

**THIRTY FOURTH SESSION OF
THE INDIAN LABOUR CONFERENCE
VIGYAN BHAVAN, NEW DELHI**

(18-19 DECEMBER, 1997)

AGENDA

**MINISTRY OF LABOUR
GOVERNMENT OF INDIA
NEW DELHI**

THIRTY-FOURTH SESSION OF THE INDIAN LABOUR CONFERENCE

(NEW DELHI : DECEMBER 18-19, 1997)

AGENDA

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THIRTY-FOURTH SESSION OF THE INDIAN LABOUR CONFERENCE

(NEW DELHI : DECEMBER 18-19, 1997)

AGENDA

ITEM I - STATEMENT OF ACTION TAKEN ON THE CONCLUSIONS OF INDIAN LABOUR CONFERENCE

CONCLUSIONS

ACTION TAKEN

31ST SESSION OF I.L.C.

1. The Labour Ministry should set up an Advisory Body to review, from time to time, the status and promotion of employment of women.

As a Central Advisory Committee under the Equal Remuneration Act, 1976 has already been set up to advise the Government on measures for providing and expanding employment opportunities for women and reviewing the steps taken for effective implementation of the Act, it is not considered necessary to constitute another committee for the purpose. The Committee is in the process of being reconstituted.

32ND SESSION OF I.L.C.

2. The Labour Ministry should present a status paper on the existing social security schemes under implementation in the country, particularly reflecting

As was informed the Social Security Association of India was entrusted to carry out a study on the subject. However, they are expected to take

the experience of various states and bring the matter for consideration in the SLC; the scope for extension of the existing social security laws and systems applicable to the organised sector as well to the unorganised sector should also be gone into.

3. The proposal for the enactment of law for giving protection to agricultural workers should be presented for tripartite consultation in the SLC.

another six months to complete this study. Meanwhile, the Ministry has prepared a Status Paper on Social Security Programmes in India. It is placed at Annexure-I.

A Note was sent to the Cabinet Secretariat on 26.2.97 to consider the proposal of this Ministry regarding a Central Legislation for Agricultural Workers.

Cabinet directed that fresh consultations may be held with the State Governments on the Proposed Bill. A Group of Ministers was also constituted in this regard.

The Minister of State for Labour had addressed the Chief Ministers of the States on 7.4.97 to send their views on the Agricultural Workers (Employment, Conditions of Service and Welfare Measures) Bill, 1997. Secretary (Labour), Govt. of India reminded the Chief Secretaries of all State Govts./UTs apart from personally contacting them to expedite the views of the State Govts.

The matter was considered in

the State Labour Ministers' Conference held on 8.7.97.

A Note for consideration of the Group of Ministers alongwith the draft Bill and the summary of views/comments of the State Governments was sent to the Cabinet Secretariat on 11.7.97 for being placed before the Group of Ministers.

Meetings of the Group scheduled for 23.7.97 and 28.7.97 have been postponed and fresh date are yet to be fixed by the Cabinet Secretariat.

The salient features of the Agricultural Bill have been forwarded to the Central Organisations of Employers; and Workers; for their views/comments.

33RD SESSION OF I.L.C.

1. The Conference noted that different wage ceilings exist for various benefits under different labour laws. Ministry of Labour should prepare a draft statement on wage ceilings and place it before the next Session of the Standing Labour Committee.

Wage Ceiling under different labour laws are indicated in the statement attached (Annexure-II). Different wage ceiling have been fixed in different laws as the purpose, quantum of benefits and the target groups were different. However, this question will also be examined by the Committee set up by the Ministry of Law to review the existing laws

2. The Conference noted that a large section of the employees of the Public Sector Undertakings and Central Government have resorted to strike/served strike notice on the issue of wage ceilings fixed for payment of Productivity Linked Bonus and urged the Government to remove these wage ceilings as well as under the provisions of the Act. However, the employers' group urged a total review of the Bonus Act.

3. The Conference noted its concern over the delay in implementation of the Turn Around Plan for revival of sick mills of NTC even after its approval by the Cabinet. Therefore, Labour Ministry should convene a meeting of Union Ministries of Labour, Finance and Textiles and Trade Unions and the concerned State

including the labour laws.

(i) As regards the employees of the Central Government, the Government have since decided to give Ex-gratia payment to all group 'C', 'D' and non-gazetted Group 'B' employees.

(ii) As regards the payment of Productivity Linked Bonus, the different Departments are framing schemes within the guidelines given by the Fifth Central Pay Commission on the subject.

(iii) Regarding the employees covered under the Payment of Bonus Act, the matter is under consideration in the Ministry of Labour. Views from the trade unions, employers, State Govts. and Central Ministries have already been received and the matter is being processed further.

- A group of Ministers (GOM) consisting of Minister of Industry, Minister of Finance and Minister of Textiles met on 13th September, 1997, to consider the revised Turn Around Plan for NTC.

- The GOM recommended that the Ministry of Textiles should prepare a paper for the Cabinet,

Governments to expedite a decision in the matter. In the meantime, Ministry of Textiles should take steps to pay wages in time and bonus before Diwali, 1996.

4. The response received from various State Governments on the conclusions of the ILC to revive the practice of holding tripartite consultations at the State level was noted. It was felt that though some of the Govts. have set up such Bodies at the State level, some of these Bodies are neither truly tripartite in nature nor do they hold their meetings on a regular basis. Therefore, Minister for Labour should again write to the State Governments to revive the practice of holding tripartite consultations at the State level by constituting truly and appropriately representative Tripartite Bodies and by holding its meetings atleast twice a year.

outlining the options available for financing the Turn Around Plan.

- The Ministry of Textiles have released funds to NTC Ltd. for payment of salaries and wages upto August, 1997 and bonus.

Union Labour Minister requested Chief Ministers of all State Governments/Union Territories to review the position and to set up Tripartite Consultative Machinery in their States, if not already done. So far 22 States/Union Territories have informed that they have constituted Tripartite Committees/ Boards for consultation on matters relating to labour. These States are Arunahcal Pradesh, Andhra Pradesh, Assam, Bihar, Chandigarh Admn., Daman & Diu, Delhi, Goa, Haryana, Gujarat, Kerala, Karnataka, Lakshadweep, Maharashtra, Mizoram, Orissa, Punjab, Rajasthan, Sikkim, Tripura Tamil Nadu and West Bengal. After the last Session of Standing Labour Committee, Labour Minister again requested the Chief Ministers of remaining State Govts/UTs on 6.11.97 to set up Tripartite Consultative Machinery in their respective States.

5. As decided at the 31st Session of the ILC immediate steps should be taken by the Ministry of Labour to constitute a Bipartite Committee with a view to frame a comprehensive industrial relations law who will submit their report in 3 months time. The Bipartite Committee should consider proposal to amend the Trade Unions Act, 1926 and the question of recognition of trade unions through secret ballots on a priority basis and submit its recommendations within a month. As far as Workers Participation in Management is concerned, the Workers Group wanted the Ministry of Labour to come to an immediate decision. However, the Employers representatives reiterated their stand that workers participation is not feasible through legislation. Employers' views will be considered by the Labour Ministry before finalising the Bill.

Amendments to the ID Act, 1947

- Following the decision in the 33rd Session of Indian Labour Conference held in October, 1996, the Government set up a Bipartite Committee to formulate specific proposals on a Comprehensive Industrial Relations Bill under the Chairmanship of Dr. Shanti G. Patel, Hind Mazdoor Sabha.

- The Committee could not arrive at a consensus on the issues referred to it by the Government and therefore, did not submit any formal report. The Committee has since been wound up.

- The Ministry of Labour invited comments from Employers and Trade Unions on the Agenda of the 33rd Session of the Indian Labour Conference before finalising further course of action in this regard.

- Comments have been received from:

- Council of Indian Employers (CIE)

- All India Manufacturers' Organisation (AIMO)

- Bhartiya Mazdoor Sangh

-Indian National Trade Union Congress

-Hind Mazdoor Sabha

-All India Trade Union Congress

-United Trade Union Centre (LS)

-Trade Union Coordination Centre (TUCC)

- The comments received from the various organisations on the amendments to the ID Act have been referred to a Committee of officials for suggesting amendments in the ID Act who will also consider amendments in the Bonus Act and Sales Promotion Employees Act. The Committee has been requested to submit the report within one month.

Scheme of Employees Participation in Management

- The 11th Meeting of the Tripartite Committee on Employees participation in Management was held on 3rd October, 1997.

- The members of the Committee were requested to send their comments on the Scheme within a month so that

the Parliamentary Standing Committee on Labour and Welfare attached to this Ministry could be apprised of the position. - Members were requested that comments should specifically indicate :

- Strength and weaknesses of the 1983 Scheme of Employees Participation in Management with specific suggestions for improvement.

- Strength and weaknesses of the Workers Participation in Management Bill, 1990 with specific suggestions for improvement.

6. For workers, the ceiling fixed for payment of gratuity under the Payment of Gratuity Act, 1972 is Rs.1 lakh whereas it has been raised to Rs.2.5 lakh in the case of Central Govt. employees. The disparity should be removed by raising the ceiling of gratuity to Rs.2.5 lakh for workers.

The Payment of Gratuity (Amendment) Bill 1997 was introduced in the Rajya Sabha on 24.7.1997. The Bill is intended to replace the PG(Amendment) Ordinance 1997 which has since enhanced the ceiling on maximum amount of gratuity from Rs. One Lakh to Rs.2.50 lakh w.e.f. 24.9.97. The provisions of the Bill were examined by the Standing Committee of Parliament for Labour and Welfare on 4.11.1997. The matter will be further examined in the Ministry after report of the Standing Committee of Parliament becomes available. It is proposed to have the Bill

7. Ministry of Labour should take steps to ensure the presence of Finance Minister, Industries Minister, Textiles Minister, Commerce and other concerned Ministers in the meetings of the ILC. The Conference felt that some Ministries of the Government of India are not giving the ILC Session due importance and are not deputing officers at the appropriate level to attend the conference. The Ministry of Labour should convey the feelings of the conference and request various Central Ministries to depute their senior officers not below the rank of Joint Secretary to attend ILC Session.

8. Labour Ministry should discuss with the Deptt. of Public Enterprises and other concerned Ministries the issue of variance in application of the revised DA formula in public sector enterprises and review the issue of non-payment of revised DA to sick PSUs employees and the status of wage revision in CPSUs taking help of SCOPE and Workers representatives.

considered and passed by the Parliament in Winter Session.

The feelings of the Conference were brought to the notice of the Secretaries of the concerned Ministries/ Departments on 11.3.1997. These feelings have again been reiterated to them on 17.11.1997.

The Minister-in-charge of Ministry of Finance, Ministry of Industry, Ministry of Textiles, Ministry of Commerce and some other Central Ministries have been invited to attend this Conference.

The matter was again taken up with the Deptt. of Public Enterprises. They have further clarified the following:

(i) The DA to be paid to workers was to be calculated @ Rs.2/- per point till the CPI reached the level of 1099. The rest is required to be calculated as per normal calculations keeping in view the applicable quarter of DA neutralisation.

(ii) The above method was

adopted by a large number of Public Enterprises and was certified by the Deptt. of Public Enterprises as correct method.

(iii) A few enterprises computed differently and gave dual advantage to the workers and paid them not only DA @ Rs.2 per point of CPI but also they changed the quarter for working out the average increase in the index number.

(iv) These enterprises were advised by the DPE, through their administrative Ministries to rectify the error, because the intention of the Government was not to give dual advantage. Accordingly, the suggestion of the trade unions to this effect cannot be agreed to.

(v) The pay revision of the workers and officers of the public sector enterprises, which have been referred to BIFR, can be effected only after it has been decided to revive them and the revival plan makes provision for pay revision.

In view of the position stated above, the matter may be closed.

9. The Government of India should include representatives of Central Trade Union

The Ministry of Commerce, which is the nodal Ministry for World Trade Organisation

Organisations and Employers' Organisations in the Indian Delegation to attend the Ministerial level meeting of the WTO in Singapore in December, 1996.

10. Representatives of the Central Trade Union Organisations should also be associated/involved in monitoring of the implementation of National Child Labour Projects.

matters, did not agree to the proposal on the ground that inclusion of representatives of Central Trade Union Organisations and Employers' Organisations might give a wrong impression that W.T.O. deals with labour rights. Instead, it would be prudent to maintain consultations with Ministry of Labour itself to ensure that India's concerns are fully reflected in the outcome of the Confernece. No further action is called for on this item. It may, therefore, be dropped.

Trade Unions are already associated with the programme relating to Child Labour. The Central Advisory Body on Child Labour which, inter alia, suggest welfare measures & review the progress of welfare measures for working children, was last reconstituted on 2.11.94. Five major trade unions, namely, BMS, INTUC, HMS, CITU & AITUC have been inducted into the Board to ensure a major role for the trade unions in the child labour rehabilitation programmes. Apart from this, the Trade Unions and Employers Organisations are being associated with identification and rehabilitation of child labour. A meeting of all the Central Trade Unions and

Employers' Organisations was also organised on 20.5.1997 under the Chairmanship of Secretary (Labour) to discuss the implementation of Supreme Court Judgement dtd.10.12.96. At the field level, representatives of trade unions are expected to be involved in planning and implementation of the projects by the District Level Child Labour Project Societies.

11. A National Floor Level Minimum Wage for unorganised establishments should be fixed taking into account the poverty line basis as well as the decisions of the Supreme Court.

The National Floor Level Minimum Wage of Rs. 35/- per day has been worked out on the concept of poverty line while the judgement of Supreme Court in the case of M/s Raptakes Brett & Co. relates to fair wage/ living wage. Even the suggestion for notifying Rs.35/- as minimum wage, has not been implemented by a large number of States. A letter was written

improving the quality of vocational training and upgradation of skills. Employment Exchanges should be modernised and re-organised to function as an effective placement centre.

strategies for skill development. To convert policies into action, steps taken have begun to show the results during the year 1996-97 as below:

- Craftsman Training Scheme being implemented through ITIs/ITCs:

- 486 new ITIs were opened increasing the total to 3569;

- 1028 proposals for adding more trades in the existing IT were approved;

- 42 syllabi were taken up for review, out of which 25 have been reviewed;

- Six new trades were introduced;

- Four obsolete trades abolished;

- 11 different type of industries have been identified for introduction of training in new skill training areas.

