverty in their homelands. Their remittances - which amount to 250 billion US dollars - provide better lives for the families they left behind and boosted the economies of their homelands. However, the slowdown in the global economy has already compelled many companies to retrench workers and stop hiring. The International Labour Organization (ILO) forecasts that the crisis will result in the loss of some 20 million jobs, with migrant workers among the most likely to be retrenched.²⁴⁰

Migrant workers are desperate for work and will accept anything just to keep their jobs. They are now likely to be forced to accept lower wages and bad working conditions just to keep their jobs and support their families. "Worse, recession may give rise to xenophobic passions, discriminatory practices and even attacks against migrant workers and their families," adding that it is essential that migrants are given adequate protection by states.²⁴¹

Layoffs of these migrant workers may raise unemployment and poverty in their home countries as they return without jobs and often with hefty debts.²⁴² There is a need to study more deeply the effects of the financial crisis on migration in general and remittances in particular. The crisis brought to light the critical need for partnerships between origin and host countries to mitigate any negative impacts at either end. India, with some 20 million of its nationals abroad,²⁴³

2.7 Violation of Human Rights: Human rights and labour laws are deeply intertwined. In fact the employment related rights are the basic human rights at work place recognized under different statutes.

Every human being has the right to live and to feed himself and his dependents. Security of one's own life and livelihood is a pre-condition for orderliness. Liberty, equality and dignity of the person are intertwined precious right to every citizen. Article 1 of the Universal Declaration of Human Rights, 1948 assures human sensitivity and moral responsibility of every State and that all human beings are born free and equal in dignity and rights. Article 3 assures everyone the right to life, liberty and security of

240 *Global recession threatens human rights of poorest*, warns UN rights chief accessed from <http://www.un.org/apps/news/story.asp?NewsID=29962&Cr=financial+crisis&Cr1> (Last visited on March 4th, 2009)

242 *Asian Migrant Workers Face Abuse, Debt From Recession* accessed from <http://www.abs-cbnnews.com/features/02/03/09/asian-migrant-workers-face-abuse-debt-recession> (Last visited on March 11th, 2009)

243 End Report, The Civil Society Day Of The Global Forum On Migration And Development accessed from http://www.gfmd2007.org/downloads/EN_MigraDev.pdf (Last visited on 4th February, 2009)

person. Article 23 & 24 of the UDHR recognizes right to work and protection against unemployment.²⁴⁴

Human dignity is recognized in international law as a fundamental right that underpins numerous other human and labour rights. As the preamble in each of the two key human rights treaties, the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights*²⁴⁵ states, the 'inalienable rights of all members of the human family... derive from the inherent dignity of the human person.' Both these instruments also recognise the 'inherent dignity...of all members of the human family' while the *Universal Declaration of Human Rights* recognises the 'dignity and worth of the human person' and speaks of each worker's right to 'an existence worthy of human dignity.'²⁴⁶

The Preamble of the Constitution of India, the Fundamental Rights and Directive Principles constituting trinity, assure to every person in a welfare State social and economic democracy with equality of status and dignity of person. Political democracy without social and economic democracy would always remain unstable. Social democracy must become a way of life in an egalitarian social order. Economic democracy aids consolidation of social stability and smooth working of political democracy.²⁴⁷

In *Consumer Education & Research centre and Ors. v. Union of India and Ors.*²⁴⁸ a three-Judge Bench of the Supreme Court held that the jurisprudence of personhood or philosophy of the right to life envisaged in Article 21 of the Constitution enlarges its sweep to encompass human personality in its full blossom with invigorated health which is a wealth to the workman to earn his livelihood, to sustain the dignity of person and to live a life with dignity equality. The expression 'life' assured in Article 21 does not connote mere animal existence or continued drudgery through life.

But all these Articles, conventions and our constitution have failed to protect the human rights of our workforce during recession. 53 million more people could be trapped in poverty as global economic growth slows. The economic crisis has turned the job market upside down, and employers are making most of it.

