Globalization and the more recent collapse of the global economy present tremendous challenges but also opportunities for advancing human rights, including the right to decent work. The failure of neo-liberal policies to advance economic development and reduce poverty, now widely acknowledged, has coincided with the emergence of economic and social rights into the mainstream human rights agenda. Marginalized during the cold-war period, economic and social rights were reinvigorated by human rights advocates beginning in the mid-1980s. The most recent achievement was the adoption by the UN General Assembly of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR), providing, for the first time outside of the ILO, a complaint mechanism for economic and social rights at the global level.

While the work rights covered by the Covenant and the new Optional Protocol overlap with rights in ILO Conventions, as well as with the pillars of the ILO Decent Work Agenda, there are important differences. The work rights in the ICESCR cover all human beings regardless of their employment status – formal or informal, paid or unpaid – and without regard to their union status. Moreover, the ICESCR has been ratified by 160 countries, while ILO Conventions on the same subjects covered by the Covenant often have significantly fewer ratifications. For example, only 99 states have ratified Convention 122 concerning (full) employment policy and only 34 states have ratified Convention 158 on (justification for) termination of employment. Of course, it remains to be seen how many countries will ratify the Optional Protocol to the ICESCR and how quickly they will do so.

In this context, this paper explores the synergies that might be possible by taking a human rights approach to decent work and how this approach might help to reframe decent work beyond a policy ideal. Most importantly, the human rights approach embraced in the
Universal Declaration of Human Rights (UDHR) and the ICESCR includes the principles of universality, interdependence and equality of all human rights. These principles can help to de-compartmentalize decent work-related ILO Conventions and pillars, integrating them into a holistic human rights framework.

To illustrate, the paper identifies strategies to regulate for decent work using the holistic human rights approach. These strategies include defining decent work holistically, recognizing interdependent rights and people in regulating for decent work, using human rights-based methods and tools for policymaking on decent work, and building coalitions among people and organizations by linking rights. Based on these illustrations, the paper concludes that there is great potential for improving regulation on decent work by adopting a holistic human rights approach.

II. A Holistic Human Rights Approach

A. 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.” 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.” As a result, the Constitution declares that “an improvement of those conditions is urgently required.” The 1944 ILO Declaration of Philadelphia reaffirmed that lasting peace must be based on social justice and 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.” In this paper, we refer to this framework as the social justice approach.

Human rights approaches to decent work share with social justice approaches the central concern for poverty, inequality and human dignity. While there are a variety of human rights approaches, 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 approach is its emphasis on the unity of all human rights, countering the tendency to divide human rights into distinct categories. The holistic human rights approach, therefore,

9 Id.
10 Id.
11 Id.
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.\textsuperscript{14}

The holistic approach 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.\textsuperscript{15} Most importantly, all categories of human rights are essential to human dignity.\textsuperscript{16} 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.\textsuperscript{17} 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 approach.\textsuperscript{18} 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 realized.”\textsuperscript{19} 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.\textsuperscript{20} The holistic approach 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.\textsuperscript{21} Beyond such declarations, the holistic approach is reaffirmed in the preambles to the International Covenant on Civil and Political Rights (ICCPR) and the ICESCR, which state:

\begin{quote}
[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.\textsuperscript{22}
\end{quote}

In this respect, the holistic human rights approach encompasses the principles in the ILO Declaration of Philadelphia, 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.\textsuperscript{23} Additionally, both the social justice and the holistic human rights approaches encompass a set of values and

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\textsuperscript{15} Marks 2003, \textit{supra} note 13, at 4.

\textsuperscript{16} \textit{id.}

\textsuperscript{17} See \textit{id.} (applying the holistic approach in the context of development).

\textsuperscript{18} \textit{id.} at 3.

\textsuperscript{19} UDHR art. 28.

\textsuperscript{20} Marks 2003, \textit{supra} note 13, at 4


\textsuperscript{22} ICESCR preamble. The preamble to the ICCPR contains substantially the same language.

\textsuperscript{23} ILO Declaration of Philadelphia, \textit{supra} note 8, at Section I.
establish ethical frameworks for evaluating policy and practice. 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 approaches.

The holistic human rights approach embraces but also extends beyond the parameters of the ILO social justice approach. First, the holistic human rights approach, like the social justice approach, is concerned with oppressed groups; however, human rights extend beyond this focus to all 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 approach 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 approach includes three key features, universality, interdependency and equality of all human rights.