- Apprenticeship Training Scheme:

- 25,000 establishments practicing business in Public/Private sector are covered;

- As against 1,49,970 in 1996, 1,58,683 trade apprentices are on roll during 1997 i.e. increase of 8713 has been recorded;
- 5 Multiskill trades have been identified to be designated for trade apprentices;
- Action for comprehensive amendments to the existing Apprentices Act 1961 has been initiated to bring about changes in the light of new emerging reforms;
- 8 obsolete trades have been abolished and 4 new Trades have been introduced;
- Action initiated to revise the rates of stipend to be paid to all categories of apprentices.
- Constitution of Tripartite committee for Setting up of Skill Development Fund:
 - As advised by 33rd SLC, action has been initiated to form the tripartite committee to formulate and examine the modalities of SDF;
 - A meeting with the representatives of Central employers organisations with

Secretary (Labour) was held on 15.10.97 Chairman SCOPE informed that a meeting with the representatives of SCOPE, AIOE and CIE would be called and the gist of the same be submitted to the Ministry which is still awaited.

- Central Instructional Media Institute with the assistance of Government of Germany at Chennai has produced Written Instructional Materials in the form of books for trade theory, trade practical, assignment test and Audio visual aids for 10 trades for the use of ITIs and Apprenticeship trainees.

- Question Bank for use under All India Trade Test for the trades Electrician and Machinist Trades have been developed. Action has been initiated for the remaining trades in phased manner.

- The Government of Germany (FRG) has agreed to assist Ministry of Labour, DGE&T to the tune of DM 15 million for "Restructuring of National Vocational Training System" and conversion of "National Council for Vocational Training" (NCVT) to "All India Council of Vocational Training"

(AICVT). An Approach Paper has been drafted for discussion with various agencies involved. Discussions have already been initiated.

- **Following schemes have been included in the IX Five Year Plan: Establishment of ITIs in the North Eastern States;**

- **New Schemes related to Women's Training for increasing intake capacity for training in ITIs and RVTIs;**

- **Revitalisation of training of trainers;**

- **Establishment of Directorate for Certification, Standardisation and quality control;**

- **Functional autonomy to institutes;**

- **Meeting training needs in emerging areas.**

- **Modernisation of Employment Exchanges was initiated through Centrally Sponsored Scheme in 1986-87 as a Seventh Plan Scheme. The Scheme was continued till 1992-93 when as per the decision of the National Development Council, the Centrally Sponsored Scheme was discontinued and**

transferred to the State sector. Accordingly, the State Governments are to continue the efforts taken by the Central Government to modernisation and computerisation of the Employment Exchanges with a view to play a proactive role in the present labour market scenario not only by serving as a placement agency but also act as a Career Counselling, Vocational Guidance and Self Promotion Centres in addition to creation of requisite data base for manpower planning and management.

13. Trade Union representatives may also be involved when Central Industrial Relations Machinery visit the Export Processing Zones.

State Govts are the appropriate Govts in respect of industrial units in the Export Processing Zones. Notwithstanding the above the RLCs were requested by the Chief Labour Commissioner (Central) to visit Export Processing Zones along with State Govt officials (as they are the inspectors in respect of the industrial units and can take legal action) and the representatives of local unions for carrying out inspections of the industrial units functioning in the Export Processing Zones.

RLC(C) Ahmedabad visited the E.P.Z. Kandla along with state Govt Officials on 19th Dec.96. Though a union by name

Bahujan Employees Union is operating in the E.P.Z Kandla and is active, no representative of the union was available on the day of visit. There are 74 industrial units in the E.P.Z and five of them were found not paying the minimum wages. State Govt Officials have filed claims of Rs.20,97,448/- on account of less payments against these units and have also filed 7 prosecution cases against some of the units in respect of other violations.

RLC(C) Hyderabad visited E.P.Z Vishakhapatnam on 11.12.96. Out of 17 units given permission to operate, only 2 units were operational and eleven units were in various stages of implementation RLC(C) did not find any violations of labour laws in the two functional units.

RLC(C) Calcutta got the E.P.Z Falta visited by a team of officers of CIRM and state Govt. of West Bengal. Only two unions were operating in E.P.Z. There are only few industrial units functioning in E.P.Z and except 3-4 units all units are either small or sick and likely to be closed down. Two of the units are covered under M.W.Act. Dispute regarding less payment in

respect of one of units is pending before ALC of West Bengal. As per information gathered the unions and workers are not insisting for minimum wages, as the units are already sick.

In E.P.Z Chennai out of 105 licenced unit 35 units have been abandoned/closed down. A team of officers of CIRM and state Govt officials visited alongwith Shri A Sadiq Basha. Jt. Secretary of EPZ workers union (CITU) on 12.9.97. Though the State Govt. has fixed minimum wages in respect of all the units, the same are not being implemented due to stay granted by Hon'ble H.C of Madras. The workers are getting weekly off and the working hours as laid down in Factories Act. Welfare and Health measures were found satisfactory, canteen facilities have been provided and there is one common creche in the E.P.Z.

RLC(C) Bombay got the E.P.Z Santacruz Mumbai visited by a team of officers comprising of officers of CIRM and of the Govt. of Maharashtra alongwith representatives of Bhartiya Kamgar Sena, on 11th and 12th Sept.1997. The team could visit 16 units out of 188

units. All the 16 units barring two are covered under M.W.Act. In two units, wages are being paid as per wage agreement which are higher than the minimum. Violations of CL(R&A) Act were observed in respect of one of units and inspections reports were issued to principal Employers and the contractor by the state Govt. officials. All the 16 of units visited except one were covered under I.E.(S.O) Act but none of the units had taken steps to get standing orders certified. No violation of other laws were observed. Canteen, Creche, and other health and welfare measures were found satisfactory.

Despite persistent efforts made by office of RLC(C) Delhi and D.O. Letter from CLC(C), the officials of labour deptt. of Govt. of U.P have not rendered necessary cooperation for carrying out inspections in EPZ Noida.

14. The conclusions reached in the ILC should be construed as matters of continuing importance until they are disposed of by appropriate follow up action; and such of the conclusions of the 32nd session of the ILC which have not been so far implemented

The action taken on the conclusions of 31st and 32nd Sessions of I.L.C. were earlier reviewed by the Review Committee in its three meetings. The Tripartite Review Committee has since been wound up. Action taken on pending conclusions of the 31st

should be pursued including through review committee meetings.

and 32nd Sessions of the Indian Labour Conference and on all conclusions of 33rd Session of Indian Labour Conference were reviewed by the Standing Labour Committee in its 34th Session held on 19.11.97. In view of position explained above, the item may be dropped.

STATUS PAPER ON SOCIAL SECURITY PROGRAMMES IN INDIA

1. CONCEPT

The concept of "Social Security" is now generally understood as meaning protection furnished by society to its members through a series of public measures against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, occupational diseases, unemployment, invalidity, old age and death. The social security programmes thus provide a series of benefits to cover these contingencies. The main benefits provided are medical care, sickness benefit, employment injury benefit, old age benefit, invalidity benefit, survivors' benefit, unemployment benefit and family benefit. Apart from medical care and cash benefits, there are several social security programmes for providing various welfare services to persons.

2. SCHEMES INTRODUCED

The social security programmes in India at present provide for only medical care, sickness benefit, the employment injury benefit and the old age and survivors' benefit in the form of provident fund and pension. The invalidity benefit, unemployment benefit and family benefit are not at present being provided. The Social Security Laws in India could be broadly divided into two categories, namely the contributory and the non-contributory. The contributory laws are those which provide for financing of the social security programmes by contributions paid by workers and employers and in some cases, supplemented by contributions/grants from the Government. The non-contributory laws are those under which the workers are entitled to certain social security benefits without payment of any contribution: the cost of benefit being met by the employers.

The contributory schemes in India comprise the Employees' State Insurance Scheme framed under the Employees' State Insurance Act, 1948 and the Provident Fund Pension and Deposit Linked Insurance Scheme framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Coal Mines Provident Fund Miscellaneous Pension Fund Act, 1955 and the Seamen's Provident Fund Act, 1966. The non-contributory laws are the Workmen's Compensation Act, 1923, the Maternity Benefit Act, 1961 and the Payment of Gratuity Act, 1972.

3. WORKMEN'S COMPENSATION

3.1 In India, a beginning was made with non-contributory laws. The first law put on the statute book was the Fatal Accidents Act, 1855. This Act enabled the heirs of deceased persons to sue for damages when death is caused by actionable wrong. The defence under the doctrine of common employment by which the employer is not normally liable to pay damages to a workman for an injury resulting from the default of another workman and doctrine of assumed risk by which the employee is presumed to have accepted the risk if it is such that he ought to have known it to be part of the risk of occupation were, however, open to the employer. Both these doctrine were considered inequitable and it was felt necessary to enact a new legislation abrogating the defences open to the employer. The result was the enactment of the Employers' Liability Act, 1938. Both these Acts have, however, been only protective laws and cannot be categorised as social security laws, as such.

3.2 The necessity of providing compensation to workers who met with fatal or serious accidents in work places was first raised in 1884 and the need for legislation was emphasised by factory and mining inspectors. The question of framing legislation was, however, taken up by Government only in 1920 and the matter was referred to a Committee in 1922 and based mainly on the recommendation of this Committee, a Workmen's Compensation Bill was formulated. The Bill was based on the general principle that compensation should ordinarily be given to the workmen who sustained personal injuries by accidents arising out of and in the course of their employment and in certain limited circumstances for

occupational diseases. The aim throughout was to leave as little scope for litigation as possible, and in consequence, the Act is markedly rigid in character. The Act was passed in March, 1923 and it came into force on 1st July, 1924. Since then, it has been amended from time to time.

3.3. The Act is applicable to workers employed in certain special hazardous employments, such as factories, mines, plantations, transport and construction work, railways etc. The Central/State Governments are empowered to extend the provisions of the Act to any other employment which is considered hazardous. There is no wage limit for coverage under the Act.

3.4 Under the Act compensation is payable by the employers in case of injury caused by an accident arising out of and in the course of employment. Compensation is also payable to the workers who contract occupational diseases specified in schedule III to the Act. No compensation is, however, payable if the injury, not resulting in death or permanent total disablement is caused by the fault of the worker arising from factors such as of drinks, drugs, wilful disobedience of the order or rule, the wilful removal or disregard of safety guard or other device etc. The amount of compensation payable is dependant on the nature of the injury, the average monthly wage of the worker and the age of the worker at the time of his disablement or death. The minimum amount of compensation for permanent total disablement is Rs.60,000/- and that for death is Rs. 50,000/-. The maximum amount of compensation for permanent total disablement can go upto Rs.2,74,000/- and that for death to Rs.2,28,000/-. In cases of temporary disablement monthly payments at the rate of 50% of the wage are payable for a period of 5 years.

4. MATERNITY BENEFIT

4.1 The first law on Maternity Benefit was the Bombay Maternity Benefit Act, 1929. This was followed by the Mines Maternity Benefit Act enacted by the Government of India in 1941. With a view to secure uniformity in the payment of maternity benefit to women industrial workers, a Central Maternity Benefit Act was enacted in 1961 and brought into

force w.e.f. 1st November, 1963. With enforcement of this Act, all the previous laws on the subject have been repealed. The Act of 1961 is applicable to mines, factories, circus industry, plantations, shops and establishments. It can be extended to any other establishment or class of establishments by the State Government. There is no wage limit for coverage under the Act. The coverage under this Act is, however, restricted to women employees who are not covered by the ESI Act.

4.2 Under the Act maternity benefit is payable by the employer for a period of 12 weeks at the rate of average daily wages. There is also a provision for pre-natal confinement and post-natal care free of charge, failing which the employer is liable to pay medical bonus of Rs.250/-. Maternity Leave benefit for six weeks is also available in case of miscarriage. By Amendment of the Act w.e.f. 1.2.1996, the women employees have been made eligible for six weeks leave in the case of MTP and two weeks leave for tubectomy operation. Leave upto one month has also been provided in the case of sickness arising out of MTP/tubectomy etc.

5. DEFICIENCIES IN THE WORKMEN COMPENSATION AND MATERNITY BENEFIT LAWS AND THE STEPS TAKEN TO REMOVE THE SAME.

5.1 The Workmen's Compensation Act does not at present contain any provision for compulsory insurance of employers liability. The injured workers have generally to make their own arrangement for medical treatment. The system of lump-sum payment under the Act often does not serve the purpose it is intended to. The Act in a way does not provide a permanent source of protection in cases of permanent disability or death. The position regarding maternity benefit is also not satisfactory. There is no specific provision for medical aid. The responsibility for giving maternity benefit is placed on the employer and this leads to a tendency either to evade payment or not to employ married women or even discharge women workers on pregnancy.

5.2 It was realised that the defects in the Workmen's Compensation Act and the Maternity Benefit Act could not be

fully removed merely by amendment of these Acts. The Government had, therefore, to explore the possibility of formulating a suitable insurance scheme for industrial workers. A major step in this direction was taken in 1937 by the then Government of Bombay by preparing a scheme of sickness insurance according to which the workers could get three weeks' sick leave with pay every year. The scheme was contributory one covering sickness and old age benefits. Medical benefits were not, however, provided in the scheme. The matter was subsequently considered by the Bombay Textile Enquiry Committee(1937), Cawnpore Labour Enquiry Committee(1933) and the Bihar Labour Enquiry Committee(1938) and all these committees stressed the need to have a sickness insurance scheme. The matter was also discussed in the first Labour Ministers Conference and also at a meeting held under the joint auspices of the Employers Federation of India and the All India Organisation of Industrial Employers in 1940. The attitude of employers and workers representative changed favourably at the Second Labour Ministers Conference held in 1941 when they expressed their willingness to contribute to sickness insurance scheme. A tentative scheme of sickness insurance intended to serve as an experimental measure was, therefore, prepared by the Labour Department of the Government of India and the same was placed before the Third Labour Ministers Conference in 1942. The conference had recommended framing of a suitable scheme of Health Insurance for industrial workers.