244 *Kirloskar Brothers Ltd. V. Employees' State Insurance Corpn.* AIR1996 SC3261

245 *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights* accessed from <http://www2.ohchr.org/English/law/ccpr.htm> (Last visited on March 10th, 2009)

246 UDHR was adopted on 10 December 1948, GA Res 217A (III), UN Doc A/810 at 71 (1948)

247 *Ibid*

248 1995 AIR 922 1995 SCC (3) 42 JT 1995 (1) 636 1995 SCALE (1)354

According to the International Monetary Fund, the “world economy is now entering a major downturn in the face of the most dangerous shock in mature financial markets since the 1930s” and the governments have to act accordingly.²⁴⁹ Stimulus Packages are being dished out every other day, but it remains to be seen whether the benefit of these packages actually trickle down to those workers who are the hardest hit. The labour market outlook for 2009 depends on the effectiveness of coordinated government measures, and the time it will take for the global economy to find a path toward sustainable and socially equitable growth.

Role of ILO: crisis resolution at an international level

Varied range of steps has been taken at different levels to tackle the issue of violation of labour rights in this era of recession. These steps include financial steps like stimulus packages, legislative steps such as laws tailor-made for the situation, policy measures etc. They can be broadly divided into two levels a) International and b) Domestic.

3.1 REMEDIAL MEASURES AND ROLE OF IMF:

At the international level, institutions such as the IMF and the ILO play a pivotal role. The IMF recently identified the sources of the decline in aggregate demand to be drops in real and financial wealth; increase in precautionary saving on the part of consumers, a wait and see attitude on the part of both consumers and firms; and increasing difficulties in obtaining credit.²⁵⁰

Based on lessons extracted from past crises, the IMF argues that fiscal stimulus should be (a) *Timely*: as there is an urgent need for action (b) *Large*: because the drop in demand is large (c) *Lasting*: as the recession will likely last for some time (d) *Diversified*: as there is uncertainty regarding which measures will be most effective (e) *Contingent*: to indicate that further action will be taken, if needed (f) *Collective*: all countries that have the fiscal space should use it given the severity and global nature of the downturn and (g) *Sustainable*: to avoid debt explosion in the long run and adverse effects in the short run.²⁵¹ However, implementation aspect is sorely overlooked and no concrete plans are chalked out as to step by step implementation.

249 Subir Lall, *IMF Predicts Major Global Slowdown Amid Financial Crisis* accessed from <http://www.imf.org/external/pubs/ft/survey/so/2008/res100808a.htm> (last visited on March 10th 2009)

250 Antonio Spilimbergo, Steve Symansky, Olivier Blanchard, and Carlo Cottarelli, *Fiscal Policy For The Crisis*, Spn/08/01, December 29, 2008 as accessed from <http://www.imf.org/external/np/pp/eng/2008/122308.pdf>. (Last visited on March 11th, 2009)

251 *Ibid*

3.2 REMEDIAL MEASURES AND ROLE OF ILO:

The Preamble of the Constitution to the ILO states that the High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, resolve for social justice to labour.²⁵² In the era of global meltdown, it is imperative that the ILO plays a pivotal role to ensure that labour is protected and no injustice is meted out to the working classes. A key responsibility of the ILO and its constituents is to help ensure that policy responses maximize the employment content of recovery measures restoring growth which is essential to the successful pursuit of the Decent Work Agenda.²⁵³

As the *Officers of the Governing Body to ILO* emphasized in their November 2008 statement,²⁵⁴ "There is need of promoting employment, social protection, and fundamental principles and rights at work and, through the ILO's Decent Work Agenda, an effective policy package in response to the current economic crisis. The vision and strategy adopted in the 2008 ILO Declaration on Social Justice for a Fair Globalization is fully relevant in this context". The Declaration²⁵⁵ highlights the importance of coordination by member States of the positions they take in international forums and of vital contribution that other international and regional organizations have to make to the implementation of an integrated approach to decent work. This declaration furthers *ILO's Decent Work Agenda* where decent work is captured in four strategic objectives: fundamental principles and rights at work and international labour standards; employment and income opportunities; social protection and social security; and social dialogue.

