Social justice implies two things viz., first, equitable distribution of profits and other benefits of industry between industry owner and workers and secondly, providing protection to the workers against harmful effects to their health, safety and morality. In the beginning, the position of a worker was that of a daily wage-earner, which means he was paid only for the days he actually worked. A workman was expected to accept all the hazards connected with his work as incidental to his employment. Until the passing of Workmen's Compensation Act, 1923 no compensation was paid in case of an accident taking place in the course of employment. But the Workmen's Compensation Act, 1923 guarantees to workmen compensation for any injury caused by an accident arising out of and in the course of employment. The Minimum Wages Act, the Factories Act and the Payment of Wages Act are a few other legislations based on the principle of social justice. These legislations fix the hours of work, make provision for payment of over-time, leave rules, safety, health and welfare of labour in industry. Labour welfare in our country has a special significance for our Constitution provides for the promotion of welfare of people, for humane conditions of work and securing to all workers full employment of leisure and social and cultural opportunities. The word 'social justice' is neither defined in any of the labour legislations nor does it occur in any of them except the Industrial Disputes Act, 1947.¹

The concept of social justice, according to Bhagwati, J., does not emanate from the fanciful notions of any particular adjudication but must be

founded on a more solid foundation. In the opinion "of Justice, Gajendragadkar: "The concept of social and economic justice is a living concept of revolutionary import, it gives sustenance to the rule of law and meaning and significance to the idea of welfare State". The Indian Constitution enshrines the concept of social justice as one of the objectives of the State. Article 38 of the Constitution provides that "the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, social order in which justice, social, economic and political; shall inform all the institutions of the national life". Article 39 ordains that it shall be the duty of the State to apply certain principles of social justice in making laws.

Social justice is justice according to social interest. So far as the application of the doctrine of social justice in the sphere of adjudication is concerned, it is subordinate to the fundamental rights and law contained in the Constitution. Secondly, it is also subservient to the statutory Industrial law. Thirdly, social justice cannot be done in disregard of law laid down by the Supreme Court. Social justice does not mean doing everything for the welfare of labour to the utter disregard of the employer. The balance of social justice leans neither side. The labour policy of a country should, in the national interest, prevail over the rival economic policies in cases of conflicts.

"Social justice" is designed to undo the injustice of unequal birth and opportunity, to make it possible that wealth should be distributed as equally as possible and to provide that men shall have the material things of life should be guaranteed to each man. President Roosevelt has rightly said that "there are some whose adverse circumstances made them unable to obtain

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2 When the *Industrial Disputes Act, 1947* was amended in 1956. Section 17-A(1) uses the words ‘social justice’.
the mere necessities of existence without the aid of others. To these less fortunate men and women, aid must be given by government not as a measure of charity but as social duty". This duly is to be performed by the society through the State. Social justice, therefore, is dealing equitably and fairly not between individuals but between classes of society; the rich and the poor.

The concept of social justice has become an integral part of industrial law. It is founded on the basic idea of socio-economic equality and its aim is to assist the removal of socio-economic disparities and inequalities. The Constitution of India has also affirmed social and economic justice to all its citizens. Although a number of legislation have been passed with that end in view but still some more important measures need to be taken. Provisions relating to fundamental rights and directive principles of State policy provide sufficient guarantee against exploitation. Social justice has thus been made object of State policy and governmental action. Social justice though not defined in our Constitution means attainment of the socio-economic objectives by removing existing evil and enacting new legislation to achieve these objectives.

Social justice is different from legal justice. The difference is not objective but aim at dispensing justice. The difference is due to two reasons: (i) Social justice aims at doing justice between classes of society, and not between individual, (ii) the method which it adopts is unorthodox compared to the methods of municipal law. Justice dispensed according to the law of Master a Servant, based upon the principle of absolute freedom of contract and doctrine of laissez faire, is legal justice. Social justice is something more than mere justice, it is a philosophy super-imposed upon the legal systems.

**SOCIAL JUSTICE**

Social work is a practical profession aimed at helping people address
their problems and matching them with the resources they need to lead healthy and productive lives. Social justice is the view that everyone deserves equal economic, political and social rights and opportunities. Social workers aim to open the doors of access and opportunity for everyone, particularly those in greatest need.

A brief glance at the many roles of social workers shows how this value system underscores everything they do. With homeless clients, for example, social workers make sure their clients have access to food stamps and health care. The same is true for elderly clients: Social workers may work to protect them from financial abuse or to ensure that they are receiving the health and financial benefits that are rightfully theirs.