6. HEALTH INSURANCE

6.1 In compliance with the decision taken at the Labour Ministers Conference, the work of framing a scheme of health insurance for industrial workers employed in textile, engineering, minerals and metals was entrusted to Prof. B.P. Adarkar in March, 1943. He submitted his report to Government in August, 1944. To prevent the scheme from being saddled with burdens which legitimately belonged to other branches of social insurance, Prof. Adarkar stressed the need for simultaneous adoption of schemes relating to (i) unemployment insurance: (ii) old age pension: and (iii) measures like regulation of wages, vigorous enforcement of factory laws, education in health and improvement in environmental hygiene. His general recommendation related to merger of Maternity

Benefit Laws and the Workmen's Compensation Act with Health Insurance Scheme for formation of a unified and integrated system of health, maternity and employment injury insurance. Before taking any action on the report, the Government of India obtained the services of two social security experts, namely Mr. M. Stack and Mr. R. Rao of the ILO for advice. They agreed to the principles enunciated by Prof. Adarkar but made certain suggestions regarding simplification of administration of the Adarkar Plan and the suggestions of the ILO experts finally emerged in the form of the Workmen's State Insurance Bill, 1946, which was passed by the legislature in April, 1948 as the Employees' State Insurance Act, 1948.

6.2 The Employees' State Insurance Scheme framed under the Employees' State Insurance Act, 1948 provides for medical care and treatment, cash benefit during sickness, maternity, employment injury and pension for dependants on death of an insured worker due to employment injury and payment of expenditure on funeral of an insured person. Medical care has also been extended to the families of insured persons, depending on the medical facilities available. The scheme is applicable to non-seasonal power using factories employing 10 or more persons and non power using factories and other establishments employing 20 or more persons. The Scheme is being gradually extended area-wise in a phased manner. The wage ceiling for coverage under the Act which was initially Rs.400/- P.M. is now fixed w.e.f. 1.1.97 at Rs.6500/- P.M.

6.3 The scheme is mainly financed by contribution from employers and employees and is administered by a corporate body called the Employees State Insurance Corporation which has members representing employees, employers, Central/State Governments and certain other interests. This Act is distinguishable from the earlier Social Security Laws on four counts. First of all, it introduces the contributory principle. Secondly, it provides protection against sickness which had not been covered earlier. Thirdly, it replaces lump-sum payment by pension for long term benefits. Lastly, the liability for claims has been placed on a statutory organisation, namely, the Employees' State Insurance Corporation.

6.4 Under the Act the employers are required to pay contribution at the rate of 4.75 percent of wages of the insurable workers. The rate of contribution for the employees is 1.75% of their wages. The State Government contributes 1/8th of the expenditure on medical care. The responsibility for administration of medical care under the ESI Act vests in the State Govts/U.T Administrations. However, in Delhi and NOIDA medical care is being administered by the ESIC direct.

6.5 As on 31.3.97, the ESI Scheme covered 74.50 lakh employees at 633 centres in the country. The Corporation has constructed and commissioned 127 ESI hospitals, 42 Annexes and 1442 dispensaries in different parts of the country.

7. PROVIDENT FUND

7.1 While the Employees' State Insurance Act provides for medical care and insurance benefit during the period of sickness, maternity benefit for female workers and employment injury benefits, it leaves out an important contingency, namely protection for old age. A beginning in the direction of making some provision for old age was made in 1948 with the enactment of the Coal Mines Provident Fund Act, which inter alia instituted a compulsory scheme of provident fund for the workers in coal mines. The experience gained out of the working of the provident fund scheme for the coal miners and the persistent demand from the employees in other industries led to the passing of the Employees Provident Funds Act in 1952 to provide for the institution of provident funds for the employees in the factories and other establishments. The object of the enactment of the original Act in 1952 was the institution of compulsory contributory provident fund in which both the employee and the employer would contribute. The Employees' Provident Funds Scheme was accordingly framed and it came into force from 1st November 1952.

7.2 The Employees' Provident Fund Scheme is at present applicable to 177 industries/class of establishments employing 20 or more persons. The coverage under the scheme is, however, restricted to employees drawing pay plus dearness exceeding Rs.5,000/- per month. Initially in 1952 the wage ceiling for coverage was

Rs.300/-P.M. As on 31.3.1997 there were 2.81 lakh establishments with 2.03 crore employees covered under the scheme. Under the Act, the employees are required to pay contribution at the rate of 8.1/3% of wages, with matching contribution from the employer. There is also an enabling provision empowering the Central Government to raise the rate of contribution in respect of any establishment or class of establishments to 12 per cent. Accordingly the Central Govt. has enhanced the rate of contribution from 8.33% to 10% in respect of 172 industries/classes of establishments.

7.3 The members are entitled to withdraw the full amount standing at their credit in their Provident Fund Account, on retirement from service or on retirement on account of permanent and total incapacity for work or on termination of service in the case of mass or individual retrenchment. During service, advance from the provident fund account is admissible to members for financing their life insurance policies, for construction or purchase of houses and for certain other contingencies like illness, daughter's marriage or post-matriculation education of children. All the advances under the scheme are non-refundable.

8. FAMILY PENSION

8.1 On a review of the working of the Employees' Provident Fund Scheme, it was found that Provident Fund was no doubt affecting old-age and survivorship benefit but in the event of premature death of the employee, the accumulations in the Provident Fund were not sufficient to render adequate and long-term protection to his family. This led to introduction with effect from 1st March 1971 of the Employees' Family Pension Scheme for the employees covered under the Act. The scheme applied compulsory to all employees who have been members of the Provident Fund on or after 1 March 1971, but it was left to the option of those employees who had become members of the provident fund earlier to that. The scheme was financed by diverting out of contributions to the provident fund, the employees' share of contribution at the rate of 1-1/6% of their wage with an equal amount of employer's share. The Central Government also contributed at the rate of 1-1/6% of the wages of the employees

to Family Pension Fund.

8.2 The Family Pension Scheme provided for payment of family pension and an assurance benefit to the widow or other dependants of the deceased member and retirement-cum-withdrawal benefit to the surviving members. The grant of family pension was subject to completion of three months membership of Family Pension Fund. This scheme was found wanting because it did not provide pension on retirement, superannuation or on death after service. The Government accordingly considered the matter in consultation with the Central Board of Trustees, Employees Provident Fund and framed a new Pension Scheme called the Employees' Pension Scheme, 1995.

9. THE EMPLOYEES' PENSION SCHEME, 1995

The Scheme came into force w.e.f. 16.11.1995. The Pension Scheme is compulsory for all the members of the ceased Family Pension Scheme. It is also compulsory for the persons who become members of the Provident Fund from 16.11.95. Minimum 10 years membership of the Fund is required for entitlement to the pension. Normal superannuation Pension is payable on attaining the age of 58 years. Pension on a discounted rate is also payable on attaining the age of 50 years. The Scheme provides for payment of monthly pension in the contingencies of superannuation, death, total permanent disablement etc. The amount of monthly pension will vary from member to member depending upon his pensionable salary and pensionable service. On completion of 33 years' contributory service 50% of the pay is payable as pension. Under the scheme the rate of minimum widow pension is Rs.450/- p.m. The maximum may go upto Rs.2500/-p.m. payable as normal member's pension on completion of nearly 33 years service. Family pension upto Rs.1,750/- p.m. is also payable to the widow of the member who has contributed to the pension fund just for one month. In addition to the widow pension the family is also entitled to children pension. The rate of children pension is 25% of the widow pension for each payable upto two children till they attain the age of 25 years. Under the Scheme, the employees have an option to accept the admissible pension or 10% reduced pension with return of

capital equivalent to 100 times of the original pension. The scheme is financed by diverting the employer's share of PF contribution representing 8.33% of the wage to the Pension Fund. The accumulations of the ceased family Pension Scheme constitute the corpus of the new Pension Fund. The Central Government also contributes to the Pension Fund at the rate of 1.16% of the wage.

10. DEPOSIT LINKED INSURANCE

The Employees' Deposit Linked Insurance Scheme, 1976 was introduced from 1st August, 1976. It applies to all employees who are members of the Provident Fund in the exempted as well as the un-exempted establishments. Under this scheme, in the event of death of a member while in service the person entitled to receive the Provident Fund accumulations is paid an additional amount equal to the average balance in the Provident Fund account of the deceased during the preceding one year. The maximum amount of benefit payable under the scheme is Rs.35,000/-. The employees are not required to pay any contribution under the EDLI Scheme. The employers' however, contribute to the insurance fund at the rate 0.5% of pay of the members.

11. ADMINISTRATION OF PROVIDENT FUND, PENSION AND DEPOSIT LINKED INSURANCE SCHEMES

The Employees' Provident Fund, Pension Fund and Deposit-Linked Insurance Fund vest in and are administered by a tripartite Central Board of Trustees, consisting of representatives of the Central Government, State Governments and the Central Organisations of employers and employees. The expenditure involved in administering the E.P.F. Scheme is met from the administrative charges recovered from the employers of the un-exempted establishments and inspection charges recovered from the employers of exempted establishments. The administrative and inspection charges are recovered at the rate of 0.65% and 0.09% respectively, of the pay of the members. The expenditure on the administration of the EDLI Scheme is met from out of contributions recovered from the employers @0.01% of pay of the members. Sixteen percent of the administrative expenses on

the Employees' Pension Scheme alongwith pension remittance charges are met from the Pension Fund. The remaining administrative expenditure of the Pension Scheme is met from the administrative charges collected under the EPF Scheme, 1952.

12. GRATUITY

The Payment of Gratuity Act, 1972 was enacted to ensure a measure of uniformity in the pattern of payment of gratuity to employees. It was brought into force from 16th September, 1972. The Act provides for the payment of gratuity to employees employed in any factory, mine, oilfield, plantation, port, railway company and every shop and establishment employing 10 or more workers. It has also been extended to motor transport undertakings employing ten or more persons. Under the Act, gratuity is payable at the rate of 15 days wages for every completed year of service subject to a monetary ceiling of Rs. one lakh. In the case of employees employed in seasonal establishments, gratuity is payable at the rate of seven days' wages. A worker is entitled to gratuity in the contingency of superannuation, retirement, resignation, death or disablement due to accident or disease, subject to completion of 5 years continuous service. The condition of 5 years is, however, not applicable in the case of death or disablement. The Act does not take away the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

13. LAY-OFF AND RETRENCHMENT COMPENSATION

Apart from the social security laws, there is also a provision under the Industrial Disputes Act, 1947 for payment of compensation to workers in cases of lay-off and retrenchment. In factories, mines and plantations which employ more than fifty persons but less than 300, the employer is liable to pay compensation equal to 50% of the workers' total wages during the period of lay-off. This compensation is payable to workers who have completed one year's continuous service and may be limited to 45 days in a year provided there is an agreement to this effect. In larger industrial establishments employing

300 or more persons, the lay-off compensation is 50% of the wages and there is no limit of 45 days. It is, however, necessary to obtain previous permission of a specified authority before a person is laid off. Prior permission is not necessary if the lay-off is due to power failure or natural calamity. In cases of retrenchment, a worker in any industry has to be given a month's notice, or a month's pay in lieu, before retrenchment and, in addition compensation at the rate of 15 day's pay for every completed year of service.

14. OTHER SOCIAL SECURITY MEASURES

14.1 There are also a few other legislative measures which, although not classified as social security legislation, provide inter-alia for medical facilities. These include the Mica Mines Labour Welfare Fund Act, 1946, the Coal Mines Labour Welfare Fund Act, 1947, the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1972, the Bidi Welfare Fund Act, 1976, Plantations Labour Act, 1951. The medical facilities provided under the Welfare Funds are comprehensive. In the case of plantation the liability for medical care and sickness benefit is directly placed on the employers. In Coal, Mica, Iron Ore, Manganese, Limestone and Dolomite Mines and Bidi industry, the expenditure on medical care is met from the welfare funds, which are built up through a cess.

14.2 Following the goal of development with social justice a number of State Governments have lately introduced a scheme of old age pension. Under the scheme, old age pension ranging from Rs. 60/- to Rs. 100/- per month is given to the old, destitute widows and the handicapped by State Governments/Union Territories Administrations. The eligibility criteria under this scheme vary from State to State. Most of the States have laid down 65 years as the minimum age of eligibility, while in a few States the age limit is 60 years or above. In some of the States, a lower age limit is prescribed for females, widows, or for persons suffering from physical or mental handicap. Under the scheme, a period of continuous residence is prescribed, the minimum is 3 years and in some 10 years or more. Destitution is defined as those with no source of income, with no one to support and who has no adult

son or grandson who is in a position to support. In some States, persons with very nominal income are also eligible for this pension.

14.3 A Working Group on Social Security set up by the Economic Administrative Reforms Commission (1984) had recommended that the Government might at least consider introducing a suitable insurance scheme for the poorest of the poor in the unorganised sector. In pursuance of their recommendation, the Ministry of Finance (Insurance Division) have introduced a personal accident Insurance Social Security Scheme in all districts in the country. Under this scheme, in the case of death or total permanent disablement of a person due to accident, his dependant with income not exceeding Rs.5000/- per annum are entitled to compensation of Rs.3000/-. In case of partial disablement, the scheme provides for payment of compensation of Rs.1500/-. This scheme is being operated through the General Insurance Corporation of India and the expenditure involved is met entirely by the Central Government.

15. SCOPE OF FURTHER IMPROVEMENT/EXPANSION OF SOCIAL SECURITY SCHEMES

In the area of Social Security, the main objectives have been expansion of coverage and improvement/liberalisation of benefits of the existing schemes. In furtherance of these objectives, the Government is taking action as under:-

15.1 THE W.C.ACT, 1923

(i) The W.C.Act is applicable to persons employed in hazardous employments specified in Schedule II to the Act. In 1995, the W.C.Act was amended and 16 new hazardous employments such as operations relating to insecticides, pesticides, horticulture, harvesting, thrashing, mechanised farming, handling of snakes, animals etc. were added to Schedule II. Section 2(3) of the Act has also been amended empowering the Central Government to add any hazardous employment in Schedule-II. Earlier this power was vested only in State Governments. The Central Government has recently proposed to

extend the provisions of the W.C. Act to divers by including them in Schedule II. The W.C. Act has got wider applicability in the unorganised sector. Its provisions will be extended to new hazardous employments as and when the same is brought to the notice of the Central Government.

(ii) The rates of compensation under the W.C. Act were last revised in 1995. Review of scales of benefits under the W.C. Act is an ongoing process. Accordingly, the rates of compensation will be revised in due course after consulting other Ministries/Departments.

