Conference Paper
47th Annual CIRA Conference / International CRIMT Conference
16-18 June 2010
Université Laval, Quebec City

Towards Decent Work for All: A Holistic Human Rights Model

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I. Introduction

The current economic down turn presents tremendous challenges, but also opportunities, for advancing human rights, including the right to decent work.³ It is now widely acknowledged that three decades of neo-liberal policy has resulted in greater economic inequality and insecurity.⁴ Privatization, deregulation, increased competition and the desire for labour-market flexibility has led to the spread of informal employment and short-term contracts, increasing income insecurity and adversely affecting opportunities to obtain decent work and live a decent life.⁵ The Director-General of the International Labour Organization (ILO) views the recent economic crisis as a culmination of decades of unfair globalization, increased income inequalities, an undervaluation of the role of the State and the failure to respect the dignity of

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³ See Outcome of the Conference on the World Financial and Economic Crisis and its Impact on Development, G.A. Res. 63/303, ¶ 10-11, U.N. GAOR, 63rd Sess., Agenda item 48, U.N. Doc. A/Res/63/303 (July 13, 2009) (“Although the crisis continues to have a significant impact on the peoples of the world, we believe that it represents an important opportunity for meaningful change.”) [hereinafter Outcome Conference on Crisis]; IRENE KHAN, THE UNHEARD TRUTH: POVERTY AND HUMAN RIGHTS 229 (2009) (“Out of the current economic crisis we may see, at last, a real restructuring of the international economic system that might provide more stable and equitable outcomes.”); Ignacio Saiz, Rights in Recession? Challenges for Economic and Social Rights Enforcement in Times of Crisis, 1(2) JOURNAL OF HUMAN RIGHTS PRACTICE 277, 282 (2009) (“the crisis has laid bare the short-comings of the ‘minimal state’ model, and so has opened a window of opportunity to reaffirm a more expansive and indivisible range of state obligations to realize ESC rights”). Saiz goes so far as to say that “the current crisis should serve to galvanize the campaign for ratification of the Optional Protocol [to the International Covenant on Economic, Social and Cultural Rights] and for the United States Administration to ratify the Covenant itself.” Id. at 285.
⁵ Summary World Social Situation 2007, supra note 4, at 2-3 (listing key findings on the world social situation, work and employment). See also WORLD COMMISSION ON THE SOCIAL DIMENSION OF GLOBALIZATION, A FAIR GLOBALIZATION: CREATING OPPORTUNITIES FOR ALL (2004).
work and the importance of social protection.  

This neo-liberal period has coincided – not coincidently – with the emergence of economic and social rights – including the right to decent work – back into the mainstream human rights agenda. Although marginalized during the cold-war years, interest in economic and social rights at both the international and domestic levels has grown rapidly since the late 1980s. At the international level, one recent achievement was the adoption by the UN General Assembly in December 2008 of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR), providing, for the first time outside of the International Labour Organization (ILO), a complaint mechanism at the global level for violations of economic and social rights, including the right to decent work. This new Optional Protocol in combination with the current global employment crisis makes it timely to consider the potential of a human rights model for achieving decent work for all.

The work rights covered by the ICESCR and the new Optional Protocol include, among others, the right to freely chosen work, the right to full employment, the right to fair wages, the right to an adequate standard of living, the right to safe and healthy working conditions, the right rest and leisure, the right to form and join trade unions, the right to

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6 The Director-General, Tackling the Global Job Crisis: Recovery through Decent Work Policies, Report of the Director-General, International Labour Conference, 98th Sess., ¶ 3 (2009); see also Outcome Conference on Crisis, supra note 3, ¶ 9 (UN General Assembly recognizes that causes of the economic crisis include major failures in financial regulation, over-reliance on self-regulation, lack of transparency, inequitable human development and inadequate government action to ensure balance between market and public interest).

7 See Judy Fudge, The New Discourse of Labor Rights: From Social to Fundamental Rights?, 29 COMP. LAB. L. & POL’Y J. 29, 29-31 (2007) (renewed interest in social rights was in response to the globalization of neo-liberal values and political arrangements, the decline in the welfare state and collective bargaining and the growing inequality).


10 A full list of work rights is presented in Table 1 infra.

11 ICESCR, art. 6(1).

12 Id.

13 ICESCR, art. 7(a)(i).

14 ICESCR, art. 11(1).

15 ICESCR, art. 7(b).

16 ICESCR, art. 7(d).
strike\textsuperscript{18} and the right to social security.\textsuperscript{19} These ICESCR work rights overlap with the Pillars of the ILO Decent Work Agenda, as well as with the rights in ILO Conventions. The four Pillars of the ILO Decent Work Agenda are (1) employment promotion, (2) social protection, (3) social dialogue, and (4) rights at work.\textsuperscript{20} The first Pillar, employment promotion, corresponds to the right to full employment. The second Pillar, social protection, corresponds to the right to social security and the right to safe and healthy conditions of work. The third Pillar, social dialogue, corresponds to the rights to form and join trade unions and the rights of unions to bargain collectively.\textsuperscript{21} The fourth Pillar corresponds to the ILO four Core Labour Standards – elimination of forced labour, prohibition of child labour, elimination of discrimination in employment and freedom of association.\textsuperscript{22}

These two frameworks have the common aim of protecting work rights and improving the lives of workers and their families. Despite this commonality, there are significant differences. There is no doubt that the ILO, as the UN specialized agency that focuses on work, has the greatest expertise in this area. Thus, the Committee on Economic, Social and Cultural Rights, which is responsible for monitoring State compliance with the ICESCR, “draws heavily on the experience and practice of the ILO mechanisms,” and regularly looks to expertise of the ILO Committee of Experts on the Application of Conventions and Recommendations.\textsuperscript{23} On the other hand, the ILO framework has certain limitations, and the human rights model may offer some advantages, complementing the ILO Decent Work Agenda and ILO Conventions.

First, the ILO Decent Work Agenda recognizes work rights only in the fourth Pillar, although there are human rights legal obligations underpinning all four Decent Work Pillars. As a result, the other three Pillars are transformed into mere political commitments.\textsuperscript{24} Moreover, the “rights at work” in this fourth Pillar are limited to the ILO four Core Labour Standards although there are many more work-related rights, such as the rights to fair wages, safe working conditions and reasonable limitations on work hours. In addition to the limited work rights included in the ILO Decent Work Agenda, the ILO Conventions are limited in other respects. Some ILO Conventions exclude large groups of workers, such as domestic workers, agricultural workers or government workers.\textsuperscript{25} Other ILO Conventions have been not been widely ratified.\textsuperscript{26}