Recently, the *8th European Regional Meeting* of the ILO at Lisbon called for protection of the most vulnerable members of the population stating, "the severity of the economic crisis is affecting a large number of workers on the labour market, including many who had secure jobs... Until more normal conditions return to credit markets, the threat of

252 *Text of the Constitution to ILO* as accessed from <http://www.ilo.org/ilolex/english/constq.htm> (Last visited on March 11th, 2009)

253 Vosko, *Decent Work: The Shifting Role of the ILO and the Struggle for Global Social Justice, Global Social Policy*, 2002. (Last visited on March 11th, 2009)

254 Ilo: The Global Economic Crisis, Statement Of The Officers Of The Governing Body, Nov. 2008 as accessed from www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_100689.pdf (Last visited on March 8th, 2009)

255 Ilo Declaration On Social Justice For A Fair Globalization, June 2008 as accessed from http://www.ilo.org/public/english/bureau/dgo/download/dg_announce_en.pdf. (Last visited on March 11th, 2009)

wage cuts, further lay-offs and rising unemployment will remain.”²⁵⁶

The ILO swore to avoid *social recession* at all costs.²⁵⁷ It also admitted to a pressing need to ensure full respect for fundamental principles and rights at work, namely freedom of association, right to collective bargaining, elimination of all forms of forced labour, abolition of child labour, and elimination of discrimination in respect of employment and occupation.²⁵⁸ Indian SC in *Daily Rated Casual Labour Employed under P & T Department v. Union of India*²⁵⁹ held; “As propounded by ILO, amongst all labour rights, security of work is of utmost importance.”

However, this is easier said than done. In the tremulous times of global meltdown, it is imperative for the ILO to enhance measures of social protection. It is also particularly important to preserve the pension systems and social security systems. As stated by ILO Director-General Juan Somavia, “The social and political repercussions of a deep and prolonged recession are daunting. Our priority attention must turn to halting the slide into a full-blown social recession.”²⁶⁰

United States vis-à-vis India: A Comparative Study

4.1 REMEDIAL MEASURES IN THE UNITED STATES:

The US government, too, has been taking drastic measures to prevent labour exploitation and stop the downward slide.²⁶¹ The total amount announced on bailout packages so far is nearing the \$ 3 trillion mark.²⁶² The *Emergency Economic Stabilization Act of 2008*,

256 8th ILO European Regional Meeting Delegates To Examine Employment And Social Consequences Of Financial Crisis, as Accessed From <http://www.ilo.org/public/english/region/eurpro/moscow/news/2009/0209.htm> (Last visited on March 10th, 2009)

257 *Recommendations of the Indian Labour Conference* as accessed from <http://pib.nic.in/release/release.asp?relid=47787> (Last visited on March 9th, 2009)

258 JW Smith, G Lyons, E Moore “*Global Meltdown: Immigration, Multiculturalism, and National Breakdown in the New World Disorder*” Praeger/Greenwood Ed 1998

259 (1988) 1 SCC 122

260 *Supra* note 254

261 This is about three times the size of Indian economy. See *Obama Sets \$75 Billion Mortgage Rescue Plan* as accessed from http://www.businessweek.com/bwdaily/dnflash/content/feb2009/db20090218_582414.htm?chan=top+news_top+news+index++temp_top+story, Also see *Obama Signs Stimulus Bill* as accessed from www.npr.org/templates/story/story.php?storyId=100773680 (Last visited on March 4th, 2009)

262 *Total bailout package amount nears \$3 trillion* as accessed from [http://www.commodityonline.com/news/Total-bailout-package-amount-nears-\\$3-trillion-12165-3-1.html](http://www.commodityonline.com/news/Total-bailout-package-amount-nears-$3-trillion-12165-3-1.html) (Last visited on March 8th, 2009)

was also designed to inject new life into the struggling financial sector of the U.S. during the financial crisis of 2008.²⁶³ However, all this is on the economic frontier. A major wholesome concrete step is the *American Recovery and Reinvestment Act of 2009*. The Act includes federal tax cuts, expansion of unemployment benefits and other social welfare provisions, and domestic spending in education, health care, and infrastructure, including the energy sector.²⁶⁴ Thus, it seems that the government has finally realized the need for social measures.