15.2 THE ESI SCHEME

(i) The ESI Scheme is presently not applicable to non-power using factories employing less than 20 persons. It is considered desirable for the ESI Corporation to examine the feasibility of extending the Scheme to all factories employing 5 or more persons.

(ii) According to a Survey of the ESI Corporation, there are 9.8 lakh workers who are coverable but not yet covered under the ESI Scheme. The problems faced by the ESIC in this regard are being sorted out in consultation with the State Governments.

(iii) Expansion of the ESI Scheme is not taking place as per the programme due to inability of the State Governments to complete medical arrangement in time. Although the Corporation constructs ESI hospitals and dispensaries at its own cost and also meets 7/8 expenditure incurred in running these hospitals/dispensaries, yet the services in the ESI hospitals/dispensaries in States are stated to be not upto the mark. Efforts are being made to analyse and diagnose the problems and find out their possible remedies.

(iv) In order to improve ESI medical care, the Corporation has decided to provide all basic essential equipments as one time measure to all ESI dispensaries in the country.

(v) In the case of death/disablement due to employment injury, the ESI Scheme provides for payment of periodical pension. The

Corporation is considering a proposal to sanction relief against inflation ranging from 75% to 100% depending upon the date of death/disablement of the insured persons.

15.3 THE EPF AND MP ACT

(i) A proposal to make suitable enhancement in the wage ceiling for coverage under the EPF Scheme is under consideration.

(ii) Annual valuation of the pension fund as on 16.11.96 is in progress. Meanwhile, a proposal to allow some interim relief to the pensioners is under consideration. This will be in addition to relief of 6% to 15% announced in August 1997 for the beneficiaries of the Family Pension Scheme 1971.

(iii) In order to provide higher retiral benefits to the employees, it is proposed to enhance the minimum rate of PF contribution from 8.33% to 10% and the maximum from 10% to 12% of the monthly wage.

(iv) The provision of three years' infancy period is also proposed to be abolished so as to make the establishments coverable under the Act from the date they are set up.

(v) Emphasis is being laid on ensuring prompt and efficient service to the EPF subscribers. In August 97, the Scheme has been amended and a statutory time limit of 30 days has been fixed for settling PF claims complete in all respects. The EPF offices are being computerised for monitoring settlement of claims and redressal of grievances.

15.4 THE P.G. ACT, 1972

In order to provide higher retiral benefit to the employees, it is proposed to enhance the ceiling on the maximum amount of gratuity from Rs. one lakh to Rs.2.50 lakh.

15.5 Social security is needed by every wage earner employed in any factory or elsewhere. There is a need for urgent review of the existing social security schemes for their efficiency and

satisfaction. There is also a need for restructuring the Organisations so as to undertake vastly expanded responsibilities when the schemes are extended to the entire working population.

15.6 Designing of well formulated scheme(s) of social security for the unorganised rural labour providing protection in contingencies resulting in stoppage or diminution of income and also medical care; the existing schemes being widely scattered and fragmented, there is need for their proper integration. The recommendations of the National Commission on Rural Labour regarding social security for the workers in the rural unorganised sector is a matter of priority. Allocation of adequate funds for their implementation is necessary so that the process of providing adequate and systematic protection in this priority sector may start soon.

15.7 THE APPROACH DURING 9TH PLAN

During the 9th Plan period endeavour would be made to announce a National Policy on Social Security. The possibility of setting up of a separate Department of Social Security within the Ministry of Labour with a strong Research and Development Wing to facilitate and accelerate the development process and achieve extension of social protection to all sections of the working population, would be explored. The process for evolving an integrated comprehensive scheme of social security by combining in a single legislation the provisions of all the existing social security schemes would also be addressed. This is expected to lead to simplification of procedures, avoidance of duplication of the administrative machinery and cost-effectiveness. The existing social security schemes would be reviewed for their efficient and cost effective functioning and to ensure a high level of workers' satisfaction. The emphasis would be on automation and computerisation, human resource development and effective public relations besides restructuring of the organisations to undertake vastly expanded responsibility when the schemes are extended to the entire working population. A well formulated scheme of social security for the unorganised rural labour would be designed to provide protection in contingencies resulting in stoppage or unorganised sector being widely scattered and fragmented, attempts would be made to properly integrate these

schemes. The recommendations of the National Commission on Rural Labour regarding social security for the workers in the rural unorganised sector would be examined. The role of social security in the context of restructuring of economy would be re-examined. The public relation system in the two social security organisations not being very effective, campaigns would be organised for education about these programmes and training organisations. For improving the efficiency of the social security organisations a proper HRD system would be evolved, use of computers would be increased and improved, management information system would be improved, public relations would be made more effective and arrangements would be made for better data storage system and net-working. Wherever considered necessary, research and development programmes in the area of social security would be undertaken.

15.8 Pending the establishment of a separate Department of Social Security, the possibility of creation of an R&D wing in the Ministry would be explored.

15.9 A task-force consisting of experts in the field of social security would be constituted which will examine all the issues indicated above. The recommendations of the task-force would be open to a national debate and responses would be invited from all concerned interests, academicians, social scientists and others before giving effect to the approach indicated above.

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ANNEXURE-II
(Refer Item No.1 of 33rd ILC)

**STATEMENT SHOWING THE POSITION OF WAGE
CEILING EXISTING IN DIFFERENT LABOUR LAWS**

SL. NO.	NAME OF THE LABOUR ACT/ LAW	EXISTING WAGE CEILING	REMARKS
1.	Industrial Disputes Act, 1947	The Supervisory workman drawing wages upto Rs.1600/- per month are covered for benefits under the Act. However, no Ceiling is stipulated for other workmen.	
2.	Plantation Labour Act, 1951	Workman in Plantation who are drawing wages upto Rs.750/- per month are entitled to get benefits under the Plantation Labour Act whether Supervisory or others.	

- | | | |
|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| 3. Payment of Wages Act, 1936 | The Wage Ceiling as defined under Section 1(6) of the Payment of Wages Act, 1936 restricts the coverage of the Act to employed persons drawing salary/ wages below Rs.1600/- p.m. | The proposal to revise/abolish this Ceiling is under consideration of the Government. |
| 4. Employees' Provident Fund and Misc. Provisions Act, 1952. | A Wage Ceiling of Rs.5000/- p.m. has been prescribed. | It is proposed to do away with the Wage Ceiling . |
| 5. Employees' State Insurance Act | A Wage Ceiling of Rs.6500/- p.m. had been prescribed. | This Ceiling has been enhanced to Rs.6500/- p.m. from 1.1.1997 . |
| 6. Payment of Bonus Act, 1965 | Before 9.7.1995 the eligibility limit for bonus was Rs.2500/- p.m. and calculation ceiling was Rs.1600/- p.m. These limits were revised to Rs.3500/- p.m. | The Government is contemplating review/ abolition of Wage Ceiling . |

and Rs.2500/-
p.m. respectively
w.e.f. 9.7.1995.

7. **S a l e s
Promotion
Employees
(Condition of
Service) Act,
1976**

**There is Wage
Ceiling for the
Supervisory
workman drawing
wages upto
Rs.1600/- p.m.**

ANNEXURE-III
(Refer Item No.11 of 33rd ILC)

**MINIMUM RATES OF WAGES FOR THE UNSKILLED
WORKERS IN DIFFERENT STATES/UNION
TERRITORIES ADMN.**

(As on 1.7.1997)

SL. NO.	NAME OF STATE GOVT. /U.T.ADMN.	RANGE OF MINIMUM RATES OF WAGES & DATE LAST REVISION	REMARKS
1.	A n d h r a Pradesh	Rs.16.00 to* Rs.42.40 p.d. (12.2.96)	Rates vary from employment to employment.
2.	A r u n a c h a l Pradesh	Rs.21.00 to Rs.23.00 p.d. (1.1.94)	Rates vary from employment to employment and areas to areas
3.	Assam	Rs.32.80 to* Rs.49.10 p.d. (1.4.95)	Rates vary from employment to employment.
4.	Bihar	Rs.27.30 to Rs.39.70 p.d. (21.12.95)	Rates vary from employment to employment.
5.	Goa	Rs.21.00 to Rs.93.00 p.d. (1.4.97)	Rates vary from employment to employment.

6.	Gujarat	Rs.34.00 to* Rs.77.80 p.d. (25.4.97)	Rates vary from employment to employment (according to zones)
7.	Haryana	Rs.59.56 to* Rs.60.55 p.d. (1.1.95)	Single rate for all employment, except agriculture.
8.	Himachal Pradesh	Rs.26.00 p.d.to Rs.45.75 p.d. (1.3.96)	Single rate for all employment, except Tea plantation.
9.	Jammu & Kashmir	Rs.30.00 p.d. (13.3.95)	Single rate for all employment.
10.	Karnataka	Rs.26.00 to* Rs.56.50 p.d. (17.12.96)	Rates vary from employment to employment. (according to Zones)
11.	Kerala	Rs.19.50 to* Rs.114.16 p.d. (25.10.96)	Rates vary from employment to employment. (according to zones)
12.	M a d h y a Pradesh	Rs.26.46 p.d.* Rs.55.19 p.d. (6.2.97)	Rates vary from employment to employment.
13.	Maharashtra	Rs.9.25 to* Rs.85.95 p.d. (29.6.94)	Rates vary from employment to employment. (according to zones)

14. Manipur	Rs.44.65 p.d.* (for plain) Rs.49.50 p. d. (for Hill areas) (8.7.95)	Double rates for all employment.
15. Meghalaya	Rs.35.00 p.d. (1.1.95)	Single rate for all employment.
16. Mizoram	Rs.45.00 p.d. (10.7.97)	Single rate for all employment.
17. Nagaland	Rs.25.00 p.d. (6.7.92)	Single rate for all employment.
18. Orissa	Rs.30.00 p.d. (15.8.96)	Single rate for all employment.
19. Punjab	Rs.58.07 to * Rs.60.62 p.d. (1.7.95)	Single rate for all e m p l o y m e n t except agriculture.
20. Rajasthan	Rs.32.00 p.d. (1.1.95)	Single rate for all employment
21. Sikkim	NIL	Minimum wages Act, 1948 is yet to be extended and enforced.
22. Tamil Nadu	Rs.10.00 to* Rs.64.48 p.d. (18.6.96)	Rates vary from employment to employment (according to zones)

23. Tripura	Rs.17.70 to Rs.36.00 p.d. (29.8.97)	Rates vary from employment to employment (according to zones)
24. Uttar Pradesh	Rs.27.00 to* Rs.50.00 p.d. (13.6.96)	Rates vary from employment to employment (according to zone)
25. West Bengal	Rs.32.47 to* Rs.77.00 p.d. (2.11.95)	Rates vary from employment to employment (according to zones)
26. Andaman & Nicobar	Rs.37.00 to Rs.40.00 p.d. (15.8.94)	Rates vary from employment to employment (according to zones)
27. Chandigarh	Rs.58.06 to * Rs.60.15 p.d. (4.11.95)	Single rate for all e m p l o y m e n t except agriculture.
28. Dadra & Nagar Haveli	Rs.35.00 to Rs.40.00 p.d. (18.5.95)	Rates vary from employment to employment. (according to zone)
29. Daman & Diu	Rs.35.00 p.d. (19.5.95)	Single rate for all employment.
30. Delhi	Rs.68.60 p.d.* (15.2.94)	Single rate for all employment

31. Lakshdweep	Rs.41.46 p.d. (1.1.96)	Single rate for all employment
32. Pondicherry	Rs.19.25 to Rs.40.20 p.d. (24.7.95)	Rates for agricultural workers
II.* CENTRAL GOVT.	Rs.38.23 to* Rs.70.63 p.d. (12.7.94)	Rates vary from employment to employment. (according to areas)

Note:

1.*Indicates the provision of Variable Dearness Allowance along with minimum rates of wages.

2.Figure in bracket under column (3) indicate the date of revision for the last revised scheduled employment.

BACKGROUND PAPER ON UNORGANISED LABOUR

by

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Definition

The first National Commission on Labour (1966-69) defined unorganised labour as those who have not been able to organise themselves in pursuit of common objectives on account of constraints like casual nature of employment, ignorance and illiteracy, small and scattered size of establishments and position of power enjoyed by employers because of the nature of industry etc. Nearly 20 years later the National Commission on Rural Labour (NCRL:1987-91) visualised the same scenario and the same contributory factors leading to the present status of unorganised rural labour in India. To quote in the words of NCRL "Therefore, organising the unorganised workers, particularly, the agricultural labourers is of utmost importance to enable them to get the required bargaining power and realise what is their due and legitimate share. Realising the need for the same, the General Conference of the International Labour Organisation recommended

as early as 1975 under the Convention No. 141 that rural workers be given every encouragement to develop free and viable organisations capable of protecting and furthering the interests of their members and ensuring their effective contribution to economic and social development The process of modernisation and socio-economic change witnessed during the last forty years of planned development has not been adequate enough to free the labour class in rural India from all the traditional forms of exploitation and social oppression. In fact, in certain cases, powerlessness of rural labour has been further aggravated as a result of modernisation and change. In a situation where the deprived and the lowly were economically helpless, the infliction of social indignity in terms of abuse, physical assault, maltreatment of women and children give rise to a situation of stark economic exploitation compounded by dehumanising social oppression.....Therefore, for successful organisation, proper understanding of the rural structure and specific nature of the problems of rural labourers is necessary".

According to the ILO Convention 141 and Recommendation 149 on Rural Workers' Organisations, organisation of the unorganised rural labour is essential to achieve the following objectives:-

- ♦ Eliminating obstacles to their establishment
- ♦ Promoting their growth and pursuit of their lawful activities.

- ♦ **Preventing legislative and administrative discrimination against rural workers' organisation.**
- ♦ **Enabling the organisations to further the interests of their members to make effective contribution to economic and social development.**
- ♦ **Ensuring organisation as a means of participation without discrimination in economic and social development and for the benefits resulting from them.**

Enumeration of unorganised labour

According to the census of 1991 workers have been classified into main workers and marginal workers. Main workers are those workers who worked for the major part of the year (296 days) and marginal workers are those who have worked less than 6 months (183 days). Out of a total workforce of 314 million in India about 286 million (i.e 91%) were main workers and about 28 million (9.08%) were marginal workers. Out of the total labour force 224.4 million were male workers. Among the males 98.8% were main workers and only 1.2% (2.7 million) were marginal workers. Similarly, out of 89.7 million female workers 64.2 million (71.6%) were main workers and 25.4 million (28.6%) were marginal workers. In other words, males were by and large main workers and bulk of the marginal workers were

among the females. The proportion of females amongst the marginal workers was about 90% and that of the males was barely 10%.