\textsuperscript{17} ICESCR, art. 8(a).
\textsuperscript{18} ICESCR, art. 8(d).
\textsuperscript{19} ICESCR, art. 9.
\textsuperscript{22} See ILO Declaration of Fundamental Principles and Rights at Work, 37 I.L.M. 1233 (June 19, 1998).
\textsuperscript{24} See MacNaughton & Frey, supra note 21, at 145.
\textsuperscript{25} See, e.g., ILO Convention 30 – Hours of Work (Commerce and Offices) (1930) (excluding numerous categories of persons such as agriculture, maritime, fisheries and domestic service).
\textsuperscript{26} See infra notes 29-30 and accompanying text.
In contrast to the vast number of ILO Conventions, now numbering well over one hundred, that address different workers and different aspects of work, the ICESCR is a comprehensive international law on work rights. Moreover, the ICESCR has been ratified by 160 countries, while ILO Conventions on the same subjects often have significantly fewer ratifications. For example, only 101 countries have ratified Convention 122 concerning (full) employment policy and only 34 countries have ratified Convention 158 on (valid grounds for) termination of employment. On the other hand, all 160 parties to the ICESCR have legal obligations for ensuring the enjoyment of the human rights underlying both these ILO Conventions. Finally, in contrast to the ILO Conventions, which often address specific groups of workers, leaving others unprotected, the work rights in the ICESCR are universal. They cover all human beings regardless of their employment status – formal or informal, paid or unpaid – and without regard to their union status or the sector in which they work.

In this context, this paper explores the potential of using a holistic human rights model for achieving decent work for all. In this model, decent work is reframed beyond the political commitments in the ILO Decent Work Agenda as legal obligations under international and domestic human rights law. Significantly, the human rights framework embraced in the Universal Declaration of Human Rights and the ICESCR includes the three key principles of universality, interdependence and equality of all human rights. These principles help to de-compartmentalize the ILO Conventions and Decent Work Pillars, integrating them into a holistic framework. This holistic human rights model suggests several strategies for advancing the right to decent work.

Following this introduction, Part II of the paper outlines similarities and differences between the ILO social justice model and the holistic human rights model for achieving decent work. Part III then explains in more detail three key features of a holistic human rights model – universality, interdependence and equality of all human rights. Part IV first gives a brief overview of the work rights protected in the ICESCR. To illustrate the potential value of a holistic human rights model, it then identifies four strategies for using this model to achieve decent work. These strategies are (1) defining decent work holistically, (2) recognizing the interdependence of rights and of people in seeking to achieve decent work for all, (3) using human rights tools and methods, such as human rights impact assessment, for policymaking that may impact on decent work, and (4) building coalitions among people and organizations by

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27 Riedel, supra note 23, at 5 (ICESCR deals more comprehensively with the right to work than any other international instrument).
30 Id.
31 Committee on Economic, Social and Cultural Rights, General Comment 18, The right to work: article 6 of the ICESCR, U.N. Doc. E/C.12/GC/18, ¶¶ 11, 19, (February 6, 2006) [hereinafter CESCR General Comment 18] (adopting ILO Convention 158 requirement of grounds for dismissal and declaring that State parties must adopt, as quickly as possible, measures aimed at achieving full employment).
linking the right to decent work to other human rights. Based on these illustrations, the paper concludes in Part V that there is great potential for improving regulation, policymaking and advocacy on decent work by adopting a holistic human rights model.

II. Social Justice and Human Rights

The promotion of social justice is one of the primary purposes of the ILO. The Preamble to the 1919 ILO Constitution states that “universal and lasting peace can be established only if it is based upon social justice.” 32 Additionally, the Constitution recognizes that “conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled.” 33 As a result, the Constitution declares that “an improvement of those conditions is urgently required.” 34 The 1944 ILO Declaration of Philadelphia reaffirmed the fundamental ILO principles that lasting peace must be based on social justice, that “poverty anywhere constitutes a danger to prosperity everywhere, and that the “war against want” must be carried out at both national and international levels. 35 It further declared that all human beings “have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.” 36

Most recently, the 2008 ILO Declaration on Social Justice for a Fair Globalization reaffirms the ILO constitutional mandate to pursue “the universal aspiration for social justice” and the Director-General acknowledged the ILO’s “particular responsibility to promote fair globalization.” 37 The Declaration commits the ILO and its members “to place full and productive employment and decent work at the centre of economic and social policies.” 38 Toward these ends, the ILO and its members adopted the ILO Decent Work Agenda and its “four equally important strategic objectives:” (1) promoting employment, (2) enhancing social protection, (3) promoting social dialogue, and (4) realizing rights at work. 39 The Declaration thereby institutionalizes the ILO Decent Work Agenda. 40 In this paper, we refer to the ILO framework encompassed in the ILO Constitution, the Declaration of Philadelphia and the Declaration on Social Justice for a Fair Globalization as the social justice model. 41

A human rights model for achieving decent work shares with the social justice model the

33 Id.
34 Id.
36 Id. § II(a).
37 Director-General’s Announcement, ILO Declaration on Social Justice for a Fair Globalization, IGDS Number 1 (Version1), International Labour Office, ¶ 3 (August 13, 2008).
38 ILO DECLARATION ON SOCIAL JUSTICE FOR A FAIR GLOBALIZATION § I.A (June 13, 2008)
39 Id.
40 Director-General’s Announcement, supra note 37, ¶ 3.
central concerns on poverty, inequality and human dignity. While there are a variety of human rights models, they are all derived from the international human rights framework first set forth in the UDHR and subsequently implemented in numerous human rights treaties. Stephen Marks explains that the central characteristic of the holistic human rights model is its emphasis on the unity of all human rights, countering the tendency to divide human rights into distinct categories. A holistic human rights model, therefore, stands in opposition to the claims of some countries that may endorse human rights in general, yet reject certain categories of rights, such as women’s rights, rights of democratic participation, or social and economic rights.

A holistic model stresses the universality, interdependency and equality of all human rights. It recognizes that all categories of human rights will require resources to achieve them, all human rights may involve violations and all human rights may require adaptation or transformation of institutions and practices. Most importantly, all categories of human rights are essential to human dignity. In the context of decent work, the holistic approach demands that all human rights, not just the particular work right that appears most relevant to the current challenge, must be considered. For example, to combat child labour, policy makers must consider, in addition to a minimum age for employment, the child’s right to education, right to health, right to family life and right to participation in the community, among other rights that may be affected by such policy changes.

The UDHR and several other human rights instruments lend support to the holistic human rights model. Article 28 of the UDHR states that “[e]veryone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully

46 Id.
47 See id. (applying the holistic approach in the context of development).
48 Id. at 3.
realized.”"49 According to Marks, this provision implies a holistic framework in which social, economic and political structures at both the national and international level support the full realization of all categories of human rights.50 The holistic model is further supported by subsequent UN Declarations, including the Declaration on the Right to Development (1986) and the Vienna Declaration and Programme of Action (1993), which both acknowledge the indivisibility and interdependency of all human rights and call for equal attention to the implementation of civil, political, economic, social and cultural rights.51 Beyond such declarations, the holistic model is reaffirmed in the preambles to the International Covenant on Civil and Political Rights (ICCPR) and the ICESCR, which state:

[I]n accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as civil and political rights.52

In this respect, a holistic human rights model encompasses the principles in the ILO Declaration of Philadelphia and the ILO Declaration on Social Justice, including the ideas that freedom of expression and association are essential to sustained progress and that the war against want requires both national and international effort to promote the common welfare.53 Additionally, both the social justice and the holistic human rights models encompass a set of values and establish ethical frameworks for evaluating policy and practice.54 Moreover, both frameworks are now implemented through international laws with monitoring and accountability mechanisms, human rights in international human rights treaties and social justice through the ILO Conventions. Yet, there are significant differences between holistic human rights and social justice models.