B. Key Features of a Holistic Human Rights Approach

1. 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

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25 See Marks 2003, supra note 13, at 8 (comparing social justice and human rights approaches to public health and international development); see also Marks 2008, supra note 12, at 123, Table 7.1 (comparing human rights and social justice approaches).
26 Marks 2008, supra note 12, at 123.
27 Marks 2003, supra note 13, at 8.
28 A. Belden Fields and Wolf-Dieter Narr, Human Rights as a Holistic Concept, 14 HUMAN RIGHTS QUARTERLY 20, (1992) (a holistic conception of human rights means “that all social process 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_Agencies.pdf (civil, cultural, economic, political, and social rights all have equal status as rights) [hereinafter Common Understanding]
29 Vienna Declaration, supra note 21, at ¶ 5.
30 UDHR preamble.
31 But see Fields and Narr, supra note 28, at 3 (arguing that historically claims to universality were in reality only meant to pertain to some individuals – the people who espouse them).
excludes, “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 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.

Today, as the Vienna Declaration and Programme of Action declared in 1993, “[t]he universal nature of these rights and freedoms is beyond question.”

2. 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.

32 Jack Donnelly, UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE 10 (2d ed. 2002).
33 Id.
34 Id.
35 UN Common Understanding, supra note 28, at 2.
36 Donnelly, supra note 32, at 10.
37 U.N. CHARTER art. 55-56.
38 UDHR arts. 1, 2.
39 ICESCR preamble; ICCPR preamble.
40 Vienna Declaration, supra note 21, ¶ 1.
42 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.”).
43 Id. at 237.
These 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.\footnote{Id.} In fact, the drafters understood that all the individual articles in the UDHR "implicate each other."\footnote{Id. at 236.}

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.\footnote{UNDP, HUMAN DEVELOPMENT REPORT 2000: HUMAN RIGHTS AND HUMAN DEVELOPMENT 74 (2000).} 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.\footnote{UN Common Understanding, supra note 28.} 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.\footnote{CESCR, General Comment 14, The right to the highest attainable standard of health, Article 12 of the ICESCR, U.N. Doc E/C.12/2004/4 (11 August 2000) ¶ 3.} The right to health is also closely tied to the right to education because ill health and the absence of healthcare lower educational achievement by increasing absences and disrupting concentration.\footnote{Paul Hunt and Gillian MacNaughton, Impact Assessments, Poverty and Human Rights: A Case Study Using The Right to the Highest Attainable Standard of Health, World Health Organization, Health and Human Rights Working Paper Series No. 6, at 27 (2006), http://www.who.int/hhr/Series_6_ImpactAssessments_Hunt_MacNaughton1.pdf.} 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.\footnote{Id.} Further, the right to health enhances the ability to participate politically and to enjoy the rights to freedom of expression and association.\footnote{CESCR General Comment 14, supra note 48, at ¶ 3.} The right to work similarly helps to realize other rights, such as the rights to food and housing.\footnote{CESCR General Comment 18, The right to work: article 6 of the ICESCR, U.N. Doc. E/C.12/GC/18 (6 February 2006) ¶ 1; Office of the United Nations High Commissioner for Human Rights (OHCHR), Principles and Guidelines For a Human Rights Approach to Poverty Reduction Strategies, at ¶ 7 (2006) [hereinafter OHCHR Principles and Guidelines].}

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) explains it this way:

[W]ithout 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.\footnote{UNDP, supra note 46, at 75}

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 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 interdependency is evident throughout the work of the ILO as it is necessary to its social justice approach.

Interdependency is key in a holistic human rights approach 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 an example. Workers seeking unionization 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 valuable not only with respect to themselves. The rights of their children, as well as other dependent family members, are at stake.” Thus, the workers are not the only rights holders. Their children are also rights holders, and their rights bolster those of their parents. Such linkages between the rights of different persons can be seen throughout the international human rights treaties, especially among the rights of family members.

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. 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.” The holistic human rights approach explained in this article 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 approach. Elson explains that “[t]he indivisibility of

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54 Id. Yet, in many countries 30-50% of births go unregistered. Id.
57 Id. at 645.
58 Id. at 645-46.
59 Id. at 645.
60 Id. at 646.
61 Id. at 647.
62 James Nickel regards indivisibility as a very strong form of interdependency involving “indispensable bidirectional support.” Nickel, *supra* note 13, 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.
63 Donnelly, *supra* note 32, at 27.
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.\textsuperscript{64} Thus, Elson, like Marks, views indivisibility as an essential feature of a holistic approach 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.”\textsuperscript{65}

3. Equality of Rights

Human rights all have equal status as rights, and accordingly, they cannot be ranked in a hierarchical order.\textsuperscript{66} All human rights are inherent to human dignity.\textsuperscript{67} 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.”\textsuperscript{68} The same words are reiterated in the preambles to the ICESCR and the ICCPR. The equal status of rights was also reaffirmed in the 1993 Vienna Declaration, which urged the international community and national governments alike to treat all human rights “in a fair and equal manner.”\textsuperscript{69} 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.”\textsuperscript{70}