The 1991 census also provides classification on the basis of rural and urban workers. The data reveal that out of 314 million total workers, rural workers account for 249 million (79%) and urban workers account for 65 million (20.7%). Among the main workers the proportion of rural workers was about 78% and that of urban workers was 22%. Among the marginal workers the proportion among rural and urban workers was about 95% and 5% respectively.

Among the rural workers about 89% were main workers and about 11% were marginal workers. Amongst the urban workers about 98% were main workers and barely 2% were marginal workers.

To sum up, on the basis of the 1991 census the enumeration of organised and unorganised workers is as indicated below:-

- ♦ Out of the total labour force of 286 million about 27 million are in the organised sector and 259 million are in the unorganised sector.
- ♦ In relative terms organised sector accounts for merely 9.4% of total workers whereas unorganised labour accounts for 90.6%.

- ◆ **By necessary implication the focus of the trade union activity has been on about 9% of the organised workers whereas remaining 91% of the unorganised workers do not receive sufficient attention from the trade unions.**
- ◆ **Out of 191 million workers engaged in agriculture, forestry, fishery and plantation, about 190 million (99.2%) are in the unorganised sector.**
- ◆ **Amongst the unorganised agricultural workers, about 111 million are cultivators (58.4%) and about 25 million are agricultural labourers (39.5%).**
- ◆ **Evidently, the task of organising 75 million agricultural labourers who are largely unorganised and many of whom are also share croppers and landless is a stupendous one and needs the active consideration and attention of trade unions, social action groups and NGOs.**
- ◆ **Out of 28.9 million workers in the manufacturing sector only 25% (7.3 million) are in the organised sector and the balance 75% (21.62 million) are in the unorganised sector.**
- ◆ **In building and construction sector, workers in the organised and unorganised sectors worked out to 22% and 78% respectively.**

- ♦ In trade and commerce 98% of the total workers are amongst the unorganised workers.
- ♦ In transport, storage and communications as against 38.5% workers in the organised sector (3.1 million) the unorganised sector accounts for 61.5% (4.9 million).

Classification of workers according to occupation, nature of employment, distressed categories and service categories

Unorganised labour can be categorised broadly under the following four heads, namely -

- ♦ In terms of occupation
- ♦ In terms of nature of employment
- ♦ In terms of specially distressed categories
- ♦ In terms of service categories

Small and marginal farmers, landless agricultural labourers, share croppers, fishermen and women, animal husbandry men and women, workers engaged in beedi rolling, beedi labelling and beedi packing, workers in building and construction, collectors of raw hides and skins, workers engaged in flaying and tanning

for leather units, workers engaged in weaving in handlooms in rural areas, rural artisans, salt workers, workers in brick kilns and stone quarries, workers in saw mills, oil mills etc may come in the first category. Attached agricultural labourers, bonded labourers, migrant workers, contract and casual labourers come under the second category. Toddy tappers, scavengers, carriers of head loads, drivers of animal driven vehicles, loaders and unloaders belong to the specially distressed category while midwives, domestic workers, fishermen and women, barbers, vegetable and fruit venders, newspaper vendors etc would come under the service category.

Characteristics of unorganised labour

- ♦ The unorganised sector with its overwhelming number, range and complexity of problems has not been amenable to any statistical accuracy and precision in the same sense as the organised sector.
- ♦ Though surveys have been conducted in respect of few sectors of employment now and then they do not throw adequate light on all aspects and has not helped in building up an adequate data base.
- ♦ The unorganised sector suffers from cycles of excessive seasonality of employment. Majority of the rural workers do not have stable and durable avenues of employment. Those

who appear to be visibly employed are not gainfully and substantially employed, a phenomenon known as disguised unemployment.

- ◆ The workplace is scattered and fragmented. The workers do the same kind of job(s) in different habitations and may not work and live together in compact geographical areas.
- ◆ There is no formal employer-employee relationship between small and marginal farmers, share croppers and agricultural labourers as they work together in situations which may be marginally favourable to one category but may be broadly described as identical.
- ◆ In rural areas the society is highly stratified in as much as the sociological factor based on caste and community considerations is based on the structure of relationship and functioning in that society. In urban areas while such considerations are much less it cannot be said that they are altogether absent as bulk of the unorganised workers in urban areas are basically nothing but migrant workers from rural areas.
- ◆ While the landlords and moneylenders belonging to the upper strata of the society do not cultivate the land themselves and yet practically monopolise all resources including land the agricultural labourers and share croppers who are mostly

landless and who belong to Scheduled Caste and Scheduled Tribe communities are heavily dependent on and look upto the landlords and moneylenders for everything i.e "Ma Bap" or "Sarkar". They would ordinarily resign themselves to their fate and are handicapped in not being able to question the moral right and authority of the former to dictate terms or impose decisions on them. This is what is generally known as the culture of silence and dependence.

- ◆ Workers in the unorganised sector are usually surrounded by a lot of fads, taboos, and outmoded social customs like child marriage, excessive spending on ceremonial festivities etc which lead to indebtedness and bondage.

The exploitation of a large section of unorganised workers, particularly, those belonging to Scheduled Caste and Scheduled Tribe, can be attributed to the existence of malfunctional and dysfunctional middlemen. This is true of agricultural labourers, share croppers, fishermen and women, beedi workers (beedi rolling and labelling), workers engaged in collection of raw hides and skins, flaying and tanning, workers in brick kilns, stone quarries and building and construction. The exploitation begins by way of taking loan, debt or advance on the eve of the agricultural or collection season or on the eve of migration from rural to urban areas on false promises and allurements and ends up with

bondage/servitude which is the worst form of denial of human freedom and dignity.

- ♦ **Primitive production technologies and feudal production relations which are rampant in the unorganised sector do not permit or encourage the workmen to imbibe and assimilate higher technologies and better production relations. Large scale ignorance and illiteracy and limited exposure to the goings on in the outside world are also responsible for such poor absorption.**

Land and its distribution

Land is one of the key factors of production along with labour, capital and organisation. Ownership of land provides access to credit and other means of production and also confers a social status on the land owner. According to the National Commission on Rural Labour even a small piece of land can serve not only as a supplementary source of income but also as a source of security. According to the Commission despite two rounds of land reform legislation the surplus land acquired and distributed among the rural poor was barely 2% of the total cultivable area. Due to unsatisfactory implementation of ceiling laws in several of the States as borne out from successive rounds of NSS surveys as also agricultural census reports the objective of acquiring surplus land

and distributing the same amongst the landless has not been achieved. There has hardly been any attempt to influence the land market in favour of the rural poor by advancing long term loans to them for purchase of land. Widespread landlessness has severe adverse impact on the working and living conditions of agricultural labour. It leads to assetlessness. It reduces avenues of productive employment. It depletes market wages for them. It leads to migration and resultant marginalisation.

The extent of inequity in distribution of land holdings has been clearly demonstrated through the report of the 26th round of the National Sample Survey. According to this some 49 million rural households constituting 63% of the landed gentry own less than one hectare of land (accounting for less than 10% agricultural landholding) while at the other end of the spectrum 2.6 million rural households constituting only 3.3% of the landed gentry owned more than 8 hectares each and accounted for 30% of the total agricultural landholding.

Employment

Employment is an important indicator as well as input of development next to land in as much as unemployment and underemployment and cycles of excessive seasonality of employment are the characteristics as well as the factors responsible for rural poverty. That majority of the rural workers/labourers do not have stable and durable avenues of employment throughout the

year is evident from the following data collected from the 6th Rural Labour Enquiry Report (1993-94 [P]).

Number of days worked on

Wage employment

Men	235
Women	203
Children	178

Self-employment

Men	55
Women	55
Children	120

While the above is definitely an improvement over the earlier Rural Labour Enquiry Reports of 1974-75 the position continues to be grim in relation to number of unemployment days for women. On an average the workers are employed in wage paid employment for about 60% of the days in a year while in the remaining 40% of the days they are left without any worthwhile avenues of employment which leads to rural-urban migration with all the attendant problems of dislocation of home and family life, deprivation of the irreducible basic minimum facilities and amenities at the place of work etc.

Wages and earnings

- ♦ **The Sixth Rural Labour Enquiry Report 1993-94 has brought out a comprehensive data on the various facets of the economy. It shows that average daily earnings of main workers of the agricultural labour households increased over a period of 6 enquiries and stood at Rs.21.35 in 1993-94 as against Rs.1.43 in 1963-65. However, this increase is only in money terms and if this is to be adjusted with the agricultural price index it is observed that while the main workers of agricultural labour households were getting Rs.1.80 Paise as average daily earnings it increased approximately to Rs.1.90 after 30 years. The same is the position with respect to women workers and working children. However, one interesting and redeeming feature of the enquiry is that the disparities in the earnings among men and women workers have declined. While in 1963-65 the earnings of women workers were about half of the male workers, they got more than 3/4 of the earnings of men workers in 1993-94.**

Consumption pattern

The number of rural labour households has increased over the 30 year period between 1964-65 and 1993-94. The number was 25.4% of the total rural households in 1963-65 and now stands at 38.3% in 1993-94. Further a significant proportion of the rural labour households continues to belong to weaker sections of the society i.e Scheduled Caste (33%) and Scheduled Tribes (13.3%).

According to the 6th Labour Enquiry Report 1993-94 (P) the consumption expenditure of rural labour households shows that there has been a combined growth rate of 2.3% between 1974-75 and 1993-94. It is observed that the household consumption expenditure in 1993-94 was Rs.1025/- in 1960-61 prices as against Rs.664/- in 1974-75 registering a combined growth rate of 2.3%. The pattern of expenditure also shows a break away from the food items as is expected when the income and expenditure level increases. The per capita expenditure on food items by agricultural rural households which constituted about 75% in 1963-65 declined to 63% in 1993-94.

Indebtedness

The incidence of indebtedness amongst all rural labour households declined from 59.2% in 1963-65 to 25.1% in 1993-94. The average size of debt per household, however, increased from Rs.148/- to Rs.1031/- for an agricultural labourer and from

Rs.148/- to Rs.1113/- for rural labour households respectively. One interesting finding of the 6th Rural Labour Enquiry Report is that the incidence of indebtedness has been higher among the rural labour households with higher level of per capita expenditure. Further in 1993-94 only a small proportion of the total debt was inherited (3%). Moneylenders continue to be the major source of lending while cooperative societies and banks have paid debt for the operations of the moneylenders.

Progressive reduction in the incidence of poverty and unemployment, improvement in the quality of life of people in general and strengthening the bias of public policies and services in favour of the poor which contributes to reduction in the inequality of income and wealth are clearly stated central objectives of Five Year Plans and Govt stands fully committed to these objectives. Government's commitment flows from the provisions of the constitution and laws of the land as also the Common Minimum Programme which was announced in June, 1996. Government is conscious of the fact that inequality and poverty are the direct outcome of inequitable distribution of resources on the one hand and denial of access to many of the opportunities available for their physical and economic development on the other. Government is also conscious of the fact that the fruits and benefits of development may not reach the people at the lower rung of the ladder of development and may not be equitably shared by all sections of the community until and unless planned and concerted

efforts are made to remove these imbalances in distribution. Government is convinced that organisation of the rural poor is one of the instruments for removing these imbalances. This has been further reinforced after ratification of ILO Convention No.141 on Rural Workers in August 1977.

Women Labour

Of the total number of people employed at 332 million in 1993-94 men account for 224 million and women 88 million. In the organised sector out of 27.74 million men account for 23.18 million and women 4.56 million. Similarly, of the total employment in the unorganised sector at 304.2 million men account for 220.8 million while women account for 83.4 million. Talking in terms of white collared employment the total number of job seekers whose names have been registered at the live registers of 917 Employment Exchanges of India upto June, 1997 stood at 38.05 million of which men account for 29.37 million and women account for 8.68 million. Of the number of persons registered in the live register, however, barely 1.4 lakh persons were given placement in response to various requisitions received by the Employment Exchanges. Out of this men account for 1.1 lakh and women account for 0.3 lakh. This inequity has been manifested in relation to the rate of growth of employment in both organised sector, public and private sector as also in the labour participation rate. According to the NSSO estimates the average rate of growth of employment is 2.05% between 1977-78 to 1993-94. Of this

men account for 2.20% while women account for 1.66%. Of the total number of women employed in the organised sector 60% are employed in community, social and personal services. While the number of women employed in private sector between 1992-95 increased by 21.5% it increased only by 16% in public sector during the same period.

The position of women in regard to labour participation rate is worse for women and is not showing any appreciable increase over the years. According to the NSSO 50th round the participation rate was 33% in the rural areas and only 16% in urban areas. The same in respect of men was 56% and 54% respectively.

The inequity and distribution has been carried further in terms of availability of vocational training facilities for women. From out of 3083 ITIs in all the States/UTs there were barely 90 women ITIs. Similarly, of the total number of seats at 4.7 lakhs in all the ITIs of the country, the exclusive share for women was only 35,000.

Child Labour

Child labour is a sub-set of child population. The magnitude of the problem is related to the widely varying perceptions and this is what explains the emergence of varying statistics from time to time. According to the first school of

thought, every child who is out of school is a working child. The total number of children in 0-14 years according to 1991 census is 297 million and the child population in 5-14 years, according to the same census, is 203.3 million. Out of this about 120 million children are reported to have been enrolled in both formal as well as non-formal educational system and about 80 million are reported to be out of school. According to the second school of thought it is not correct to treat every child who is out of school as a working child. This is on account of two reasons. To start with all children who are out of school may not be actively employed for wages in factories, mines, plantations, shops, commercial establishments etc. Instead many of them would be just staying at home to support their parents in household work, farm work and allied occupations. They can be categorised as non-school going children but not necessarily as working children employed for wages. This school of thought adopts the census enumeration as the right one to determine the number of working children. According to 1981 census the number was 13 million (in round figures) which has come down to 11 million (in round figures) showing thereby a decline of two million.