Social workers also apply social-justice principles to structural problems in the social service agencies in which they work. Armed with the long-term goal of empowering their clients, they use knowledge of existing legal principles and organizational structure to suggest changes to protect their clients, who are often powerless and underserved. For example, social workers may learn organizational ethics to ensure that clients are treated respectfully by staff or they may examine the organization's policies on personal client information to make sure it is held in confidence.

The fair & proper administration of laws confirming the natural law that all person, irrespective of ethic, origin, gender, race & religion of course for right of workers, etc. are to be treated equally and without prejudice. Social justice encompasses economic justice. Social justice is the virtue which guides us in creating those organized human interactions we call institution. In turn, social institutions.

Social justice an underlying principle for peaceful and prosperous

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5 www.socialworkers.org/pressroom/features/issue/peace.asp
coexistence within and among nations. The adoption by the International Labour Organization of the declaration on Social Justice for a Fair Globalization is just one recent example of the UN system’s commitment to social justice.

The General Assembly proclaimed 20 February as World Day of Social Justice in 2007, inviting Member States to devote the day to promoting national activities in accordance with the objectives and goals of the World Summit for Social Development and the twenty-fourth session of the General Assembly. Observance of World Day of Social Justice should support efforts of the international community in poverty eradication, the promotion of full employment and decent work. Gender equity and access to social well-being and justice for all.

**RIGHTS OF WORKERS**

Regarding right of workers worker’s rights are a group of legal rights and claimed human rights having to do with labor relation between workers and their employers, usually obtained under labor and employment law. In general. These rights debates have to do with negotiating workers’ pay, benefits, and safe working conditions. One of the most central of these "rights" is the right to unionize. Unions take advantage of collective bargaining and industrial action to increase their members' wages and otherwise change their working situation. The labor movement initially focused on this "right to unionize", but attention has shifted elsewhere again concern with Indian Constitution we come to knew as follows:

**Background**

Throughout history, workers claiming some sort of right have attempted to pursue their interests. During the Middle Ages, the Peasants’

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Revolt expressed demand for better wages and working conditions. One of the leaders of the revolt, John Ball famously argued that people were born equal saying, “When Adam delved and Eve span, who was then the gentleman?” In England 1833, a law was passed saying that any child under the age of 9 could not work, children age 9-13 could only work 8 hours a day, and children aged 14-18 could only work 12 hours a day.

The International Labour Organization was formed in 1919 as part of the League of Nations to protect worker's rights. The ILO later became incorporated into the United Nations. The UN itself backed workers rights by incorporating several into two articles of the United Nations Declaration of Human Rights, which is the basis of the International Covenant on Economic, Social and Cultural Rights (article 6-8). These read:

**Article 23**

Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests.

**Article 24**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. The ILO and several other groups have sought international labor standards to create legal rights for workers across the world. Recent movements have also been made to encourage countries to promote labor rights at the international level through fair trade.
CORE LABOR STANDARDS

Identified by the International Labour Organisation (ILO) in the 'Declaration of the Fundamental Principles and Rights at Work' core labor standards are "widely recognized to be of particular importance". They are universally applicable, regardless of whether the relevant conventions have been ratified, the level of development of a country or cultural values.

Freedom of association: workers are able to join trade unions that are independent of government and employer influence; The right to collective bargaining: workers may negotiate with employers collectively, as opposed to individually; The prohibition of all forms of forced labor: includes security from prison labor and slavery, and prevents workers from being forced to work under duress; Elimination of the worst forms of child labor: implementing a minimum working age and certain working condition requirements for children; Non-discrimination in employment: equal pay for equal work.

Labor rights issues

Many labor movement campaigns have to do with limiting hours in the work place. 19th century labor movements campaigned for an Eight-hour day. Worker advocacy groups have also sought to limit work hours, making a working week of 40 hours or less - standard in many countries. A 35-hour workweek was established in France in 2000, although this standard has been considerably weakened since then. Workers may agree with employers to work for longer, but the extra hours are payable overtime. Labor rights advocates have also worked to combat child labor. They see child labor as exploitative, cruel, and often economically damaging. Child labor opponents often argue that working children are deprived of an education.
The labor movement pushes for guaranteed minimum wage laws, and there are continuing negotiations about increases to the minimum wage. However, opponents see minimum wage laws as limiting employment opportunities for unskilled and entry level workers. The right to equal treatment, regardless of gender, origin and appearance, religion, sexual orientation, is also seen by many as a worker's right. Discrimination in the workplace is illegal in many countries, but some see the wage gap between genders and other groups as a persistent problem.