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.\textsuperscript{71} As Morsink concludes, the organic unity of the UDHR reflects the belief of the drafters “in the fundamental unity of all human rights.”\textsuperscript{72} The drafters recognized that all human rights are of equal importance and, indeed, are inherently interrelated and interdependent.\textsuperscript{73} 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.\textsuperscript{74} This is the holistic approach to human rights for which this article advocates.\textsuperscript{75}

III. Strategies for a Holistic Approach to the Regulation of Decent Work

In a holistic human rights approach, regulation must be formulated with a view to its impact on the human rights of individuals, families and communities. Regulation on decent work is no different. Taking a holistic human rights approach to the regulation of 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

\begin{itemize}
  \item \textsuperscript{64} Elson, supra note 3, at 80.
  \item \textsuperscript{65} Id. at 79.
  \item \textsuperscript{66} UN Common Understanding, supra note 28, at 2.
  \item \textsuperscript{67} Id.
  \item \textsuperscript{68} UDHR preamble (emphasis added).
  \item \textsuperscript{69} Vienna Declaration, supra note 20, at ¶ 5.
  \item \textsuperscript{70} Elson, supra note 3, at 79.
  \item \textsuperscript{71} Unfortunately, this holistic vision deteriorated quickly during the Cold War and subsequent decades of neo-liberal policy. See Daphne Barak-Erez and Aeyal M Gross, Introduction: Do We Need Social Rights? Questions in the Era of Globalisation, Privatisation, and the Diminished Welfare State, in EXPLORING SOCIAL RIGHTS: BETWEEN THEORY AND PRACTICE 1,3 (Daphne Barak-Erez and Aeyal M Gross eds., 2007) (UDHR’s historical moment was not long-lasting).
  \item \textsuperscript{72} Morsink, supra note 41, at 238.
  \item \textsuperscript{73} Id. at 232.
  \item \textsuperscript{74} Id. at 232, 238.
  \item \textsuperscript{75} See Scott, supra note 56, at 634 (arguing for “a return to the original promise of the UDHR”).
\end{itemize}
regulating for decent work, (C) applying human rights-based methods and tools, and (D) building coalitions over common concerns and linking rights.

The most comprehensive international treaty on work-related rights is the ICESCR. 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 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>
<thead>
<tr>
<th>Article</th>
<th>Human Right</th>
<th>Work-Related Aspects</th>
</tr>
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</table>
| 6       | Right to Work | - Right to freely chosen work  
- Right to gain a living by work  
- Right to technical and vocational guidance and training  
- Right to full and productive employment  
- Right to conditions of political and economic freedoms |
| 7       | Right to Just and Favorable Conditions of Work | - Right to fair wages  
- Right to equal remuneration for work of equal value  
- Right of women to conditions not inferior to those of men  
- Right to a decent living for worker and family  
- Right to safe and healthy working conditions  
- Right to equal opportunity to promotion based on seniority and competence  
- Right to rest and leisure  
- Right to reasonable limitation on working hours  
- Right to periodic holidays with pay |
| 8       | Union Rights | - Right to form and join trade unions  
- Right of trade unions to establish national and international federations  
- Right of trade unions to function freely  
- Right to strike |
| 9       | Right to Social Security | - Right to social security  
- Right to social insurance |
| 10      | Family Rights | - Right to protection of the family, particularly while responsible for care and education of children  
- Right of women to special protection before and after childbirth  
- Right of working mothers to paid leave or leave with social security benefits  
- Right of children and young persons to be protected from economic and social exploitation |
| 11      | Right to an Adequate Standard of Living | - Right to an adequate standard of living for the worker and her family, which includes adequate food, clothing and housing  
- Right to continuous improvement of living standards |
| 12      | Right to Health | - Right to industrial hygiene  
- Right to prevention and treatment and control of occupational diseases |
| 13 & 14 | Right to Education | - Right to technical and vocational secondary education  
- Right to continuous improvement of material conditions for teaching staff |
| 15      | Cultural Rights | - Right of author to protection of interests resulting from scientific, literary or artistic production |
The Committee on Economic, Social and Cultural Rights (CESCR), 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, which 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. The Committee also explicitly asserts that “[a]rticles 6, 7, and 8 of the Covenant are interdependent.”

Beyond the 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 CESCR 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, the ILO definition of decent work, 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.