Mere bailout packages and stimulus plans are continuing along the same path of debt and can only make a bad situation worse. More active and concrete socio-economic measures as envisaged by the American Recovery and Reinvestment Act of 2009 are the need of the hour.

4.2 REMEDIAL MEASURES IN INDIA:

Under withering criticism for its handling of the country's economic slowdown, the Indian government on December 7, 2008, announced a coordinated, two-flanked stimulus plan that could top \$8 billion.²⁶⁵ Nevertheless, the first stimulus package failed to resurrect the sagging economy.²⁶⁶ It unveiled a second stimulus package, stating preparation to re-capitalise state-run banks to the tune of 200 billion rupees (\$4.1 billion).²⁶⁷

Some concrete policies have been chalked out at the 42nd Indian Labour Conference (ILC) held at New Delhi that concluded on February 21, 2009. For instance, in the area of *skill development*, the ILC listed out a set of pragmatic action points to be pursued for ensuring appropriate skill development for employability. As regards the issue of the

263 *U.S. Financial Bailout Plan* as accessed from <http://recession.org/library/financial-bailout-plan> (Last visited on March 8th, 2009)

264 *American Recovery and Reinvestment Act of 2009* as accessed from www.opencongress.org/bill/111-s1/show (Last visited on March 8th, 2009)

265 *India stimulus package first step to revive growth: Minister* as accessed from http://www.blnz.com/news/2008/12/05/India_stimulus_package_first_step_2606.html (Last visited on March 11th, 2009)

266 Within the stimulus package is a nearly \$1.5 billion credit window for smaller businesses, to be handled by the Small Industries Development Bank of India, and a nearly \$1 billion refinance option that will be handed out by the National Housing Board. To boost consumer spending in sectors such as autos, cement, and textiles, the government will lower the tax on all products, excluding petroleum, by 4%. The government also dropped gas and diesel prices, already subsidized by the state, by 6% and 10%

267 *Government unveils second stimulus package* as accessed from <http://www.indianexpress.com/news/govt-unveils-second-stimulus-package/405782/> (Last visited on March 6th, 2009)

Contract Labour, the ILC recognized the need for preventing the exploitation of contract labour which is more vulnerable during this period of economic crisis.²⁶⁸

The *key short term strategies* recommended by the Conference include undertaking quarterly assessment surveys on the effect of economic slow down on employment, stricter implementation of labour laws, broad based social security schemes including unemployment insurance for mitigating the uncertainties of workers adversely affected and having an Urban Employment Guarantee Scheme. The *key long term strategies* suggested include: National Minimum Wages to be fixed and enforced statutorily. It also suggested investment in infrastructure such as power, transport, redevelopment of ports; affordable urban and rural houses should be increased to generate employment.

However, India needs more concrete steps like the *Unorganised Workers' Social Security Act, 2008*. Social Security as a human right is part of the ILO mandate recognized by the *Social Security (Minimum Standards) Convention, 1952*, Article 22 of the UDHR and Article 9 of the ICESCR.²⁶⁹ However, India was sadly lacking any legislation in this crucial area, until the Act of 2008 which despite its loopholes²⁷⁰, is a comprehensive law encompassing all aspects of their work and life at work including regulation of their employment, wages, social security, safety, conditions of work and so on, all to be administered through tripartite bodies, for each group of employments, at the national, state, district and lower operational levels down to the village.²⁷¹

CONCLUSION

Recently, Hillary Clinton stated, "Our pressing on those issues can't interfere with the global economic crisis, the global climate change crisis and the security crisis."²⁷² It is clear that for many, the economic crisis takes precedence over human right violations.

268 The Act should be amended to provide for absorption of contract employees in regular jobs after prohibition under Section 10(2) and for insertion of provisions for paying same wages and other benefits for same and similar nature of work.