Social Worker

The latest incident in the never-ending Nadya Suleman scandal finds the mother of 14 under investigation by social workers for child neglect. Many countries have been unable to set their economic agenda to eliminate poverty at the rate foreseen by the MDGs and which is required to achieve the rights of the child. In addition, inequalities have persisted or even increased in part because poverty reduction strategies and development plans have struggled to be pro-poor and to help disadvantaged populations including women and families raising children. Moreover, even though children often constitute around 40% of the total population, their rights and special needs are often placed below other priorities, leading to lost opportunities in terms of both human and economic development.

It is therefore important to produce, discuss and apply evidence that will help influence economic and social policies in order to affect resource allocations and put children as high priority in national legislation, policies and programmes. In its ongoing effort to protect illegal immigrants in the U.S. workforce, the Obama Department of Labor (DOL) keeps entering "partnership agreements" with foreign countries vowing to preserve the rights of their migrants.
The DOL also created a wasteful, bilingual smart phone app to help hourly workers "stand up for their rights" and file complaints against employers. A Judicial Watch investigation uncovered a scandal behind this particular program by exposing that a former DOL official got a noncompetitive contract – intended for socially and economically disadvantaged businesses – to create the app even though his lucrative company doesn't qualify because its rakes in millions annually.

Much like the first batch of contracts, regional DOL enforcement offices will team up with local consulates to assist workers and together they'll reach out to migrants with information about U.S. health Safety and wage laws. The "cooperation" will also help both agencies identify problems faced by migrant workers and target labor law enforcement efforts, according to a DOL, announcement.

Social justice\(^8\) is justice exercised within a society, particularly as it is exercised by and among the various social classes of that society. A socially just society is based on the principles of equality and solidarity, understands and values human rights, and recognizes the dignity of every human being.

The Constitution of the International Labour Organization affirms that "universal and lasting peace can be established only if it is based upon social justice." Furthermore, the Vienna Declaration and Programme of Action treats social justice as a purpose of the human rights education.

**THEORIES OF SOCIAL JUSTICE**

**Social Justice From Religious Traditions**

In to Heal a Fractured World: The Ethics of Responsibility, Rabbi Jonathan Sacks states that social justice has a central place in Judaism. One of Judaism’s most distinctive and challenging ideas is its ethics of

\(^8\) www.onwikipedia.org/wiki/socialjustice
responsibility reflected in the concepts of simcha (“gladness” or “joy”),
tzedakah (“the religious obligation to perform charity and philanthropic
acts”), chesed (“deeds of kindness”), and tikkun olam (“repairing the
world”).

**Hinduism**

Non-tribal part of Ancient Hindu society was divided into hundreds
of upper and lower castes [Jati]. Some of these castes were organized in
certain regions as Jajmani functioning as interdependent system However
there were many internal challenges to jati stratification, the jajmani and
such other inequalities in Indian social structure. The present day jati
hierarchy is undergoing changes for variety of reasons including 'social
justice', which is a politically popular stance in democratic India. The
disparity and wide inequalities in social behaviour to some of the castes led
to various reform movements in Hinduism. There is a wide acceptance that
Hindu social structure is ridden with castes and communities, and that this
has led to barriers and segregation and condemnation of obnoxious vice of
social inequality and untouchability. Vivekananda's calls to promote social
justice have largely gone unheeded’.

**Social Justice Movements**

Social justice is also a concept that is used to describe the movement
towards a socially just world, i.e., the Global Justice Movement. In this
context, social justice is based on the concepts of human rights and equality,
and can be defined as "the way in which human rights are manifested in the
everyday lives of people at every level of society".  

A number of movements are working to achieve social justice in
society. These movements are working towards the realization of a world

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where all members of a society, regardless of background or procedural justice, have basic human rights and equal access to the benefits of their society.

**Social Justice in Healthcare**

Social justice has more recently made its way into the field of bioethics. Discussion involves topics such as affordable access to health care, especially for low income households and families. The discussion also raises questions such as whether society should bear healthcare costs for low income families, and whether the global marketplace is a good thing to deal with healthcare. Ruth Faden and Madison Powers of the Johns Hopkins Berman Institute of Bioethics focus their analysis of social justice on which inequalities matter the most. They develop a social justice theory that answers some of these questions in concrete settings.