The holistic human rights model embraces but also extends beyond the parameters of the ILO social justice model.55 First, the holistic human rights model, like the social justice model, is concerned with oppressed groups; however, human rights extend beyond this focus to all

49 UDHR art. 28.
52 ICESCR preamble. The preamble to the ICCPR contains substantially the same language.
53 ILO DECLARATION OF PHILADELPHIA, supra note 35, § I; ILO DECLARATION ON SOCIAL JUSTICE, supra note 38, preamble.
55 See Riedel, supra note 23, at 6 (“the approach taken by the CESCR [in its General Comment on the right to work] reflects similar efforts undertaken in the context of the ILO, even though the human rights approach is broader, transcending tripartite relationships.”); see also Marks 2003, supra note 40, at 8 (comparing social justice and human rights approaches to public health and international development); see also Marks 2008, supra note 42, at 123, Table 7.1 (comparing human rights and social justice approaches).
individuals and groups of individuals. Second, the holistic human rights approach extends beyond a limited area of life concerns, recognizing that people value many interrelated dimensions of their lives. Third, the holistic human rights model requires that political, economic and social institutions treat these dimensions as equally valuable in the lives of the people that they govern. This holistic framework is most notably reaffirmed in the 1993 Vienna Declaration and Programme of Action:

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of the States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

In sum, the holistic human rights model includes three key features, universality, interdependency and equality of all human rights.

III. Key Features of a Holistic Human Rights Model

A. Universality and Inalienability

Human rights are universal and inalienable. “Universality” means that all people, everywhere in the world, are entitled to human rights at all times. As Jack Donnelly explains, “Human rights are, literally, the rights that one has simply because one is a human being.” In other words, one either is a human being and therefore has human rights, as all other human beings do, or one is not a human being and does not have any human rights at all. Today, international law recognizes that all members of the species Homo sapiens are “human beings” and thus holders of human rights. “Inalienability” means that people cannot voluntarily or

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56 Marks 2008, supra note 42, at 123.
57 Marks 2003, supra note 43, at 8.
58 A. Belden Fields and Wolf-Dieter Narr, Human Rights as a Holistic Concept, 14 HUM. RTS. Q. 20, (1992) (a holistic conception of human rights means “that all social processes and institutions – political, economic, social, and cultural – must be understood and evaluated in terms of their effects upon human rights.”); The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies (2003), http://www.undg.org/archive_docs/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf (civil, cultural, economic, political, and social rights all have equal status as rights) [hereinafter Common Understanding]
59 Vienna Declaration, supra note 51, at ¶ 5.
60 UDHR preamble.
61 Common Understanding, supra note 58; but see Fields and Narr, supra note 55, at 3 (arguing that historically claims to universality were in reality only meant to pertain to some individuals – the people who espouse them).
62 Jack Donnelly, UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE 10 (2d ed. 2002).
63 Id.
64 Id.
involuntarily surrender their own human rights or the human rights of others. For example, a person cannot sell herself or another person into servitude. Additionally, “[o]ne cannot stop being human, no matter how badly one behaves nor how barbarously one is treated,” and therefore, one is always a holder of human rights.

The universality and inalienability of human rights is affirmed in numerous international instruments. The Charter of the United Nations requires that all members pledge themselves to the promotion of “universal respect for, and observance of, human rights and fundamental freedoms for all.” The Universal Declaration of Human Rights establishes the principle of universality in its title and inalienability in its preamble. Additionally, universality is implied in article 1, which states that “[a]ll human beings are born free and equal in dignity and rights, and in article 2, which states “[e]veryone is entitled to all the rights and freedoms set forth in this Declaration.” The two Covenants, in accordance with the UN Charter and the UDHR, similarly recognize the universality and inalienability of all human rights. As the Vienna Declaration and Programme of Action declared in 1993, “[t]he universal nature of these rights and freedoms is beyond question.”

B. Interrelatedness, Interdependency and Indivisibility

Human rights are also interrelated, interdependent and indivisible. They are interrelated in the sense that they are intricately connected to each other. Johannes Morsink’s detailed history on the drafting of the UDHR explains the organic interrelatedness of the articles in the UDHR. For example, article 23 on the right to work and article 24 on reasonable limits for work hours are closely related to article 22 on the right to social security, which in turn is closely tied to article 25 on the right to an adequate standard of living and security in the event of unemployment, sickness or disability. Similarly, the prohibition against slavery in article 4 is linked to the right to free choice of employment in article 23; the right to freedom of association in article 20 is linked to the right to form and join trade unions in article 23; and the right to equal pay for equal work in article 23 is linked to the prohibition against discrimination in article 2 and the equality between men and women in article 3.

Likewise, family rights are covered in several interrelated articles of the UDHR, which are also connected to work rights. Article 12 addresses the privacy of family and home; article 16 addresses the protection of family as the fundamental group of society and article 23 addresses just remuneration to ensure human dignity of a worker and his or her family. These

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65 UN Common Understanding, supra note 58, at 2.
66 Donnelly, supra note 62, at 10.
67 U.N. CHARTER arts. 55-56.
68 UDHR arts. 1, 2.
69 ICESCR preamble; ICCPR preamble.
70 Vienna Declaration, supra note 51, ¶ 1.
72 Id. at 191 (“because of a clerical error the phrase ‘social security’ was split off from its list in Article 25 and came to stand by itself in Article 22.”).
73 Id. at 237.
family rights are all linked to article 25 which calls for an adequate standard of living for a family, the right to security in the event of unemployment, sickness or disability, and special assistance for motherhood and childhood. In fact, the drafters understood that all the individual articles in the UDHR “implicate each other.”

Human rights are interdependent in two senses, reflecting (1) the relationships between rights, and (2) the relationships between persons. First, human rights are interdependent in the sense that the realization of one right may support or reinforce the realization of another right. In other words, interdependency means that there is a causal link such that one right depends in whole or in part upon the realization of another right. The rights enumerated in the UDHR and the two Covenants are interdependent because the ability to enjoy one right often enables or enhances the ability to enjoy others.