Regardless of these perceptual differences and wide statistical variations in terms of number of working children, India account for the largest child labour population in the world and also in Asia. Of them the proportion of the working children to the total labour force in India is lower than many other developing

countries in as much as it account for only 5.2% of the total labour force.

Another aspect of child labour in India is that it is more of a rural phenomenon than urban. Approximately, 90% of the working children are in the rural areas and employed in agriculture and allied activities. The break-up of this 90% amongst various occupations is of the following order:-

Cultivators	-	35.7%
Agricultural labourers	-	42.8%
Livestock, forestry, fishing	-	6.4%
Mining and quarrying	-	0.2%
Manufacturing, processing, servicing and repairs	-	8.8%
Construction	-	0.8%
Trade & Commerce	-	2.2%
Others	-	3.3%

In urban areas, manufacturing, servicing and repairs account for 8.64% of child labour. Rising incidence of child labour in manufacturing activities mainly in urban areas is a cause for concern but this incidence is negligible considering the fact that 78% of child labour in India is still in agriculture.

To sum up the unorganised and informal sectors both in urban and rural areas account for the entire child labour force. The 43rd round of National Sample Survey (1987-88) puts the male and female children in child labour population in the following order:

Male	-	54.88%
Female	-	45.12%

Plans and Programmes launched by Govt since independence to eradicate urban and rural poverty, unemployment and underemployment and to promote and encourage organisation of the unorganised and the impact thereof

Since independence a number of central, centrally sponsored and state sponsored schemes have been launched with a view to promoting area development, strengthening redistributive bias of public policies and bias in favour of the poor, reduction in inequality of income through equitable dispersal of resources, eradication of poverty, unemployment and under employment. Programmes like Community Development (1951-71), DPAP (1970-71), Small and Marginal Farmers and Agricultural Workers Development Agencies (1971-72), Food for Works Programme (1977-78), Desert Development Programme (1977-78), TRYSEM (1979-80), Centrally Sponsored Scheme for Rehabilitation of

Freed Bonded Labourers (1978-79), IRDP (1980-81), NREP (1980-81), DWACRA (1982-83), RLEGP (1983-84), Jawahar Rojgar Yojana (1989-90), Indira Awaz Yojana (1989-90), Nehru Rojgar Yojana (1989-90), Intensified JRY (1990-91), Employment Assurance Scheme (1993-94), Urban Basic Services Programme (1986-87), Central Rural Sanitation Programme (1993-94), Mahila Samriddhi Yojana (1993-94), Rashtriya Mahila Kosh (1993-94), Prime Minister's Rozgar Yojana (1993-94), EAS (1993-94), Revamped Public Distribution Scheme (1994-95), Million Well Scheme (1994-95), Integrated Wasteland Development Project (1995-96), National Social Assistance Programme (1995-96), Indira Mahila Yojana (1995-96), Prime Minister's Integrated Urban Poverty Eradication Programme (1995-96) are planned, concerted and coordinated efforts at the central and state levels to grapple with and overcome both urban and rural poverty, grapple with and overcome the problems of urban and rural unemployment and underemployment, grapple with and overcome the problem of denudation of land and forest, decline in the forest and vegetal cover and for protecting and conserving land, forest, water and other natural resources through integrated watershed development. It is evident that lot of sincere, earnest, systematic and organised efforts have been made since independence to reduce poverty, unemployment and underemployment and to improve the lot of the urban and rural poor in all possible ways. There is no gainsaying the fact that as a result of these efforts the average number of days of employment available in a year, the quantum of wages and consumption pattern

both in urban and rural areas have registered some improvement. And yet it will be a travesty of truth to say that the situation has improved anywhere near the expected outcome. As a matter of fact, the situation is far from satisfactory. To illustrate, with the skewed nature of distribution of land over 90 million people continue to be totally landless even today. It is doubtful if in the context of large farmers increasingly taking recourse to methods of cultivation which are labour saving we would be able to even ensure productive utilisation of all landless agricultural labourers, not to speak of ensuring equitable distribution of land holdings. The situation in regard to employment and earnings are no better. To quote from the 50th round of survey conducted by the NSSO, number of persons employed for 1000 persons according to the usual status (which means stable employment) has remained static in rural areas between 1977-78 and 1993-94 and has marginally improved in urban areas during the same period. Judged in terms of distribution of employment status it is seen that while regular employment has declined in rural and urban areas for all males and females, the employment of casual labour or casualisation has substantially increased between 1977-78 and 1993-94. In other words, during the last 20 years or so we have gradually been moving away from regular employment to casual employment. The National Commission on Rural Labour has also taken cognisance of this fact. It has come to the conclusion that the rate of growth of employment in poor States like Bihar, UP, Orissa and Madhya Pradesh has been slow and unsatisfactory due to historic, social and administrative factors compared to States like Punjab, Maharashtra

and Gujarat whose per capita income is on an average about 80% higher than the average per capita income of the former.

The National Commission on Rural Labour has further observed that the magnitude and structure of output growth has not been able to narrow the gap between employment and labour force. The rate of growth of labour force is 2.5% today which is higher than the rate of growth of population which is 2.1% per annum. In other words, more people are entering the market than what the market is capable of absorbing. Besides, large number of unskilled and semi-skilled people who are entering the labour market without possessing the requisite qualification are being repulsed by the market forces which are fiercely aggressive and aggressively competitive.

While there are number of special employment generation programmes specifically designed for absorbing surplus rural manpower they have not succeeded in effectively absorbing them creating thereby a hiatus between the expected goals and actual outcomes of employment policies and programmes and the actual outcome.

The above position has been very clearly and succinctly brought out by the Planning Commission (Labour Employment and Manpower Division) in its background paper on Employment Planning and Policy in the 8th Five Year Plan Period). According

to the estimate of the Planning Commission there were 17 million unemployed and 6 million severely underemployed people at the commencement of the 8th Five Year Plan on 1-4-1992. At 2.29% as the rate of growth of employment during 1992-95 about 21.18 million additional employment opportunities were expected to be generated during this period i.e 1992-95 and 35 million additional employment opportunities were required to be generated during the 8th Plan Period (1992-97). The total of the employment opportunities necessary to be generated during the 8th Plan to absorb all the unemployed and the underemployed comes to 58 million. An additional employment opportunity of 36 million are required to be generated during the 9th Plan period 1997-2002 to absorb all the unemployed and the underemployed making a total of (58 + 36) 94 million. This indicates the enormous magnitude of the problem of unemployment and underemployment in India. To make generation of additional employment opportunities of the order of 94 million a reality the rate of growth of employment needs to be substantially stepped up from the present level of 2.29% to about 2.8% which is nowhere in sight.

In conformity with the ethos and spirit of the declaration adopted at the World Summit on Social Development at Copenhagen in March, 1995 an excellent strategy was drawn up during the 8th Plan for boosting the rate of growth of employment and for absorbing the unemployed and underemployed substantially by 2002. The same strategy appears to have been reaffirmed in the approach paper to the 9th Five Year Plan and also in the

**Common Minimum Programme of the United Front Government
which reads as below:-**

Approach paper to the 9th Five Year Plan

"A primary objective of the Ninth Plan will be to generate greater productive employment in the growth process itself by concentrating on sectors, sub-sectors and technologies which are more labour intensive, in regions characterised by higher rates of unemployment and under employment. The experience of the last decade has been that relatively rapid growth does generate adequate employment opportunities. However, the quality of employment in terms of the incomes received and the work environment leave much to be desired. It is, therefore, necessary to shift the focus of employment strategies towards creating conditions whereby employment opportunities lead to significantly better living and working conditions of the people and to uphold the dignity of labour. In particular, the incidence of scavenging and child labour which arise out of acute poverty need to be eradicated keeping in mind the requirement of maintaining family incomes.

Improvements in the quality of employment can be achieved only in a situation of rapidly growing productivity to which the labour can lay a just claim. However, it is not

enough to merely create the right kinds of employment opportunities but also to provide the people with the human capital by which they can take advantage of these opportunities. Education and skill development are the essential features of such empowerment. Free and compulsory education of children supported by an adequate mid-day meal programme in schools is the first step towards this end. In addition, special programmes will have to be implemented to develop skills, enhance technological levels and provide marketing channels for people engaged in traditional occupations.

Recognising the high incidence of underemployment and increasing casualisation of labour, there is need to enhance employment opportunities for the poor. In this context, the Ninth Plan will seek to implement a national Employment Assurance Scheme".

The above approach contained in the 9th Plan document has been reaffirmed in the Common Minimum Programme of the UF Government. To quote from the Common Minimum Programme:

"Growth with social justice will be the motto of the United Front Government. There is no substitute for growth. It is growth which creates jobs and generate incomes. Self-

reliance has been an article of faith since independence and the United Front Government will adopt such growth oriented policies that lead to greater self-reliance. The United Front is committed to faster economic growth. The country's GDP needs to grow at over 7% per year in the next 10 years in order to abolish endemic poverty and unemployment".

Much, however, remains to be seen as to how these articles of faith and commitment are going to be translated to action.

National Wage Policy

The wage policy is closely linked to the employment objective. In other words, without a proper wage policy and strategy for enforcement of minimum wages for the sweated sector or the subsistence sector of the economy and the task of full and productive employment would remain incomplete. The National Commission on Rural Labour after a very detailed analysis, has come to the conclusion that real wages have persistently remained low and have even declined. It is observed that a vast majority whether in the rural or urban areas remain untouched by the minimum wages legislation. It is also observed that there has been a progressive decline in traditional employment opportunities which has been a source of employment for millions of people.

The Minimum Wages Act was enacted in 1948 with a view to protecting and safeguarding the interests of workers in the unorganised and sweated sectors. Minimum wage is a rock bottom subsistence wage below which no employer can go. Minimum wage is not related to capacity of the industry to pay as such capacity is presumed to be inherent. As has been observed by the Supreme Court in Special Leave Petition (C) No.15680 of 1990- Workmen of M/s Reptakos Brett & Co. Ltd Vs their Management - an industry which cannot assure payment of minimum wages has no right to exist. Minimum wages can be fixed only after certain employments have been notified as scheduled employments on the basis of minimum potential for employment (1000) in a particular area in a particular sector. It has been observed that in terms of identification of scheduled employments a lot more remains to be done in the state sphere where the progress is not uniform. Equally disturbing is the fact that even in respect of few limited employments notified as scheduled employments minimum wages fixed several years ago have not been reviewed or revised even within the existing statutory period of 5 years. Compounded in terms of the recommendation of NCRL in 1991 in terms of agricultural consumer price index alone the minimum wages for all sweated sectors of employment should be Rs.35/- and above. Ex-Prime Minister of India had the occasion to write to all the Chief Ministers of States/UTs in November, 1996 to ensure that minimum wage(s) is fixed, reviewed and revised in such a manner that it is not less than Rs.35/- on any account whatsoever. Such a course of action was taken by Govt of India as there was no

agreement on fixation of a national wage policy amongst the constituents of the federal polity and there was no possibility of reaching a consensus even on zonal minimum wage. More than one year after Ex-Prime Minister wrote to State Govts, minimum wages in a number of scheduled employments in the state sphere continue to remain below Rs.35/- which is totally unacceptable.

Rural indebtedness continues to be an important factor of privation and suffering of the workers in the unorganised sector. There is only a small redeeming feature in that the inherited indebtedness has come down to a very low level of only 3% (1993-94). The banks have started playing an important role after their nationalisation in 1971 and have been funding a number of poverty alleviation and rural employment programmes. The position of moneylenders, however, remains more or less at the same level as it was 30 years back. These moneylenders together with a chain of malfunctional and dysfunctional middlemen continue to operate in urban, semi-urban and rural areas in a clandestine manner in violation of the provisions of the Moneylenders Act enacted by different States and continue to hold the unorganised labour as also the economy to ransom.

Plight and predicament of the ST Community

The plight and predicament of about 50 million members of the Scheduled Tribe Community is deplorable on account of the prevalence of such malfunctional and dysfunctional

middlemen. They approach members of the ST community on the eve of the collection season, pay nominal advances and mop up the entire minor forest produce collected by the members of the ST community at terribly unremunerative and low prices to make a quick and unmerited buck by selling them at phenomenally higher rates in the market. Institutions like LAMP, Girijan Cooperative Corporations etc set up with a view to ensuring remunerative price to the tribal collectors of minor forest produce have not yielded the desired results on account of poor infrastructure, inadequate working capital, poverty of human resources and the vice like grip exhibited by scheming and manipulative moneylenders and the middlemen whose resourcefulness and machinations easily overtake the ingenuity of Government functionaries at the grassroot level.

Bonded Labour

Instances of debt bondage and migration are two important consequences which flow from the weak bargaining power of the workers in the unorganised sector. The bonded labour system basically represents an unequal exchange system between the rich and the poor, the haves and the have-nots, the advantaged and the disadvantaged. It represents a creditor - debtor relationship which is an unequal relationship. According to the plain understanding obtaining from the provisions of the Bonded Labour System (Abolition) Act a debtor who obtains a loan, debt or advance from the creditor and in pursuance thereof pledges or mortgages his or her service or service of any of the family

members for a specified or non-specified period without payment of the irreducible minimum wage or without payment of market wage or without the right to move freely in any part of the territory of India or without the freedom or the option to choose alternative avenues of employment or the right to receive remunerative price for one's labour or the product of one's labour.

India ratified ILO Convention of Forced Labour No.29 (1931) in 1954 and in pursuance of the obligation arising out of that ratification enacted a law i.e Bonded Labour System (Abolition) Act, 1976 which was passed by both Houses of Parliament in February, 1976 to give retrospective effect from 24-10-75, the date when Bonded Labour System (Abolition) Ordinance was promulgated. Twenty years after it is a moot point to ponder over if we have been able to do justice to the letter and spirit of the law by constituting Vigilance Committees at the District and Sub-divisional level, by undertaking surveys for identification, by securing timely release and simultaneous rehabilitation of freed bonded labourers and by living upto the Constitutional obligations of protecting and safeguarding the dignity and freedom of labour which is the quintessence of the ILO Convention as also the legislation.