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

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77 Id. at ¶ 7 (emphasis in original).
78 Id.
79 Id.
80 Id. at ¶ 6.
83 Id. at 7.
export, working regularly from 7:00 am until 6:00 pm, seven days a week.\textsuperscript{84} Despite working 11 hours per day, 7 days per week, she earns only about USD $26 per week.\textsuperscript{85} 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.\textsuperscript{86} While at work, Gabriella’s ten-year-old stepsister cares for her child.\textsuperscript{87}

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 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.\textsuperscript{88} 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 per work 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.\textsuperscript{89} 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 four Core Labour Standards. 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 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.\textsuperscript{90}

\textsuperscript{84} Id.
\textsuperscript{85} Id.
\textsuperscript{86} Id.
\textsuperscript{87} Id.
\textsuperscript{89} ICESCR art 10(1).
B. Recognizing the interdependency of all human rights in the regulation of decent work

A key component of a holistic human rights approach 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 diminish the enjoyment of others. 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.91 Similarly, Hunt and MacNaughton include the interdependence of rights as one of their seven general principles for human rights-based impact assessment.92 Likewise, a holistic human rights approach to the regulation of 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.93 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.”94

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.95 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.96 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.97 Further, women reported physical and sexual abuse at the stitching centers.98 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 estimated 12,000 to 18,000 women stitchers six years after the start of the project.99 To the women stitchers, home-

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91 OHCHR Principles and Guidelines, supra note 52, ¶s 20, 27.
92 Hunt and MacNaughton, supra note 49, at 34.
94 Id. at 1067.
95 Id. at 1067-69.
96 Id. at 1068.
97 Id.
98 Id.
99 Id. at 1068-69.
based stitching was “more convenient and less humiliating.”

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 regulating 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 these families into deeper impoverishment, thus impacting on the human rights of everyone in these families. Taking a holistic human rights approach 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 rights by the children or others.

C. Applying Human Rights-Based Methods and Tools

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 antiretrovirals, as both prevention and treatment measures, to people living with HIV/AIDS. These programs range from government universal access programs, providing antiretrovirals to all, to employer programs, providing antiretrovirals to their workers alone. In

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100 Id. at 1069.
102 Hunt and MacNaughton, supra note 49, at 4.
103 Id. at 8.
104 Id. at 11.
105 See generally International Association for Impact Assessment, www. iaia.org
106 See Hunt and MacNaughton, supra note 49, at 32-34 (outlining seven general principles for human rights-based impact assessments).
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 for employer provision of anti-retrovirals through collective bargaining.

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

No human rights impact assessment is 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 decent work and 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.

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109 See, e.g., UNAIDS Three Companies, supra note 106, at 29 (BHP Billiton Case Study).
111 Bargaining for Life, supra note 110.
112 Id.
113 See, e.g., UNAIDS Three Companies, supra note 107 at 12. (referring to an ILO pilot survey finding that few companies provide anti-retrovirals to family members or to the community).
115 Employer sponsored programs for education on HIV/AIDS prevention and nondiscrimination in the workplace, as well as policies to prevent HIV screening or status disclosure for employment, on the other hand, are crucial contributions of employers.
117 See, e.g., UNAIDS Trade unions, supra note 107, at 31-32; UNAIDS Three Companies, supra note 107, at 6.
D. Building Coalitions and Linking Rights

The principles of universality, interdependence and equality of all rights also suggest that the holistic human rights approach 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 approach calls for enhancing the cooperation between social movements, including the labour movement and human rights nongovernmental organizations.118 Jane Lethbridge presents a compelling case for building coalitions between labour and health rights groups.119 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.120

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,121 (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,122 (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,123 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.124 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.”125 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.”126 The Vermont Workers’ Center takes a holistic human rights approach. 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.

118 Fields and Narr, supra note 28, at 20.
119 Jane Lethbridge, Combining Worker and User Interests in the Health Sector: Trade Unions and NGOs, 14 DEVELOPMENT IN PRACTICE 234 (2004).
120 Id. at 236.
121 Id. at 237-40.
122 Id. at 240-43.
123 Id. at 244.
124 Id.
125 Vermont Workers’ Center, Healthcare is a Human Right Campaign, at http://www.workerscenter.org/healthcare.
126 Daniel Barlow, Big Health Care Rally Planned Friday, TIMES ARGUS, April 28, 2009.
V. Conclusion

This paper argues for a return to the original holistic human rights approach 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. It is therefore timely to consider the opportunities for integrating decent work into this holistic human rights framework.

This paper explores several strategies for doing so. First, decent work must be defined to encompass human rights beyond the four Core Labour Standards as work effects many dimensions of people’s lives and the lives of their families. 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. Third, human rights scholars and practitioners are developing human rights-based methodologies and tools, such as human rights impact assessment, which may improve policymaking on decent work by revealing likely impacts of proposal on human rights, including work rights, and providing the opportunity to mitigate negative impacts and maximize positive ones. Finally, the holistic human rights approach helps to build coalitions among individuals and groups that share common concerns for ensuring decent work for all, realizing of the full panoply of human rights and achieving social justice too.