**SOCIAL JUSTICE AND HUMAN RIGHTS EDUCATION**

Vienna Declaration and Programme of Action affirm that "Human rights education should include peace, democracy, development and social justice, as set forth in international and regional human rights instruments, in order to achieve common understanding and awareness with a view to strengthening universal commitment to human rights. The most important aspect of labour welfare is the social security. The relevant provisions from various laws and the constitution will be discussed. The protection of health and the safety of workers have been the prime concern of the modern industrial world. The industries are coming up now a days with adequate safety measures, well equipped Hospitals, Cafeteria, and schools. The relevant legal provisions in this area have been analyzed with the development of right to health and safety of workers as fundamental rights. The right to form association and trade union has almost been recognized."
Various rights of trade unions have been given legal shape. The participation of workers in management has been recent development. The good relationship between the employer and employees is the backbone of any industries. All these issues and related matters shall be discussed in this present work.

There are some classes of workers who require Special treatment. Women cannot be put at work during night time, at the same time children cannot be employed in hazardous in industries. There are various other restrictions depending upon the nature of person and the kinds of jobs. Many rights of women and children have emerged under the constitution in the recent years. All the above problems has been discussed in the present work. The slavery and forced labour was abolished long back and prohibited by the constitution. However it is still exist in its new form of bonded labour. This practice is prohibited by the constitution and the law. Who is bonded labour how they can be identified and released and what will happen after their release are some of the issues which will be highlight and analyze in view of the relevant judicial decisions.

**CONSTITUTIONAL APPROACH**

The Constitution of India the precursors of the new Indian renaissance, became effective on 26 January 1950. Before the advent of the new Constitution, India was governed under the Government of India Act, 1935, which became effective in 1937. India was a part of British Empire, sovereignty of the British crown prevailed over the country and it was the exercise of this sovereignty that British parliament had enacted the Act. 1935. Indian Constitution is a very interesting and unique document, The constitution through it preamble, fundamental rights and directive principles created a secular state based on the principles of equality and non-discrimination striking a balance between the rights of individuals and the
duty and commitment of the state to establish an egalitarian social order. Indian constitution guarantees law and equal protection under law. The constitution of India prohibits any kind of discrimination on ground of sex and requires positive act of equalization between the sexes by giving preferential treatment in favour of workers. The directive principles of state policy contained in Part IV of the constitution set out the aim and objectives to be taken up by the states in the governance of the country.

**WORKERS RIGHTS OF INDIA**

With traditional forms of collective bargaining failing in the face of rapid corporate restructuring, what perspectives can the unions evolve to ensure their survival and growth? This paper argues that the labour movement has a powerful stake in shaping the agenda of corporate governance, both because implicit contracts are impossible to enforce without a role in strategic decision-making, and in the sense that public corporations can no longer be conceived merely as shareholder domains. However, in a country like India where the majority of wage earners are unorganized, the workers' rights clause has a major role to play.

Following the large-scale defeat of the Bombay textile strike in the early eighties, employers mounted a concerted offensive against organized labour which was sustained into the nineties. The system of industrial relations ran into trouble in the eighties as managements resisted collective bargaining and began first a gradual and then a large-scale restructuring of employment. It is possible to argue that after 1991, with increasing competitive pressure from product markets, deregulation was squeezing profits and forcing employers to cut internalized employment systems in a more dramatic and decisive way. For example, throughout the eighties large companies had been reducing workforces through natural wastage, but from the early 90s they began to structure so-called
voluntary retirement schemes to induce large-scale exit from companies.\textsuperscript{10} This began in 1992 when the Swiss multinational Ciba Geigy negotiated a mass retirement for 902 workers in its Bombay factory. That may have been prompted by a circular from the ministry of finance which suggested tax breaks to encourage companies to downsize. Since then there have been numerous and (for many firms) repeated voluntary retirement schemes with a very considerable loss of jobs in manufacturing. However, it is helpful to keep the two phases distinct. In the eighties lockouts were used to weaken union resistance to management demands and the gathering assault on workers' rights was not, therefore, the simple outcome of liberalization, which came several years later. Secondly, outsourcing spread basically in the eighties, suggesting that crucial aspects of lean production had already been introduced by employers in India well before they became management orthodoxy on a world scale. The reasons why manufacturing firms subcontract are complex and vary from industry to industry, so there is no point in overstating the issue. Suffice it to say that without the extensive outsourcing networks created in the eighties, the voluntary retirement schemes of the 1990s would just not have been conceivable. Thirdly, if the resistance to bilateral settlements meant a gradual erosion of bargaining rights, other management moves in that period was more explicit. Bargainable jobs were redesignated to remove them from the union category, sales and supervisory staff were denied the right to join unions, union leaders were repeatedly charge sheeted, suspended or dismissed on various trumped up charges, federations representing workers in several establishments of the same company were fiercely resisted, etc. Judicial decisions, often the inevitable outcome of these moves, tended to reinforce the position of employers, legitimizing the erosion of

\textsuperscript{10} First Given as the Iinagural Arvind Das Memorial Lecturer in New Delhi 24\textsuperscript{th} Oct 2000
employees' rights through most of the eighties and into the following decade.