Migrant Labour

Equally disturbing is the scenario in relation to the plight and predicament of million of migrant workers. According

to 1981 census there were 23.4 million interstate migrant workers. Of this migration for employment accounted for 6.2 million representing 26% of the total migrant workers which includes inter-district and intra-district and interstate migration. Of this again about 5 lakh migrant workers are reported to be seasonal and two states, namely, UP and Bihar account for 41.4% of out migration. According to estimates again there were 6 to 7 lakh migrant workers constituting about 12% of 16 lakh labourers in Punjab alone out of which nearly 3 lakh were in agriculture. Roughly one lakh workers out of a total 1.5 lakh workers in brick kilns were migrant workers. The migrant population includes not only wage earners but also other categories like rickshaw pullers, kabadi wallahs, washermen and women, rag pickers etc who constitute a sizeable section of urban population.

Freedom of movement in any part of the territory of India and freedom to pursue any avocation of one's choice is an option guaranteed under Article 19 of the Constitution. Migration being the movement of human beings in pursuit of certain cherished objects like better employment, better wages and better quality of life, there is apparently nothing wrong or objectionable in migration per se which is a social and economic phenomenon. Migration becomes objectionable only when it leads to exploitation culminating in human misery and deprivation of the irreducible barest minimum to which every worker as a human being and as a citizen is entitled. It becomes objectionable when human greed,

rapacity and acquisitive instincts of employers/contractors overtake the finer aspects of human character and lead to a situation which may be characterised by the denial of dignity, justice and inalienable human rights of certain underprivileged and downtrodden sections of the society.

Migration is closely and inextricably interlinked to rural poverty and the strategy to deal with problems of migrants can be two fold. On the one hand, adequate and effective steps can be taken by the Government of the originating State to create and intensify avenues of public works so that the number of days of assured employment for the migrant population could be increased. The second strategy would be in the nature of undertaking certain ameliorative measures to protect and safeguard the interests of migrant workers at their destination point by providing journey allowance, dislocation allowance, housing accommodation, protective clothing in colder climates, payment of minimum wages in time without any deduction by way of commission to the middlemen and safe repatriation to the originating State. It is with this end in view that the Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act was enacted in 1979. It took quite some time for the States to frame rules and to fix a date for enforcement of the law. Nearly 2 decades after this laudable and pioneering initiative at the Central level it remains to be seen if the laudable objective behind this legislation has been translated to reality to the advantage of the interstate migrant

workers. While a lot of efforts are, no doubt, being made to create and sustain stable and durable avenues of employment through public works by the originating State, migration continues unabated and the migration which takes place is more distress oriented or subsistence oriented than otherwise. This is what puts the migrant workers at the mercy of the principal employer, the contractors/sub-contractors as also their middlemen and makes them in the absence of any worthwhile organisations extremely vulnerable to exploitation. The migrant workers contribute substantially to the economic prosperity and wealth of the state to which they migrate by their blood, sweat and tears but regrettably enough the recipient States have not, by and large, been able to view the problems of interstate migrant workmen with the empathy and sensitivity which they deserved. This is precisely what explains why accidents causing injury resulting in death or disablement are not reported and workmen's compensation in case of those accidents is not deposited and paid. On the part of interstate migrant workmen and their family members they find it an extremely uphill task to deal with the enormity and complexity of the problem on account of the sheer geographical distance between the place of their origin and the place of their work, unfamiliarity with the geography, topography, language, local customs, court procedures etc obtaining in the recipient state and absence of any organisation to protect and safeguard their interests.

The plight of women and children accompanying the migrant workers is deplorable. In the absence of any worthwhile

accommodation they have to put up in makeshift structures which can at best be described as hovels. Men, women and children living in such hovels have literally to crawl on their toes like animals. In the absence of any conservancy facilities they have to go to the open to ease themselves sometimes hiding behind a bush of kajri or babul without any semblance of privacy. Women of such migrant families easily become target of lust of contractors/subcontractors and their henchmen and for this reason become extremely vulnerable both at home as well as at the place of work. Children are deprived of the access to educational opportunity on account of absence of educational infrastructure, linguistic problems and desire of poor and helpless parents to subject them to work against their wishes to supplement income. The petals of their childhood and all the excitement and joy associated with childhood wither away before blossoming to flowers of youth and manhood.

Contract labour

Contract labour like bonded labour and migrant labour is yet another form of unorganised labour which is extremely vulnerable to the machinations or manipulative skills of the contractor and sub-contractor. The Contract Labour (Regulation and Abolition) Act was enacted in 1970 with a view to prohibiting contract labour as the first and principal objective and to regulate their working and living conditions wherever such abolition was not possible or feasible. It took nearly 4 years for the Central Govt to

give effect to the provisions of the law due to a spate of litigations filed by employers challenging the Constitutional validity of the law. Eventually the constitutional validity of the law was established beyond doubt and it came into force from 1974. Like the law on bonded labour and migrant labour more than 20 years after it is difficult to say if the laudable objectives behind this legislation have been translated to action. No doubt, rules have been framed, statutory authorities for registration and licencing of principal employers and contractors have been set up and large number of inspections continue to be conducted to ensure just, fair and equitable conditions of work for contract workers. In the wake of liberalisation and attempt to link national economy with the global economy certain new market forces have been unleashed which favour contractualisation and casualisation of the workforce. The guiding spirit of the law is to employ workers on a regular basis in jobs which are regular and perennial i.e of sufficiently long duration and to employ workers on contract/casual basis where the nature of employment is casual, sporadic and intermittent. Experience during the last 5 years have, however, shown that such regular jobs are being off loaded increasingly in favour of contract and casual workers. Consequently there is shrinkage of regular jobs in the organised sector and increase in the number of contract and casual workers. Since these workers are unskilled or semi-skilled, have a low level of literacy or numeracy as also a low level of awareness they become easily vulnerable to the manipulative and fraudulent practices adopted by the contractors and sub-contractors.

While laws relating to bonded labour, migrant labour and contract labour have been enacted with lot of positive intentions they remain largely elusive in terms of implementation and enforcement. This is not to cast any doubt or aspersion on the sincerity and earnestness of the enforcement agency either of the State or the Central Govt but merely to highlight the point that there is a gap between the laudable intentions of the framers of the law and the actual implementation. It is this gap which has given rise to a new scenario characterised by public interest litigations and judicial activism. Several pronouncements of the High Courts and Supreme Court have gone in favour of workers in the sweated and unorganised sectors including bonded labourers, contract workers and migrant workers. Of notable interest and relevance are the judgements of the Hon'ble Supreme Court in writ petition No.8143 of 1981 (the famous Asiad case), Writ Petition No.2135 of 1982 (the famous Faridabad Stone Quarries case), Gujarat Electricity Board, Thermal Power Station, Ukai Vs. Hind Mazdoor Sabha in Civil Appeal No.5497 of 1995, Civil Appeal No.15532 to 15537 of 1996 (Air India Statutory Corporation Vs United Labour Union). The directions of the apex Court in all these judgements have come like a breath of fresh air. They have boosted the morale of the social activists who sponsored and spearheaded them. They have undoubtedly provided a lot of encouragement and hope for the poor, the deprived and the disadvantaged. The only limitation in this otherwise extremely encouraging and rewarding trend or development is that the directions of the Court are meant for the very same enforcement

machinery whose indifference, callousness and insensitivity had necessitated recourse to judicial activism or public interest litigation. It is futile to expect that the same enforcement agency which had hitherto paid lip service to implementation or enforcement of the legal provisions in favour of the poor and disadvantaged will be able to rise to the occasion to understand and internalise and do justice to the letter and spirit of the directions of the Court.

It may be borne in mind that law provides a framework as also an enabling mechanism. It sets the pace and tone of certain directions which are to be carried out by the enforcement agencies with sincerity, earnestness, transparency, commitment and dedication. Since labour occurs in the concurrent list of distribution of powers as provided in the Constitution of India and both the Central and State Govts have been empowered to enact laws for labour we have enacted as many as 150 legislations both in the Central as well as in the State sphere and we have the single largest number of labour legislations in the whole world. Majority of these laws like Payment of Wages Act, Minimum Wages Act, Factories Act, Mines Act, Plantation Labour Act, Motor Transport Workers Act, Bonded Labour System (Abolition) Act, Contract Labour System (Abolition) Act, Interstate Migrant Workmen's (Regulation of Employment and Conditions of Service) Act, Beedi and Cigar Workers (Conditions of Employment) Act, Building and Other Construction Workers (Conditions of Service and Employment) Act have been enacted to protect and safeguard the

basic conditions governing the working and living conditions of workers in general and workers in the unorganised sector in particular. Unfortunately, however, the process of law enforcement has been such that laws invariably have been used against the poor. The poor, therefore, cannot escape the feeling that the law is meant only to be used against them and the rich, affluent and the powerful are above the law. They find to their dismay that the law is always taking something away from them rather than giving something to them. The law which they encounter in their day-to-day life is not the law of the poor but law for the poor which is based upon police powers and the presumed right of the society to preserve law and order and to protect one class of society from another.

Against this limited background, it is futile to expect that law can be a panacea against all ailments - social, economic and political. It is also futile to expect that law can be an effective custodian of all the individual and social needs, hopes and aspirations.

Law enforcement has broadly two parameters. One is through inspection and the other is through the system of judicial redress. Both have their severe limitations. This is because the area of law enforcement is large and scattered and the inspecting machinery is small and virtually immobile. The system of judicial

redress is cumbersome, expensive and time consuming. This is because the Courts are saddled with too many routine original jurisdiction cases and even if they succeed in disposing off some public interest litigation cases in less time and cost, giving thereby some semblance of redress, the relief becomes elusive as the judgement of the Court in a public interest litigation will necessarily have to be implemented by the very same enforcement agency whose indifference and callousness prompted the aggrieved to seek judicial redress.

The question, therefore, naturally arises as to what is the ultimate remedy? Permanent redress of the wrongs committed and indignities and injustices meted out to numerous individuals who are otherwise poor and indigent and, therefore, weak and defenseless lies in organising them into viable groups or collectivities.

Since we are a democracy governed by the rule of law, whatever change we wish to bring about can only be through the process of law and the legal process must, therefore, be utilised for the purpose of bringing about change in the working and living conditions of the unorganised. To quote from the Constitution ".....The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work a living wage, conditions of work ensuring a decent standard of life and full enjoyment of

leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas". Organisation of the unorganised is not an assembly of men, women and children but a powerful conveyer of the quest of the mute millions who, in the words of Justice P N Bhagwati constitute the low visibility area of humanity, leading a subhuman existence, battling against poverty, exploitation, subjugation, discrimination and deprivation for years and yet who are also human beings endowed with a spark divine and entitled to irreducible barest minimum as others as free citizens in a free country.

The following questions need to be remembered in the context of organisation of the unorganised in urban, semi-urban and rural areas:

- ♦ We need to identify and enumerate the numerous groups of the unorganised workers engaged in different avocations and the sub-groups within the broad groups.
- ♦ We need to conceptualise the objectives for which organisation would be required for each one of the groups identified.

- ◆ **Of the total workforce of 314 million women account for 89 million approximately. Their participation in the labour market and in particular in the labour market obtaining in rural, tribal and forest areas has not been as appreciable as expected. We, therefore, need to mobilise and enlist the support of women's organisations for organisation of women labour who pursue avocations either jointly or separately with men and which have their own problems and peculiarities.**
- ◆ **We need to identify and enumerate the constraints which prevent formation of collectivity or organisation within such groups and we need to undertake measures required to eliminate such process.**
- ◆ **We need to precisely identify and enumerate the role of Non-Govt Organisations, Universities, Research Groups, Social Action Groups and individual animators to create a mass awareness about the need for organisation of the rural poor through studies, researches, training camps and physically undertaking the task of organisation.**
- ◆ **We need to institute Legal Aid Centres for protecting and safeguarding the rights of the rural labour.**

- ◆ **We need to mobilise and enlist the support of media and communication agencies so that the right messages about organisation of the unorganised can be transmitted to the policy formulators, planners, implementors and all those who are concerned with organisation of the unorganised in the right time and in the right manner. For this purpose we need to document success stories obtaining in the field of organisation of the unorganised which speak of lot of good work which has already been done and which can help in carrying the message of organisation with hope, faith and conviction that this is something which is not phoney or utopian but possible, feasible and achievable.**

These may be analysed further in greater detail as below:-

We need to identify and enumerate the numerous groups of the unorganised workers engaged in different avocations and the sub-groups within the broad groups.

Unorganised labour is concentrated overwhelmingly in rural areas. Their workplaces are scattered and fragmented. There are broad categories like agricultural labourers and within that broad category there are sub-categories who deal with ploughing, sowing, deweeding, transplanting, threshing etc. It is only through a survey that we can identify the various categories and sub-

categories of unorganised labour in urban, semi-urban and rural areas such as small and marginal farmers, landless agricultural labourers, share croppers, rural artisans, black smiths, cobblers, potters, fishermen and women, leather workers, salt workers, workers in brick kilns, workers in stone quarries, building and construction workers, beedi rollers and labellers, tribal collectors of minor forest produce, handloom weavers etc. Precise identification and enumeration of various categories and sub-categories of unorganised labour is essential to identify their basic needs so that suitable activities can be designed through which they will be organised and through which these needs can be fulfilled.

We need to conceptualise the objectives for which organisation would be required for each one of the groups identified.

Within each broad group as also sub-groups there are common objectives for which an organisation is needed. There are also broad objectives for each one of these categories and sub-categories. These objectives need to be precisely identified. These objectives can be either short term or long term. Once we have succeeded in identifying the objectives of the organisation it will be much easier to weave these objectives into the framework of the organisation which is being created.

Unorganised labour on account of poverty, illiteracy, low level of awareness and aspirations, social and economic

backwardness may not be in a position to correctly exercise their option and go in for a particular type of organisation which should be in their best interest. There are different situations in which different forms of organisations have succeeded or failed. Different types of organisations cannot, therefore, be prescribed for different target groups in a mechanical and stereotyped manner. Rural labour training camps being organised by the National Labour Institute and the Central Board of Workers' Education since 1970s could be one of the best ways of enabling the target groups in the unorganised sector to perceive and internalise the need for organisation and to go in for the type of the organisation which will serve their best interest. In extreme situations where on account of acute disadvantage the target groups are not able to exercise their discretion Govt functionaries and NGOs need to place themselves in the situation in which these target groups have been placed and need to exercise their option and discretion in their best interest.

We need to identify and enumerate the constraints which prevent formation of collectivity or organisation within such groups and we need to undertake measures required to eliminate such process.