Take one right as an example. The right to health is dependent upon the rights to food, water and housing, as these are necessary underlying determinants of health. The right to health is also closely tied to the right to education because ill health and the absence of health care lower educational achievement by increasing absences and disrupting concentration. Being interdependent, the right to education also frequently enhances the right to health, by for example, improving access to health information. The right to health is also linked to the right to work because ill health may reduce time and productivity at work or may limit the possibility of working at all. Further, the right to health enhances the ability to participate politically and to enjoy the rights to freedom of expression and association. The right to work similarly helps to realize other rights, such as the rights to food and housing. Indeed, the Commission on Social Determinants of Health, set up by the World Health Organization, considers fair employment and decent work key to living long and healthy lives.

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74 Id.
75 Id. at 236.
77 UN Common Understanding, supra note 58.
80 Id.
81 CESCR General Comment 14, supra note 78, ¶ 3.
83 See generally COMMISSION ON SOCIAL DETERMINANTS, CLOSING THE GAP IN A GENERATION: HEALTH EQUITY THROUGH ACTION ON THE SOCIAL DETERMINANTS OF HEALTH 5-6, 72-83 (2008) (explaining how “[e]mployment and working conditions have powerful effects on health and health equity.”).
The interdependency of economic and social rights – the rights to food, water, housing, education, health and work – is apparent. Perhaps less obvious is the interdependence of civil and political rights with economic and social rights. The Human Development Report 2000: Human Rights and Human Development explains it this way:

[Without workers’ right to free association and expression, other labour rights can be inaccessible. Workers interviewed in a study of corporate codes of conduct in six countries in Asia and six in Latin America consistently said that they thought codes were useful only in the context of proper employment contracts and rights to organize. Otherwise, they would only be laid off for complaining.]

Similarly, the right to a birth certificate is a basic civil right without which a child may not have access to education or healthcare. In these and many other ways, civil and political rights may also enhance enjoyment of economic and social rights.

The work of the ILO Committee on Freedom of Association exemplifies the interdependency between civil and political rights on the one hand and economic and social rights on the other. For example, its Digest of Decisions and Principles evidences decisions on many rights interdependent with freedom of association, including among others, the right to life, the right to due process of law, the right to freedom of movement, the right to freedom of opinion and expression, the right to strike and the right to protection of trade union premises and property. Indeed, this notion of interdependency is evident throughout the work of the ILO as it is essential to its social justice model.

Interdependency is key in a holistic human rights model in second sense as well. As Craig Scott explains, interdependence may also be understood in terms of the interrelationships of persons. Because people are interdependent, their rights are also often interdependent. Children’s rights, for example, may be impacted by the rights of their parents. Scott illustrates these relationships with the example of a group of workers seeking unionization who are dismissed by their employer. The workers subsequently seek an interim injunction from the court to prevent their dismissal until the merits of their case can be heard. The worker rights directly at stake include the right to work and the right to organize, which as Scott notes, might be reason enough for a judge to order their continued employment. “Yet, their rights are

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84 UNDP, supra note 74, at 75
85 Id. Yet, in many countries 30-50% of births go unregistered. Id.
87 See, e.g., ILO DECLARATION ON SOCIAL JUSTICE FOR A FAIR GLOBALIZATION, supra note 38, § I.B (“The four strategic objectives [of the Decent Work Agenda] are inseparable, interrelated and mutually supportive.”). Director-General’s Announcement, supra note 37, ¶ 7 (emphasizing that the Declaration recognizes the indivisibility of the four Pillars of the Decent Work Agenda – employment, social protection, social dialogue and international labour standards).
89 Id. at 645.
90 Id. at 645-46.
valuable not only with respect to themselves. The rights of their children, as well as other
dependent family members, are at stake."91 Thus, the workers are not the only rights holders.
Their children are also rights holders, and their rights bolster those of their parents.92 Such
linkages between the rights of different persons can be seen throughout the international human
rights treaties, especially among the rights of family members.93

In addition to being interrelated and interdependent, human rights are also indivisible. The
meaning of the “indivisibility” of human rights is less obvious than the meaning of
“interrelated” or “interdependent” human rights.94 Jack Donnelly presents the generally accepted
understanding of indivisibility. In Donnelly’s words: “The Universal Declaration model treats
internationally recognized human rights holistically, as an indivisible structure in which the
value of each right is significantly augmented by the presence of many others.”95 The holistic
human rights model explained in this paper includes the key feature of indivisibility in the sense
explained by Donnelly.

Diane Elson also provides a useful definition in terms of the obligations that indivisibility
imposes upon governments, which coincides well with Marks’ conceptual framework of the
holistic human rights model. Elson explains that “[t]he indivisibility of human rights means that
measures to protect, promote and fulfill any particular right should not create obstacles to the
protection, promotion and fulfillment of any other human right.”96 Thus, Elson, like Marks,
views indivisibility as an essential feature of a holistic model that treats all human rights as
important components of a unified framework such as that set out in the UDHR. She elaborates
further: “The idea of indivisibility is also an assertion that the procedures for setting priorities for
resource use and for judging the effectiveness of resource use must incorporate principles of
respect for all human rights.”97

C. Equality of Rights

Finally, human rights all have equal status as rights, and accordingly, they cannot be
ranked in a hierarchical order.98 All human rights are inherent to human dignity.99 This
principle is expressed in the opening line of the UDHR, stating that the “recognition of the
inherent dignity and of the equal and inalienable rights of all members of the human family is
the foundation of freedom, justice and peace in the world.”100 The same words are reiterated in
the preambles to the ICESCR and the ICCPR. The equal status of rights was also reaffirmed in

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91 Id. at 645
92 Id. at 646.
93 Id. at 647.
94 James Nickel regards indivisibility as a very strong form of interdependency involving “indispensable
bidirectional support.” Nickel, supra note 44, at 990. For Nickel, two rights are indivisible only if each
right is indispensable to the other. Nickel presents a very strong form of indivisibility, which, as he
acknowledges, is not the general understanding of the notion in international human rights law.
95 Donnelly, supra note 62, at 27.
96 Elson, supra note 4, at 80.
97 Id. at 79.
98 UN Common Understanding, supra note 58, at 2.
99 Id.
100 UDHR preamble (emphasis added).
the 1993 Vienna Declaration, which urged the international community and national governments alike to treat all human rights “in a fair and equal manner.”101 In terms of implementation, Elson explains that “there is no hierarchy of human rights as ultimate goals: they are all equally valuable and mutually reinforcing.”102

In sum, the holistic human rights approach encompasses all people and all human rights in an equal manner. These are the principles of universality, interdependency, and equality of rights. This approach reflects the original understanding of the international human rights law framework at the time that the UDHR was adopted.103 As Morsink concludes, the organic unity of the UDHR reflects the belief of the drafters “in the fundamental unity of all human rights.”104 The drafters recognized that all human rights are of equal importance and, indeed, are inherently interrelated and interdependent.105 Moreover, they expected the articles in the Declaration to be interpreted in light of the other articles on related topics as well as in the context of the document as a whole.106 This is the holistic model of human rights for which this paper advocates.107

IV. Strategies for Using a Holistic Human Rights Model to Achieve Decent Work

In a holistic human rights model, policy must be formulated with a view to its impact on the human rights of individuals, families and communities. Here, we are particularly concerned with the right to decent work. Using a holistic human rights model toward achieving the right to decent work suggests several possible strategies. These include, among others, (A) defining decent work in a holistic manner, (B) recognizing the interdependency of all human rights in regulating for decent work, (C) applying human rights-based methods and tools for policymaking, and (D) building coalitions over common concerns by linking the right to decent work with other rights. Before considering these strategies, however, it is helpful to briefly look at the international human rights law on the right to decent work. This law provides the legal and ethical framework for policymaking, both policy intended to achieve decent work for all and policy directed at other sectors – such as health, education or transportation – that would nonetheless impact on the right to decent work.