Let me turn, somewhat rapidly, from this background to 'Corporate governance'. This, as you know, refers firstly to the general drive in most markets in the industrialized world, including countries like India, to define rules which encourage companies to function in more professional, transparent, and socially accountable ways, insofar as they rely on some form of capital market financing. These rules have increasingly acquired a formal expression in the so-called 'codes of corporate governance' which spread rapidly in the late 90s, drawing their inspiration from the 1991 Report of the Cadbury Committee, which emphasized self-regulation and drafted recommendations for independent boards and more reliable corporate reporting practices. Cadbury was largely a reflection of the then prevailing state of opinion in the UK accountancy profession, which saw itself under mounting public pressure, and of course of the growing concerns of institutional shareholders, and the basis for its rapid diffusion as a model can likewise be explained by the spectacular growth of US and UK institutional investments in European and emerging markets in the 1990s. In a broader sense, of course, corporate governance gives us a way of discussing the whole set of issues related to corporate ownership, control, and accountability, including, most fundamentally, the question, 'Who should be regarded as having a valid interest in the company. This is only in part an academic question since both union theory and union practice, at least among the more militant employees' unions that have successfully ridden the storm of the last ten years, revolves precisely around this issue, to various degrees of explicitness. I recall unions like the Philips Employees' Union arguing aggressively in
the early eighties that a company was not its management but more than its management and substantively different from it. One recalls also that the legally savvy general secretary of the Hindustan Lever Employees' Union has repeatedly quoted dower's *Principles of Modern Company Law* to the effect that in so far as there is any true association in the modern public company it is between management and workers rather than between the shareholders inter se or between them and the management'. That quote continues by saying, 'But the fact that the workers form an integral part of the company is largely ignored by the law'. Both of these are unions that have intervened legally in their management's business decisions, either the sale of assets by their company to other companies or mergers likely to impact employment. Employees' unions have also begun to use AGMs as forums for sometimes spectacular public interventions.

By 'implicit contracts' I mean the powerful argument developed since the late eighties by Katherine Stone that public policy choices shape the background legal rules which govern labour relations and determine whether employees can or cannot enforce their implicit contracts. Because some of the investment that employees make in their training is firm-specific, the employees' value to their employer increases over time as they acquire such firm-specific capital, while their value to other employers may not. The idea can be dressed as a model of life cycle earnings, during the middle periods of which workers have made an investment for which they have not yet been compensated, and for which they anticipate deferred compensation. If they suffer involuntary job loss during that period, their investment is lost. Workers' investments in firm-specific capital and deferred compensation are made not on the basis of some explicit contractual arrangement, but rather take the form of an implicit contract. The implicit contract in the internal labour market is that in the early phases of their career, employees will be
paid less than the value of their marginal product and less than their opportunity wage in exchange for a promise of job security and a wage rate later in their working lives that is greater than the value of their marginal product and their opportunity wage. It follows that middle-period employees have made an investment which they need to protect. The model also shows that corporate restructuring has involved managements in the systematic violation of implicit contracts in the internal labour market. In other words, the employment relationship contains a built-in incentive for managers to breach their implicit promises of job security and deferred compensation, and appropriate that investment to the firm or themselves. This would explain why in the Bombay region, for example, the structuring of voluntary retirement schemes usually involves careful deliberation and calculated incentives to induce specific seniority groups to retire. Finally, Stone argues that the erosion of labour rights and the practicalities of labour relations make it next to impossible for unions to police or enforce the implicit contracts during times of restructuring. The upshot of much of this is that insofar as labour law rules make enforcement of employees' implicit contracts problematic, which is certainly the case in India and also in the US, for example, 'it is important to consider what other enforcement means are available'. Stone herself opts for what she calls a 'collectivist contractual approach' which envisages changes in the legal rules governing collective bargaining which emphasis union participation in strategic-level corporate decisions. This means, basically, a much stronger corporate governance role for unions. As she says, From this perspective, we can imagine collective bargaining transposed to the boardroom, where unions can the contend not only with management, but with all the other constituent groups that comprise the firm. This is already occurring in the United States in Chapter II bankruptcy retranslation proceedings where unions sit on creditor committees on an aspect of the fate of the enterprise'. The boundaries
between Dargjumng bargaining and governance have to be redefined to allow the board of directors to expand into a governance instrument of more than just the stockholders, since workers too have transaction-specific investments at risk for which conventional collective bargaining is simply not an adequate governance structure.