There are numerous factors which inhibit the organisation of the unorganised. Some of these are external like the coercive power of the propertied class, the economic

dependence of the poor on the rich, the in-built bias of the local law and order machinery to maintain status quo and the lack of supportive legislation and non-implementation of the existing laws enacted in favour of the poor. The most inhibiting factor against the growth of the organisation of the rural poor is the role of the lower echelons of the bureaucracy which are often very negative or even repressive. Other inhibiting factors arise from the heterogeneity of the poverty group itself. The poor are differentiated and divided by such factors as conflicting economic interests, caste and community differences, sex discrimination and other divisive forces which compel the poor to compete amongst themselves for limited opportunities and resources.

The single most important constraint inhibiting organisation of the unorganised is the threat perception associated with the process of organisation itself. Nothing could be more unfortunate than this. Providing an opportunity to the poor, deprived, unorganised and, therefore, disadvantaged to organise themselves is only conceding to them something which is basic to them as human beings so that they like other human beings can reap their inalienable human rights and the fruits and benefits of development and progress of which they have remained deprived so far. This cannot be construed to be an act of charity or catholicity but something very normal, natural and legitimate. Unfortunately, however, statusquoist elements of the society perceive lot of unnecessary threat to their own existence from the process of empowerment of the poor through education, orientation and

training leading to their organisation to viable groups. Such unfounded fears and apprehensions are rooted in mindsets which refuse to see the importance of certain issues beyond their opaque vision. These need to be correctly identified and corrective measures need to be adopted. The Rural Labour Camps being conducted by the V V Giri NLI and the CBWE in 70s could also play a very useful role in enabling the unorganised to perceive and internalise and impart to them the strength and resilience with which they can not only form the organisations but can sustain them.

We need to precisely identify and enumerate the role of Non-Govt Organisations, Universities, Research Groups, Social Action Groups and individual animators to create a mass awareness about the need for organisation of the rural poor through studies, researches, training camps and physically undertaking the task of organisation.

It is extremely important for Govt and Govt functionaries to perceive and internalise that Govt cannot be everything and that Govt does not have an easy access or outreach to all sections of the society and particularly those who are in remote and far flung areas which constitute the twilight zone of humanity. Govt cannot assume everything on its shoulders, far less being able to discharge onerous responsibilities arising out of

organisation of the unorganised. Govt, however, can act as a promoter, facilitator and a catalytic agent and can promote and encourage NGOs, self-help groups, thrift and credit groups etc who can supplement and compliment the role of Govt in social mobilisation and organisation. Govt can create the climate conducive to organisation of the unorganised and can also support and protect the NGOs and other social activists who are engaged in organisation of the unorganised. The threat perception by Govt of such NGOs and social activists needs to be replaced by a new orientation and thinking that organisation of the unorganised is meant for betterment of the lot of the poor and the deprived and is also one of the surest means of enabling participation of the poor in the process of development to enable them to reap the fruits and benefits of development.

We need to institute Legal Aid Centres for protecting and safeguarding the rights of the rural labour.

The strategic legal service programme consists of creating legal awareness for knowledge of the rights and entitlements of the unorganised. It should impart the power, strength and confidence to fight and help them to avoid needless difficulties which arise from ignorance. Legal aid camps can also be arranged as part of the strategic legal service programme for carrying legal services to the door steps of the poor and

disadvantaged. The real and effective strategy which a dynamic and activist legal service programme can and must adopt is to build up participatory organisations of the rural poor, what Prof. Upendra Baxi, former Vice-Chancellor, Delhi University calls PORPS. The basic objective of PORPS should be to develop these capabilities to -

- make, remake and unmake the law, participate in the enforcement of law and administration of justice.
- provide improved access to justice.
- create alternative institutions of peoples' law.
- combat increased abuse of power and power.
- it should also extend to the following areas which constitute the domain of protection of human rights:
 - * fighting instances where false cases are filed by the Police.
 - * fighting instances of torture and violence by law enforcement agencies
 - * fighting unauthorised use of force by private militia of landlords and dominant interests.

- * fighting open complicity by local officials with the vested interests in violation of the law.

We need to mobilise and enlist the support of media and communication agencies so that the right messages about organisation of the unorganised can be transmitted to the policy formulators, planners, implementors and all those who are concerned with organisation of the unorganised in the right time and in the right manner. For this purpose we need to document success stories obtaining in the field of organisation of the unorganised which speak of lot of good work which is being done and which can help in carrying the message of organisation with hope, faith and conviction that this is something which is possible, feasible and achievable.

Media and communication transmit knowledge and information which is of interest and relevance to certain target groups. Media and communication dispel fads, taboos, obscurantist ideas and practices and place issues in a proper perspective so that they can be correctly understood and internalised by the target groups, policy formulators, planners and implementors. Media and communication help in replicating success stories. Media and communication restore hope, faith and conviction of humanity about genuineness of certain concerns and efficacy of certain

strategies. It is in this perspective that we need to (a) adopt an appropriate media and communication strategy which will be positive and supportive of organisation (b) harness media coverage and support to propagate and strengthen the idea of organisation (c) document success stories of good and effective peoples' organisations which can be replicated elsewhere.

Of the total workforce of 314 million women account for 89 million approximately. Their participation in the labour market and in particular in the labour market obtaining in rural, tribal and forest areas has not been as appreciable as expected. We, therefore, need to mobilise and enlist the support of women's organisations for organisation of women labour who pursue avocations either jointly or separately with men and which have their own problems and peculiarities.

There are occupations and various operations like sowing and harvesting which are carried on jointly by men and women. There are, however, certain other occupations like grass cutting, collection of tendu leaves, sal seeds and sal leaves, collection and processing of minor forest produce, beedi rolling and packing, transplanting, weeding, carrying fish and vegetables to the market, operations in crafts like preparation of clay for pottery, processing of yarn for weaving, a number of operations in brick

kilns such as carrying the raw brick to be spread in the sun, turning the bricks on all sides for even drying etc, building and construction operations in rural areas etc which are carried on either exclusively by women or women workers engaged substantially in large numbers. Against this background it is necessary to determine whether we should have separate organisations of women to assure them a fair return of their produce and to make them aware of certain elementary things about organisation, statutory rights of women working in an establishment relating to maternity, equal remuneration for same or similar nature of work as that of men. This is particularly relevant in the context of SC/ST families where the plight of women workers is deplorable when it comes to sharing of property, share of usufructuary rights etc. The plight of children of such SC and ST families who work to supplement the income of their parents to a large extent is also equally deplorable. Such plight and predicament can be accentuated on account of the fads, taboos, obscurantist ideas and practices and the highly ostracising social environment in which the members of the SC and ST community operate. One needs to take cognisance of exploitation of women and working children which takes place at home and the exploitation which takes place at the workplace. One is as reprehensible as the other and it is very difficult to draw a line between the two. Unemployment, underemployment, gender discrimination practiced on a large scale in various matters in a male dominated society and mindless male addiction to alcoholism which drains away the income of women and drives the family to

total social and economic ruination are factors which need to be closely studied and issue based broad organisations of women need to be created which would create a buffer of protection of the interest of women and children. While lot of protection is already available through case laws of the Supreme Court in matters of calling women to Police Station and their detention in Police Stations and avoidance of sexual harassment as contained in the latest judgement in Writ Petition (Criminal) Nos.666-70 of 1992 - Vishaka & Ors. Vs State of Rajasthan & Ors and institutional mechanism through the National Commission for Women, we need a very positive, supportive and aggressive media and communication agency for transmitting these messages to the mass of women and children scattered and fragmented across the length and breadth of the country which will spur all of them to collective action through organisation.

Additionally in the context of organisation of various categories and sub categories of unorganised labour in urban, semi-urban and rural areas, the following two additional strategies would also have to be given priority consideration. These are:

I. Issues in Skill Development for the unorganised labour

Our country has an illustrious tradition of skilled artisans acquiring knowledge, information and skill on the basis of family training and apprenticeship for generations. These artisans

were engaged in small establishments prior to the onset of colonialism and were known for carving out objects out of indigenously available raw materials which were known for their artistic workmanship and excellence. The levels of expertise acquired by these artisans through precise transmission of indigenous skills have been acclaimed internationally. The onset of colonialism and introduction of a strategy of large scale bulk production in the wake of industrial revolution in the 19th century dealt a lethal blow to further refinement, evolution and growth of these indigenous skills. A large number of rural artisans lost their skills which they were unable to market and got impoverished. In other words, colonialism set in motion deskilling in a big way. Consequent on the loss of age old skills large number of rural artisans who had been pauperised got converted into the status of landless agricultural labourers.

The globalisation of the economy and emergence of new market forces which are fiercely aggressive and aggressively competitive has adversely affected a positive and supportive environment where native skills could flourish and thrive. The difficulties of rural artisans have been compounded further due to (a) lack of congruence with the market needs and demands, (b) lack of availability of raw materials at affordable prices, (c) lack of access to credit and (d) infirmities in skill training due to poor infrastructure and poor instructors' training, obsolescence of certain skills/trades and irrelevance of the curriculum and course content of the training.

In the context of shrinkage of workforce in the organised sector and exodus of large number of workers into unorganised and informal sector as also contractualisation, casualisation and informalisation of the economy, skill formation and skill upgradation of the unskilled, semi skilled workforce in the unorganised sector have acquired a new dimension. We need to think in terms of skill training in a much larger and integrated perspective of imparting life skills, communication skills, survival skills, vocational skills, entrepreneurial, managerial and supervisory skills. Viewed in this perspective, we need to pay special attention to the following:

- ▶ **Emphasis needs to be given to appropriate technology on the basis of the following principles:**
 - **Indigenous technology which is tested and proven must be unearthed & brought to surface through continuous search for talent and interaction with researchers, NGOs and grass root level social activists who have access to such information.**
 - **Technology must be appropriate and relevant.**
 - **Technology must be affordable and easily adaptable.**
 - **Technology must be easily replicable.**

- ▶ **There should be a clear cut positive public and governmental support for skill training in the context of shift of activities from the organised manufacturing sector to small service sector.**

- ▶ **The curriculum, course content and textual material for training of instructors and training of rural artisans should be appropriately designed keeping in view the large scale of illiteracy, low level of awareness and low level of aspirations of people of this category at the lowest ring of the ladder of development. The course content should be simple and intelligible and the methodology of teaching and learning must be totally unorthodox and non-conventional. A discussion oriented mode of imparting skill training should be adopted. The participants in any training programme should be enabled and facilitated by the instructors to identify their own problems and to find solutions to these problems in a natural, spontaneous and non-threatening manner. This is known as the non-banking concept of education and training brought out by Paulo Frierie, an outstanding Brazillian educationist who made pioneering contribution to adult literacy and education in the 60s, 70s and 80s.**

- ▶ **There should be a proper national level skill gradation in each broad group of skills with a view to enable the artisans to progressively acquire training without substantial absence from the workplace.**

- ▶ **Skill gradation on a national level will prepare the ground for higher flexibility in labour markets.**

- ▶ **If national level competency levels cannot be administrated by a single body, sector wise autonomous bodies with appropriate inter linkages could be set up for skill gradation.**

- ▶ **Large number of NGOs and private organisations are undertaking training and skill development programmes in the unorganised sector although the involvement of trade, industry and commerce in skill training, skill formation and skill upgradation is yet to gather momentum. While the possibility of training with involvement of trade, industry and commerce and creation of training infrastructure by private sector establishments will have to be explored and strengthened, there is an urgent and imperative need for a bench marking in training and certification in non-government sector, training of their instructors in government institutions and laying down precise norms and parameters for various skill levels.**

- ▶ **Public employment agencies should attach much greater emphasis for vocational guidance, help in dissemination of information in the area of proper technology and skill training so that they have a clear shift in their current role of registration and sponsoring of names registered to a more positive and constructive role of vocational counselling and guidance.**

II. Setting up of Welfare Funds

The concept of setting up of Welfare Funds in respect of various categories and sub categories of workers in the unorganised sector is not new. A beginning was made with setting up of Mica Mines Labour Welfare Fund in 1946 which was quickly followed by setting up of Iron Ore Mines Labour Welfare Fund in 1961, Manganese Ore Mines Labour Welfare Fund in 1978, Chrome Ore Mines Labour Welfare Fund in 1982, Beedi Workers Welfare Fund in 1976, Limestone & Dolomite Mines Labour Welfare Fund in 1976, Cine Workers Welfare Fund in 1981 and Building and Other Construction Workers Welfare Fund in 1996. The efficacy and relevance of this concept have been further reaffirmed by the latest judgement of the Supreme Court dated 10.12.1996 in Civil Writ Application No.465 of 1986 - M.C. Mehta Vs. State of Tamil Nadu and Others - in which the apex court has given a direction to set up a Child Labour Rehabilitation-cum-Welfare Fund for working children who are released from hazardous industries, occupations and processes and who are to be rehabilitated through education, nutrition, check-up of health, vocational skill training etc. Such a Welfare Fund is to be set up in every district and is to be headed by the District Magistrate concerned. A sum of Rs.20,000/- is to be recovered from every employer who employs child labour and Rs.5000/- from the concerned State/UT Government for not providing employment to an adult member of the child labour who has been released from

hazardous work and is to be credited to the corpus of the fund. The corpus of the fund is to be invested in the best possible manner to yield the best possible return. Since this is an established concept and its validity has been established beyond doubt by the apex court, it will be necessary and desirable to go in for constitution of such welfare funds in respect of other categories and sub categories of workers in the unorganised sector in the following manner:

- ▶ Undertake surveys of industries, establishments and occupations where such workers are engaged with a view to identifying their felt needs, preferences and interests in the area of housing, health & medical care, drinking water, education of children etc.
- ▶ Identify the precise requirement of funds to meet the above genuine needs.
- ▶ Quantify the rate of cess to be levied on the employers of the establishments.
- ▶ Go in for proper legislation covering the rate of cess to be levied, setting up of a welfare fund, purpose for which the corpus of the welfare fund is to be utilised etc.

It is evident that such surveys cannot be undertaken by a single ministry or department or agency. We need to pool

resources from a variety of sources and we need to involve all ministries, departments and agencies including NGOs so that state wise industry and establishment wise surveys can be undertaken to identify the genuine welfare needs of the workers working in those establishments and steps taken for constitution of welfare fund corresponding to the welfare needs of the workers.