The most comprehensive international treaty on work related-rights is the ICESCR.108 The Covenant includes articles that are obviously work-related, such as the right to work, the right to just and favorable conditions of work, the right to form and join trade unions, the right to social security, the right of children and young persons to be protected from economic and social

101 Vienna Declaration, supra note 51, at ¶ 5.
102 Elson, supra note 4, at 79.
104 Morsink, supra note 71, at 238.
105 Id. at 232.
106 Id. at 232, 238.
107 See Scott, supra note 88, at 634 (arguing for “a return to the original promise of the UDHR”).
108 Riedel, supra note 23, at 5.
exploitation, the right to an adequate standard of living, the right to industrial hygiene and the right to technical and vocational education. These work-related rights are part of the holistic human rights framework, and they relate to each other as well as to the other rights enumerated in the Covenant. This interconnectivity between work rights and other economic, social and cultural rights is shown in Table 1.

Table 1: Summary of Work-Related Rights in the ICESCR

<table>
<thead>
<tr>
<th>Article</th>
<th>Human Right</th>
<th>Work-Related Aspects</th>
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<tbody>
<tr>
<td>6</td>
<td>Right to Work</td>
<td>• Right to freely chosen work</td>
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<td></td>
<td></td>
<td>• Right to gain a living by work</td>
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<td></td>
<td></td>
<td>• Right to technical and vocational guidance and training</td>
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<td></td>
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<td>• Right to full and productive employment</td>
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<td></td>
<td></td>
<td>• Right to conditions of political and economic freedoms</td>
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<td>7</td>
<td>Right to Just and</td>
<td>• Right to fair wages</td>
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<td></td>
<td>Favorable Conditions of Work</td>
<td>• Right to equal remuneration for work of equal value</td>
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<td></td>
<td></td>
<td>• Right of women to conditions not inferior to those of men</td>
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<td></td>
<td></td>
<td>• Right to a decent living for worker and family</td>
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<td></td>
<td></td>
<td>• Right to safe and healthy working conditions</td>
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<td></td>
<td></td>
<td>• Right to equal opportunity to promotion based on seniority and competence</td>
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<td>• Right to rest and leisure</td>
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<td>• Right to reasonable limitation on working hours</td>
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<td></td>
<td></td>
<td>• Right to periodic holidays with pay</td>
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<td>8</td>
<td>Union Rights</td>
<td>• Right to form and join trade unions</td>
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<td></td>
<td>• Right of trade unions to establish national and international federations</td>
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<td>• Right of trade unions to function freely</td>
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<td></td>
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<td>• Right to strike</td>
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<td>9</td>
<td>Right to Social Security</td>
<td>• Right to social security</td>
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<td></td>
<td></td>
<td>• Right to social insurance</td>
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<td>10</td>
<td>Family Rights</td>
<td>• Right to protection of the family, particularly while responsible for care and</td>
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<td></td>
<td></td>
<td>education of children</td>
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<td></td>
<td></td>
<td>• Right of women to special protection before and after childbirth</td>
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<td></td>
<td></td>
<td>• Right of working mothers to paid leave or leave with social security benefits</td>
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<td></td>
<td></td>
<td>• Right of children and young persons to be protected from economic and social</td>
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<td></td>
<td></td>
<td>exploitation</td>
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<tr>
<td>11</td>
<td>Right to an Adequate</td>
<td>• Right to an adequate standard of living for the worker and her family, which</td>
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<td></td>
<td>Standard of Living</td>
<td>includes adequate food, clothing and housing</td>
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<td></td>
<td></td>
<td>• Right to continuous improvement of living standards</td>
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<td>12</td>
<td>Right to Health</td>
<td>• Right to industrial hygiene</td>
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<td></td>
<td></td>
<td>• Right to prevention and treatment and control of occupational diseases</td>
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<td>13 &amp; 14</td>
<td>Right to Education</td>
<td>• Right to technical and vocational secondary education</td>
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<td></td>
<td></td>
<td>• Right to continuous improvement of material conditions for teaching staff</td>
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<tr>
<td>15</td>
<td>Cultural Rights</td>
<td>• Right of author to protection of interests resulting from scientific, literary or</td>
</tr>
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<td></td>
<td></td>
<td>artistic production</td>
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</table>
The Committee on Economic, Social and Cultural Rights, established to monitor and implement the Covenant, has issued a number of general comments detailing the normative content of these rights as well as the specific State obligations that arise from these rights. Particularly relevant here is the Committee’s General Comment No. 18 on the right to work in article 6 of the ICESCR.\footnote{CESCR General Comment 18, supra note 31.} The General Comment declares that “the right to work is essential for realizing other human rights and forms an inseparable and inherent part of human dignity.”\footnote{Id. ¶ 1.} Further, it explains that article 6 of the ICESCR sets out a general right to work, article 7 develops the individual dimension of the right to work and article 8 addresses the collective dimension of the right to work.\footnote{Id. ¶ 2.} In the General Comment, the Committee also explicitly asserts that “[a]rticles 6, 7, and 8 of the Covenant are interdependent.”\footnote{Id. ¶ 8; see also Riedel, supra note 23 (providing history on the relationship between the CESCR and the ILO Committee of Experts on the Application of Conventions and Recommendations).}

Importantly, the Committee draws extensively on the work of the ILO in detailing the normative content of the right to work and the State obligations arising from this right. General Comment 18 refers to at least twelve different ILO Conventions, adopting many of the standards that have been established by the ILO.\footnote{See, e.g. CESCR General Comment 18, supra note 31, ¶ 11 (ILO Convention No. 158 on the requirement of providing a valid grounds for dismissal), ¶ 12(b)(i) (ILO Convention No. 111 on equal opportunity and elimination of discrimination); see also ILO Conventions cited in footnotes 1, 3, 10, 15, 17, 18, 19, 20 and 22.} In this way, the Committee imposes on all its 160 State parties the obligations that are defined in ILO Conventions even when the State has not yet ratified the specific ILO Convention. The Committee also urges its State parties to adopt the ILO Conventions,\footnote{CESCR General Comment 18, supra note 31, ¶ 49.} and also to avail themselves of the technical assistance, cooperation and extensive information offered by the ILO.\footnote{Id. ¶ 53.} Finally, the Committee has also issued General Comment No. 19 on the right to social security enumerated in article 9 of the ICESCR.\footnote{Committee on Economic, Social and Cultural Rights, General Comment 19, The right to social security (article 9), U.N. Doc. E/C.12/GC/19 (January 30, 2008).} This General Comment relies heavily on ILO Convention No. 102 on the right to social security, including adopting the nine principle branches of social security adopted there.\footnote{Id. ¶ 12, n.8; see also Riedel, supra note 32, at 6 (discussing Committee’s reliance on ILO Convention No. 102).}