This takes us to strand two, which concerns the legal architecture of the modern public company. It does so because, if, axiomatically, the board is a 'means by which to safeguard the investments of those who face a diffuse but significant risk of expropriation', as Williamson writes, with shareholders in mind, then the issue this raises is whether a stronger governance role for unions is at least compatible with the underlying premises of modern company law. Here it is important to state at the outset that the whole corporate governance movement is crucially underpinned by the largely ideological (rather than legal) doctrine of shareholder primacy'. This is so deeply rooted in the Indian context, for example, that even unions who use corporate governance as a platform to launch public challenges to business decisions of management (notably, the Philips Employees' Union in a very recent struggle) will, in private, enunciate a view of corporate governance as something entirely and intrinsically shareholder-driven. The fact is, however, that there is a great deal of confusion in modern company laws about the precise status and rights of the shareholder. The shareholder-centered model of governance rests on the untenable assumption that shareholders actually 'own' the company or at least its 'capital'. But this is simply not the case in law. As Gavin Kelly and John Parkinson note, 'It is simply not the case, as a matter of law, that the shareholders are owners. They do not own the company itself, since the company, as a legal person, is incapable of being the subject of ownership rights. And, while they own their shares, shareholders do not own the assets used in the business, which
belong to the company as a separate legal person'. And it follows of course that if it is untrue that shareholders own companies, then justifying their exclusive governance role by reference to their antecedent property rights must fail'. The share, of course, is a form of fictitious capital which entitles its owner to the firm's residual income, but the crucial rights of possession, use and management of the firm's assets lie with the directors. Secondly, 'As a matter of law the directors' powers are original, not delegated powers, allocated to them by the company's constitution. They are not transferred to them by the shareholders'. In short, the contention that the shareholders are entitled to exclusive possession of governance rights because they are owners rests on a false premise'. There is of course a growing body of literature that supports this view in detail, and some of it is wonderfully trenchant. Yet it is true, all the same, that in jurisdictions like the UK, apparently, and India, company law continues to be obfuscated by the obsolete doctrine that 'ultimate control' resides with the 'owners of the company', in the sense, for example, that shareholders have the power to appoint and dismiss directors, and that directors are, ostensibly, accountable to them above all. (Margaret Blair has argued recently that American corporate law is much less obscure on these questions, since under American law, boards have no legal obligation to comply with shareholder resolutions, even when those are unanimous. To cut a long story short, the centre piece of the new legal architecture of the public corporation remains the modern doctrine of separate corporate personality, and working out the implications of this doctrine from a consistent corporate governance perspective, namely, that directors owe their fiduciary duties to the firm (and not to any particular constituency), would certainly create more governance space for employees.
Finally, there is a strand of thinking which is in tension with both the above, which I have referred to as 'Labour's capital'. The idea here is that organized labour has the potential to influence the development of capital through the pension funds, insofar as the latter now own a considerable part of the domestic industrial sector in many economies. For example, by the mid 1990’s the world-wide accumulated assets of pension funds were equal to the market value of all the companies quoted on the world's three largest stock markets! The problem, of course, is that by and large pension-scheme trustees do not manage their funds internally. Pension funds are under professional management by specialist fund managers who work for the fund or asset management subsidiaries of the world’s largest insurance companies and investment banks. The majority of these institutional investors have been key drivers behind corporate restructuring. Thus the issue here is one of control; or rather lack of control by policy-holders, of a new and paradoxical form of alienation in which workers' savings are used to undermine their jobs and communities. The political idea is that organized labour has the potential to influence the development of capital by exerting its influence among institutional investors (as it has started to do in the US) or, more ambitiously, and in the longer term, by re-appropriating control over the way pension funds are managed and deployed. Perhaps the most elaborate expression of this strategy was the employee investment funds proposed by Rudolf Meidner of the Swedish TUG, which the employers identified as a major threat in the early eighties. One wonders how Marx would have handled the idea that the 'socialization of capital' which has reached such massive proportions through the dramatic expansion of the global asset management industry is in fact, to a large degree, a capitalization of labour's deferred wages and a potential means of labour re-appropriating control of social ownership.
Let me try and pull together the three strands of argument into a more coherent perspective. Several decades of 'restructuring' have had a major impact on the strength of union’s worldwide and pushed wage earners on the defensive. Each of the perspectives just outlined offers, potentially, a way out of this crisis. The first emphasizes the need for the unions and the state to redefine the boundaries between bargaining and governance and for employees to assume a much stronger corporate governance role. The second creates legal and ideological space for the acquisition of corporate governance rights by constituencies other than shareholders. And finally, as Aglietta has noted, 'If the trade unions are to regain the power to influence the distribution of income, they must realize that the battle to be fought and won is the battle for control of company shareholdings. Companies are controlled to an ever-increasing extent by pension funds. The three perspectives converge in their general orientation, even if there is an obvious tension between the corporate law claims of the second, denying shareholder primacy, and the 'shareholder' premises of the third. In particular, 'Implicit contracts' and 'legal architecture' underline the centrality of legal reform to the renewal of the labour movement.