269 *Convention on Social Security* as accessed from <http://www.socialsecuritynow.org/convention.htm> (last visited March 1st, 2009)

270 However, it has a host of loopholes like the term "social security" has not been defined in the law and the basic requirement for several of the benefits of social security and welfare, is employment. It is the need of the hour that these loopholes are effectively plugged and the legislation is suitably modified to meet current crisis.

271 T.S. Sankaran, *A Critique of India's Unorganised Workers' Social Security Act, 2008* as accessed from <http://www.sacw.net/article658.html> (Last visited on March 4th, 2009)

272 *Hillary Clinton's Silence on Chinese Human Rights* as accessed from www.washingtonpost.com/wp-dyn/content/article/2009/02/23/AR2009022302412.html (last visited March 1st, 2009)

The measures taken, too, remain monetary and superficial. Economic stimulus packages have been proposed by countries from the world over but, these stimuli take time to foster growth. However, time is something that can be ill afforded especially in developing and third world nations. The poor cannot survive without working. They often have no savings and cannot fall back on social security.²⁷³ Their only option is to work even more and to pick up any work available, independent of the conditions of work which has, increased their vulnerability to exploitation.²⁷⁴

The way out of the global economic downturn that the world is facing does not lie solely in fiscal policies but requires creative multilateral action with an integrated economic, social and environmental outlook. We need a *sustainable and creative solution*.

Sustainable, because the quantum and scale of the problem is so huge because the globalization has not resulted in equitable growth and there is no social security net to fall back on during economic crisis. The key to the solution lies in making the advantages of globalization to trickle down to the grass roots level. When governments design fiscal stimulus packages, it is important that they consider employment-related goals tailor made for sustainable development with focus on vulnerable groups in the labour market, such as youth and women, who are most likely to be pushed into poverty and find themselves trapped there for many years.

Creative, as recession is also a blessing in disguise for entrepreneurs, and they should be encouraged to make the most of it. It is the best time to be an entrepreneur because valuations are lower, resources are freed up and a choice of man-power is available. If history is any guide, *Hyatt Corp, LexisNexis, Wikipedia Foundation Inc., CNN, MTV, Hewlett-Packard Development Company LP* were started during recession periods.²⁷⁵ Moreover, this is the chance for emerging economies like India and China capitalize on the gains that are brought their way due to the meltdown. The recession has brought a much needed *Brain Gain* to countries like India and China as more and more technicians,

273 Dele Fanimu, *The Gloom: Worries Over 2009 Employment Outlook* as accessed from http://www.nrguardiannews.com/appointment/article01//indexn3_html?pdate=100209&ptitle=The%20gloom,%20worries%20over%202009%20employment%20outlook&cpdate=110209 (last visited March 1st, 2009)

274 Global Employment Trends: January 2009 / International Labour Office. – Geneva: Ilo, 2009 International Labour as accessed from www.ilo.org/wcmsp5/groups/public/—dgreports/—dcomm/documents/publication/wcms_101461.pdf (Last visited on March 4th, 2009)

275 Sarah Caron, *14 Big Businesses That Started in a Recession* as accessed from <http://www.insidecrm.com/features/businesses-started-slump-111108/> (Last visited on March 4th, 2009)

scientists, doctors are homeward bound, having been handed the much dreaded pink slip abroad and are joining R&D units, hospitals, government institutions.²⁷⁶

“We have to do more than just fix the current financial disorder. We have to improve governance so that globalization produces fairer results and promotes social justice. And we have to make sure that it is environmentally, economically, socially and politically sustainable.”²⁷⁷ - Mr. Ban Ki-moon, Secretary-General of the United Nations

276 8th ILO European Regional Meeting: Delegates to examine employment and social consequences of financial crisis as accessed from <http://www.ilo.org/public/english/region/eurpro/moscow/news/2009/0209.htm> (Last visited on March 5th, 2009)

277 ILO European Regional Meeting Calls for Coordinated Response to Economic Crisis accessed from http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang-en/WCMS_101747/index.htm (last visited March 1st, 2009)