Beyond these specific work-related rights spelled out in Table 1, the ICESCR includes other articles essential to the protection of human rights in the sphere of work, including article 1 on the right of a people not to be deprived of its own means of subsistence, article 2 on the prohibition against discrimination and article 3 on the equal right of men and women to enjoy the rights in the Covenant. Additionally, other articles not directly work-related, nonetheless, impact on work rights, such as articles 13 and 14 on the right to primary education, article 12 on healthcare in the event of sickness, and article 15 on the benefits of scientific progress. The interrelated, interdependent and indivisible nature of these rights is further explored in the
illustrations below.

A. Defining Decent Work

The Committee on Economic, Social and Cultural Rights specifies that the right to work in article 6 means the right to *decent* work. It defines decent work as “work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration.” Decent work “also provides an income allowing workers to support themselves and their families as highlighted in article 7 of the Covenant.” The right to decent work encompasses all forms of work and is both an individual and collective right at the same time. In contrast to the Committee’s definition of decent work derived from article 6 of the ICESCR, the ILO definition, while extending to employment creation, social dialogue and social protection, narrowly includes only four “rights at work,” namely the four Core Labour Standards: (1) freedom of association, (2) forced labour, (3) discrimination and (4) child labour. By recognizing, or at least prioritizing, four specific work rights, this ILO definition of decent work conflicts with the experiences of workers. As this illustration shows, the deprivation of one right is often entangled with the deprivation of other rights.

The Institute for Health and Social Policy at McGill University is researching on the relationship between work and health. In a report entitled, “Addressing Poverty in a Globalised Economy,” the authors tell the story of a young worker in Tegucigalpa, Honduras. Gabriella Saavedra is 19 years old and the single mother of a nineteen-month-old child. She describes her employment as a textile worker. She makes clothes for export, working regularly from 7:00 am until 6:00 pm, seven days a week. Despite working 11 hours per day, 7 days per week, she earns only about USD $26 per week. This wage barely covers food for her and her child and their other necessities. Thus, Gabriella works even if she or her child is ill because she cannot afford to lose any wages. While at work, Gabriella’s ten-year-old stepsister cares for her child.

Analyzing Gabriella’s employment under the ILO four Core Labour Standards, there is no evident violation of three of the four standards: child labour, discrimination and freedom of association. There is, however, a clear violation of the fourth Core Labour Standard prohibiting

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118 CESC General Comment 18, *supra* note 31, ¶ 7 (emphasis in original).
119 *Id.*
120 *Id.*
121 *Id.* at ¶ 6
124 *Id.* at 7.
125 *Id.*
126 *Id.*
127 *Id.*
128 *Id.*
forced labour because (1) Gabriella’s work week exceeds the maximum weekly hour limit under Honduran Law of 72 hours, and (2) the work hours in excess of the legal maximum are imposed under threat of dismissal.\footnote{See Diane F. Frey, A Diagnostic Methodology for Regulating Decent Work, Paper for the Conference “Regulating for Decent Work: Innovative Regulation as a Response to Globalization,” International Labour Office, Geneva, Switzerland, 8-10 July 2009 (explaining in detail when violations of work time limitations amount to forced labour).} To regulate and correct the forced labour problem, the government could, for example, limit the work week to 6 days without exception. Eliminating the 7th day of work will not however, address the other human rights violations involved or have achieved a human rights-based definition of decent work for Gabriella. In fact, correcting the forced labour problem alone in isolation from other aspects of decent work could make Gabriella’s situation worse.

If Gabriella’s work week is reduced to 6 days per week, without any hourly wage increase, Gabriella will not earn enough money to feed herself and her child. As it is, she is not able to take any time off when she or her child is ill. Thus, she might be forced to take on a second job in order to meet their very basic needs, which may result in her working the same number of hours that amount to forced labour if worked in the one job. Gabriella’s employment situation cannot be improved by addressing only the forced labour issue because it violates several aspect of decent work under the Covenant, including her right to fair wages, her right to a decent living for herself and her family and her right to rest, leisure and periodic holidays. Moreover, whether 66 or 77 hours of work per week, the job impacts adversely on the dependent child’s right to care and education within her family, her right to health and her right to an adequate standard of living.\footnote{ICESCR art 10(1).} Finally, the prohibition against child labour is a concern because Gabriella leaves her child in the care of another child.

A brief review of Gabriella’s employment demonstrates that the concept of decent work must go beyond the ILO’s four Core Labour Standards encompassed in the ILO Decent Work Agenda. The definition of decent work must address whole jobs, whole people and whole families. To do so, it will need to recognize that the various dimensions of people’s lives are interrelated, interdependent and indivisible, and consequently, must be addressed in a holistic human rights framework. In this case, Gabriella’s human right to decent work has several components outside the scope of the ILO Core Labour Standards that must be addressed and that are interdependent with her child’s and her stepsister’s human rights. As Honduras is a party to the ICESCR, it should define decent work under Honduran law to include the broader human rights dimensions implicated in Gabriella’s story.\footnote{Honduras became a party to the ICESCR in 1981. United Nations Treaty Collection, ICESCR, Status of Ratification, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en.}

**B. Recognizing the Interdependency of All Human Rights in the Regulation of Decent Work**

A key component of a holistic human rights model is to recognize the interdependency of human rights and to incorporate this understanding into strategies for regulation, policymaking and programming. As Marks and Elson have both explained, taking a holistic human rights...
approach requires considering the human rights beyond the one right that appears most relevant to a particular challenge and ensuring that measures to enhance enjoyment of one right do not diminis

Accordingly, human rights scholars and practitioners include the interdependence of rights as one of the overarching principles of a human rights-based methodology. For example, the U.N. Office of the High Commissioner for Human Rights includes the interdependence of rights among the principles essential to a human rights approach to poverty reduction strategies. Similarly, Hunt and MacNaughton include the interdependence of rights as one of their seven general principles for human rights-based impact assessment. Likewise, a holistic human rights model for achieving decent work recognizes that human rights are intertwined and therefore indivisible as are the human rights of people, particularly people within a family.

Khan, Munir and Willmott published an article, “A Dark Side of Institutional Entrepreneurship: Soccer Balls, Child Labour and Postcolonial Impoverishment,” that illustrates well the interdependency of work-related human rights and family relationships. In the late 1990s the ILO, UNICEF, Save the Children Fund and the Sialkot Chamber of Commerce and Industry developed a project to eliminate child labour in the Sialkot soccer ball stitching industry. Essentially, the project shifted stitching from homes, where families worked together, to stitching centers, where labour could be monitored to ensure that children were not participating. The project was widely acclaimed as successful by international actors, and indeed, by 2003 the soccer industry in Sialkot was “effectively child labour free.”