On the other hand, what happens if the majority of the labour force is not covered by unions, not covered by any form of provident fund, and totally excluded from the social democratic sector of capitalism? Indeed, what happens if the unions are being destroyed within the corporate sector itself? These questions take us back to Katherine Stone's emphasis on the crucial nature of the legal background against which markets operate. There are two points to be made here. First, 'Legal regulation shapes the markets in which contracts are made', that is, markets are legally constructed as much as they are economically, they are a product of regulation as much as of economic activity. And second, the
background legal rules that govern labour relations embody normative choices about the distribution of power and advantage in society. A society that condemns 90% of its labour force to a condition of slavery is a society that has made a public policy choice to base its political democracy on economic servitude. There is a powerful lobby today that seeks to reinforce this position by further deregulation of the labour market on the grounds that international investors find our labour laws too rigid. But interviews with the top management of UK international firms conducted in Britain some years ago suggested that confused policies and lack of infrastructure were more powerful deterrents to a substantial flow of inward investment into India. The same lobby is fiercely opposed to the incorporation of a workers' rights clause in international trade agreements, something for which there is strong support in the international trade unions affiliated to the ICFTU. That Indian big business should brook no interference in the internal management of its affairs is hardly surprising. On the other hand, it is disgraceful that some of the central trade unions should buy into their arguments. The organized labour movement has failed to stem the growth of the unorganized labour sector and is now being progressively pushed back because of this failure. So the question about background legal rules can be restated as follows — if the labour movement is too weak to make a substantial difference to the vast majority of wage-earners in this country, including millions of children, does it make any sense to continue to oppose international union pressure for the introduction and monitoring of core labour standards through the WTO’s trade policy review mechanism? The propaganda opposing the workers' rights clause emphasizes sanctions and their potential to be a covert mechanism of protectionism against the developing countries. This misses several points. In the first place, all WTO members made a commitment at the first WTO Ministerial Conference at Singapore in December 1996 to respect the internationally recognized core labour standards of the ILO. India
is a signatory to the Singapore declaration and as such the government of India can hardly go back on the commitments India accepted along with other WTO members. This may seem like a formality but it underlines the point that, the issue of labour standards is not strictly an open one. (Note that India has still not ratified Conventions 87 and 98 on the freedom of association, the right to organize, and the right to collective bargaining; and not ratified Convention 138 on child labour.) Secondly, it is developing countries trying to respect these rights and improve working and living conditions that are the most vulnerable to being undercut in world markets by countries seeking comparative advantage though suppression of workers' rights. A good example of this is the impact of Indian child labour on the Nepalese carpet weaving industry. Though the anti-protectionist argument seems to be directed against the advanced capitalist countries, it is actually an attempt to justify a race to the bottom among the developing ones. And third, it is worth clarifying that the international union pressure for a workers' rights clause has been much less emphatic on sanctions than it has on positive incentives and improved market access as well as assistance in implementing the labour standards.

DOMESTIC WORKERS

A discussion on definition attempted to identify some -principles" on which to define domestic workers. Some workers examples were shared -

- Based on tasks (cleaning, cooking and so on)
- Based on location of work (Household.)
- Based on who employed them (private households)

Examples of domestic work definitions from the Indian Acts and Bills are as follows:
"domestic work"\textsuperscript{11} means household work like sweeping, cleaning utensils, washing clothes, cooking and such other manual work as is mutually agreed between the employer and domestic worker carried out at the work place (Maharashtra Domestic Workers Welfare Board Act No 1 of 2009).