While the project was successful in eliminating child labour in Sialkot, its primary goal, the authors document the substantial adverse impacts upon women in the stitching families. Subsequent to the project, women disclosed in interviews the disadvantages for them of the move from home-based to factory-based stitching. These included: (1) they were required to work fixed hours at the factory rather than the flexible hours that they had previously worked at home; (2) they lost time for house work and stitching due to the commute to the centers; (3) they were required to work full-time at the centers while many of them had previously worked part-time at home; and (4) their output was lower at the centers because of the introduction of quality control procedures. In addition to the detrimental work time and conditions, women were also subject to verbal abuse traveling to and from the stitching centers, as stitching is regarded as a low-status, stigmatizing form of work. Further, women reported physical and sexual abuse at the stitching centers. In sum, the move from home-based stitching to the stitching centers came at a heavy cost to women stitchers. Not surprisingly, there remained only 3,200 left of the

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132 See supra notes 47 and 93 and accompanying text.  
133 OHCHR Principles and Guidelines, supra note 82, ¶s 20, 27.  
134 Hunt & MacNaughton, supra note 79, at 34.  
136 Id. at 1067.  
137 Id. at 1067-69.  
138 Id. at 1068.  
139 Id.  
140 Id.
estimated 12,000 to 18,000 women stitchers six years after the start of the project.\textsuperscript{141} To the women stitchers, home-based stitching was both “more convenient and less humiliating.”\textsuperscript{142}

The Sialkot soccer ball case amply illustrates the human rights violations that may result from failing to take a holistic human rights approach. While the primary goal of eliminating child labour was achieved, it was accomplished at the expense women’s human rights. The women’s lives deteriorated at home, work and in the community. Indeed, many women refused to work in the centers because of the adverse impact of this employment on their lives. As an approach to achieving a holistic human rights-based notion of decent work, the project was counterproductive. While it may have improved enjoyment of work rights by some, it clearly deteriorated enjoyment of work rights by others. Additionally, NGOs estimated that household income fell by 25-30% in absolute terms, plunging the families into deeper impoverishment,\textsuperscript{143} thus impacting on the human rights of everyone in these families. A holistic human rights model requires considering the human rights beyond the one right, child labour, that appeared most relevant and ensuring that the measures adopted to eliminate child labour did not diminish the enjoyment of other rights by the children or others in their families.

C. Applying Human Rights-Based Methods and Tools

In recent years, human rights practitioners have developed a number of methods and tools to improve policymaking and monitoring toward the realization of human rights.\textsuperscript{144} These “new tools” include human rights-based indicators and benchmarks, budget analysis and impact assessment.\textsuperscript{145} A recent report of the UN High Commissioner for Human Rights provides an overview of each of these methods.\textsuperscript{146} In general, these tools are intended to provide information to aid human rights practitioners in influencing policy making. In the past, human rights advocates have often relied upon traditional methods that address violations of human rights, such as litigation, naming and shaming and letter writing campaigns.\textsuperscript{147} While these traditional methods remain essential to obtaining remedies for violations, these new tools allow human rights practitioners to take a pro-active role in policy formulation and monitoring intended to prevent or reduce impacts on the enjoyment of human rights.\textsuperscript{148} Using these tools to evaluate and monitor policy making will contribute to realizing the right to decent work.

\textsuperscript{141} Id. at 1068-69.
\textsuperscript{142} Id. at 1069.
\textsuperscript{145} MacNaughton & Hunt, \textit{supra} note 54, at 303.
\textsuperscript{146} See Implementing ESCR, \textit{supra} note 144, ¶ 34-54.
\textsuperscript{147} MacNaughton & Hunt, \textit{supra} note 54, at 303.
\textsuperscript{148} Id.
Consider one of these “new tools,” human rights impact assessment. Human rights impact assessment is a methodology that aims to reveal unintended consequences of proposed regulations, policies and programs on the enjoyment of human rights. The purpose of such an impact assessment is to predict the likely effects of a proposal in order to mitigate negative and maximize positive impacts. It is a useful methodology for assessing proposals that aim to ameliorate human rights, as well as those with other primary aims, for their potential impact on human rights. Impact assessment is already routinely carried out to evaluate the likely consequences of proposals on, for example, the environment, poverty and health. Human rights impact assessment is a comparatively recent idea, which incorporates a participatory methodology and the understanding of the interdependence of rights and people in evaluating the potential impacts of a proposal on human rights. Consequently, it is a useful methodology for integrating decent work into a holistic human rights framework.

Human rights and the world of work have both been profoundly impacted by the HIV/AIDS crisis particularly in Sub-Saharan Africa. In response, governments, employers and unions have supported a variety of programs, including programs to provide anti-retrovirals, as both prevention and treatment measures, to people living with HIV/AIDS. These programs range from government universal access programs, providing anti-retrovirals to all, to employer programs, providing anti-retrovirals to their workers alone. In between, there are a variety of programs through which anti-retrovirals are provided to workers and sometimes their families and communities. In the case of employers, some have chosen to provide anti-retrovirals either as part of a wellness program or of a broader corporate social responsibility initiative. In other cases, unions are advocating through collective bargaining for employer provision of anti-retrovirals.

In an article entitled Bargaining for Life, the International Transport Workers’ Federation argues for collective bargaining over provision of anti-retroviral and convincing employers that

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149 Hunt & MacNaughton, supra note 79, at 4.
150 Id. at 8.
151 Id. at 11.
152 See generally International Association for Impact Assessment, www. iaia.org
153 See Hunt and MacNaughton, supra note 79, at 32-34 (outlining seven general principles for human rights-based impact assessments).
156 See, e.g., UNAIDS Three Companies, supra note 155, at 29 (BHP Billiton Case Study).
tackling this crisis is in their interest. The union contends that there is a compelling case for employers to provide anti-retrovirals to secure many years more productivity from workers living with HIV/AIDS, and that this will work out cheaper for employers than replacing sick staff. When workers are highly skilled, there may well be a business argument for employers to provide them with anti-retrovirals. Generally, this will not lead employers, however, to provide anti-retrovirals for the workers’ families. Additionally, for low-skilled workers, there is substantially less incentive for employers to provide them with anti-retrovirals, and indeed, unions representing such workers tend to support universal provision of anti-retrovirals by governments, rather than employer provision to workers.