"domestic servant" means any person who earns livelihood by working in the household of the employer and doing household chores (The Housemaids and Domestic Servants (Conditions of Service and Welfare) Bill 2004, Rajya Sabha).

domestic worker" means a person between the age of 15 and 60 years working in any domestic employments, directly or through any agency or contractor whether exclusively for one employer or in a group or otherwise one or more employers whether simultaneously or otherwise and includes a casual or temporary domestic worker; migrant worker. But does not include-any member of the family of employers. Domestic Workers (Regulation of Employment, Condition of Work, Social Security and Welfare) Bill 2008- Nirmala Niketan and National Campaign for Unorganized Workers)

domestic worker" means, a person who is employed for remuneration whether in cash or in kind., n any household through any agency or directly, either on a temporary basis or permanent part time or full time to do the household work or allied work. Explanation; household and allied, work includes but is not limited to activities such as cooking or part of it, washing clothes or utensils., cleaning or dusting of the house, caring, nursing of the children/sick old handicapped (Domestic Workers Registration, Social Security and Welfare) Act 2008- NCW Draft Bills

\textsuperscript{11} "National Consultation on Decent work for domestic work", \textit{The Hindu}, 15-16 July, 2009.
In view of previous discussion on this subject, the majority view (based on those present) seemed, to be that domestic work should apply to any work performed in a home (household) for household members. Definition should also emphasize that domestic work is work performed in homes (other than one’s own) for remuneration regardless of cash or in-kind payment.

The above will include all tasks that are done in a home but exclude workers whose work is undertaken outside the home, such as drivers, personally lured security guards, gardeners to some extent. The above exclusion reflects a rationale based, on vulnerability of workers who are confined to private "invisible" spaces and risk this poses to bonded labour, and other forms of abuse arising out of restricted mobility. The disadvantage of this rationale is that it misses the important specificity of domestic work, which is that they are workers employed by private households where labour laws inspection norms are difficult to apply.

Hence, another rationale on which to define domestic workers, seemed to have received less support, was based on "who employs the worker". Drivers, security guards, and gardeners face the same vulnerability in terms of informality and limited access to schemes meant for “workers” as long as they are employed by private households. Excluding these workers puts them in an extremely invisible positron. Drivers, for example, do not seem to be in the domestic work ISCO category (ref ILC report box III. 1) but given that many households employ drivers, the rationale for their exclusion warrants a careful consideration.

Notwithstanding, an overarching consideration expressed for excluding certain categories of workers who work for households is that while a large majority of domestic workers who work within households
are women, workers such as drivers, gardeners and security guards who work outside are men who not only have better bargaining capacity, but also receive comparatively better remuneration. Hence the exclusion of these workers in the definition will give a focused attention on the most vulnerable. Secondly, certain tasks such as cleaning, dusting washing utensils have the lowest value in pay and perception as "work" Thus, it is necessary to single them out to enable policies to cater to the vulnerabilities.

Some considered it important to define domestic work based on tasks performed -domestic and related helpers, cleaners." covering private households, hotels, offices and hospitals and other establishments, In this context, workers who are lured to work in wedding halls, building complexes, were sited, who in the Indian context are informal casual workers lured as and when required. Some also thought it was important to define as domestic workers those who worked in enterprises businesses where the owners also resided However, the majority view was that these workers are included in existing laws. The implementation of laws is required was to ensure adequate working conditions. Including these workers under the definition will make it too broad and difficult to implement.

**OBJECT OF THE STUDY**

The purpose of the study is to observe the social status of workers and to make an analysis that how far the Constitution and the other laws of the land have succeeded to achieve its goal. The development of science and technology and the rapid growth of industrialization have affected all spans of human life throughout the world since 18th century. For the protection of the rights of workers in organized sector as well as unorganized sector, neither the law nor the concerned machinery fully protect the rights of workers and there is the urgent need to amendment/modification of existing laws and may also be necessary to frame new laws in view of the changing dimension of societal need.
RESEARCH METHODOLOGY

The method of the study was doctrinaire. The facts were collected from secondary as well as primary sources. Various books and commentaries of eminent writers and articles published in various journals have been studied in detail. Materials from various websites have also been taken and studied. Various Acts and relevant provisions of the Reports have been studied. Judgments of High Courts and Supreme Court have also been studied and analyzed.

SCHEME OF THE STUDY

Keeping in view the aforesaid objectives, the present work has been divided into seven chapters. Chapter I introduces the topic of the Dissertation. Chapter II under the title, “Historical Background” traces the origin and development of the rights of workers. Chapter III entitled, “Rights of Workers and Social Security” discusses critically equal pay for equal work, minimum wages, proper wages of workers, fair wages, living wages, health and safety of the workers, harassment of workers etc. with the help of Constitutional provisions and the judicial pronouncements. Chapter IV under the caption, “Right of Vulnerable Groups” analyses the status of downtrodden workers, women workers, and other related workers with a comparative historical study. Chapter V entitled, “Judicial Approach” discusses socio-legal status of workers and the rights provided to them under the law, how the capitalism affects their rights, working conditions of workers with the help of judicial verdicts. The Chapter VI contains conclusion and suggestions.