A full-scale human rights impact assessment is not necessary to understand the potential impact of bargaining for anti-retrovirals in a collective agreement. Obviously, this approach puts anti-retrovirals – impacting on the right to health, the right to work and indeed the right to life – in jeopardy at the end of the contract. Nonetheless, unions may find human rights impact assessment useful in assessing other approaches to provision of anti-retrovirals, and governments are required under international human rights law to do so. As many of the programs are now created by partnerships, including employers, pharmaceutical companies, community organizations and others, unions may find that human rights impact assessment is an excellent tool to assess the potential human rights impacts of various approaches on workers and their families, as well as to maximize the human rights benefits of such partnerships. Given the close relationship between the right to decent work and other human rights, including the right to health, human rights impact assessment is an excellent tool for the social partners to use in evaluating other regulatory, policy and program proposals as well.

D. Building Coalitions by Linking Rights

The principles of universality, interdependence and equality of all rights also suggest that the holistic human rights model provides an excellent basis for building coalitions by linking rights. As Fields and Narr recommend in their article, Human Rights as a Holistic Concept, a holistic human rights model calls for enhancing the cooperation between social movements,
including the labour movement and human rights nongovernmental organizations. Jane Lethbridge presents a compelling case for building coalitions between labour and health rights groups. As she says,

> There is much to be gained if trade unions and NGOs work together effectively. For trade unions, NGOs may provide access to a wider economic and social agenda, one where labour issues are very often not the priority. For NGOs, trade unions represent a large number of workers to whom they are accountable — few NGOs have such well-organized constituencies.

Lethbridge documents coalitions between labour unions and NGOs in numerous countries that have been able to collaborate on enhancing health rights. These include: (1) the Malaysia Citizens’ Health Initiative, composed of community and consumer NGOs as well as healthcare worker unions and the Malaysian Trade Union Congress, which campaigned together to stop hospital privatization; (2) the 2002 South African Treatment Congress, organized by the Treatment Action Campaign and the Congress of South African Trade Unions, which collaborated on a campaign for anti-retrovirals; (3) the German Association for the Taxation of Financial Transactions for the Aid of Citizens together with German trade unions, which worked together against the privatization of health services; and (4) the Women’s Network of Towns and Neighborhoods in Argentina, which brought together women’s and community organizations in alliance with health workers and trade unions to fight for reproductive health rights. By building coalitions based on common concerns, these groups advanced the interrelated rights at issue.

Similarly, the Vermont Workers’ Center in the U.S. is an organization composed of individuals and organizations, including unions, churches and community groups. The Center has launched a campaign to reframe healthcare as a human right. It’s “long-term goal is a universal system in which health care is recognized as a public good and provided collectively, rather than as a commodity sold in a marketplace.” The Center recently held a rally on the State House lawn where U.S. Senator Bernard Saunders spoke to the crowd. At the rally, Peg Franzen, a retired Vermonter told reporters, “We really need to have a healthcare system that is based on moral values rather than the market economy.” The Vermont Workers’ Center uses a holistic human rights model. It is building coalitions to advance the work rights and health rights of all Vermonters, and to bring the same kind of positive changes to healthcare that Lethbridge documented such coalitions were able to achieve in other parts of the world.

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165 Fields and Narr, supra note 58, at 20.
166 Jane Lethbridge, Combining Worker and User Interests in the Health Sector: Trade Unions and NGOs, 14 DEVELOPMENT IN PRACTICE 234 (2004).
167 Id. at 236.
168 Id. at 237-40.
169 Id. at 240-43.
170 Id. at 244.
171 Id.
172 Vermont Workers’ Center, Healthcare is a Human Right Campaign, at http://www.workerscenter.org/healthcare.
173 Daniel Barlow, Big Health Care Rally Planned Friday, TIMES ARGUS, April 28, 2009.
While many workers’ organization have collaborated with NGOs in bringing about positive changes in the enjoyment of health rights in the health sector, it important to emphasize that efforts to improve working conditions, inside and outside the employment relationship, are equally important to realizing the right to health as they are to realizing the right to decent work. Indeed, the Commission on Social Determinants of Health identified “creating fair employment and decent work” as one of the key determinants, along with a universal health care, of health. The report of the Commission states:

Work is an area where many of the important influences on health are played out. This includes both employment conditions and the nature of work itself. A flexible workforce is seen as good for economic competitiveness but brings with it effects on health. Evidence indicates that mortality is significantly higher among temporary workers compared to permanent workers. Poor mental health outcomes are associated with precarious employment (e.g. non-fixed term temporary contracts, being employed with no contract, and part-time work). Workers who perceive work insecurity experience significant adverse effects on their physical and mental health.

In short, advancing work rights advances the right to health. In this vein, the holistic human rights model provides a framework for workers’ organization to collaborate with other groups interested in improving health by realizing the right to decent work. As the Commission on Social Determinants states at the outset of its 2008 Final Report: “Social Justice is a matter of life and death.”

V. Conclusion

This paper argues for a return to the original holistic human rights model embraced in the Universal Declaration of Human Rights and in the ILO Declaration of Philadelphia. With the recent adoption of the Optional Protocol to the ICESCR, economic and social rights are regaining parity with civil and political rights in the international arena. With this parity comes the renewal of the holistic human rights framework in the UDHR, which highlights the universality, interdependency and equality of all human rights. Indeed, increasingly around the world, the right to form and join labour unions, the right to collective bargaining, the right to a safe and healthy workplace, and the right against discrimination in the workplace, among other work-related rights, “are considered human right – not merely rights granted by statutes or collective bargaining contracts.” To date, this perspective has been developing primarily in the courts where advocates are invoking international human rights law to support their domestic

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174 Commission on Social Determinants, supra note 83, at 5-6.
175 Id. at 5.
176 Some initiative, such as the campaign to stop hospital privatization contribute directly to enhancing the right to decent work and the right to health.
claims alleging violations of worker rights. It is now, however, timely to consider the opportunities for using the holistic human rights framework in a pro-active manner toward achieving decent work for all.

This paper explores several strategies for doing so. First, decent work must be defined to encompass human rights beyond the ILO four Core Labour Standards as work effects many dimensions of people’s lives and the lives of their families. All work rights are interrelated, and therefore, a few rights cannot be pursued at the expense of others. Second, it is essential to recognize the interdependency of rights and of people and to take these relationships into consideration in regulating for decent work. Realizing children’s rights at the expense of women’s rights does not bring us further toward achieving decent work for all. Third, human rights scholars and practitioners are developing human rights-based methodologies and tools, such as human rights impact assessment, which have the potential to improve policy making on decent work by revealing the likely impacts of proposals on human rights, including work rights, and providing the opportunity to mitigate negative impacts and maximize positive ones. Finally, the holistic human rights model helps to build coalitions among individuals and groups that share common concerns for ensuring decent work for all, realizing the full panoply of human rights and achieving social justice too.

See generally, Margaret Bedggood & Diane Frey, Work Rights: A Human Rights-Based Response to Poverty, in FREEDOM FROM POVERTY (Geraldine Van Bueren ed., forthcoming 2010) (documenting case law on worker rights as human rights); see also GROSS, supra note 176, at 1 (“The concept of workers’ rights as human rights has emerged recently in discussions concerning the state of U.S. labor relations, but it has not influenced the making and implementation of labor policy at any level.”).