

**41ST SESSION OF THE
INDIAN LABOUR CONFERENCE
NEW DELHI**

ITEM I: Strengthening of Labour Laws and its Effective Implementation to prevent violations.

Background

1. The objective of creating a conducive work environment to achieve a high rate of economic growth with due regard to protecting and safeguarding the interests of workers is sought to be achieved through effective implementation of an array of labour legislations in India. Labour figures in the Concurrent List in the Constitution. Thus, both Centre and States can legislate and enforce labour laws. There are about 43 Central labour laws concerning different aspects of labour such as industrial relations, wages, working hours, conditions of service & employment, equality & employment of women, those relating to developed and disadvantaged sections, social security, labour welfare, employment & training etc. Though enacted by the Central Government, these laws are enforced either by (a) the Central Government or (b) the Central as well as the State Governments or (c) the State Governments. The details are given at **Annexure**. Besides, there are about 91 State labour laws enacted and enforced by the State Governments in their respective domain. In order to facilitate implementation, Rules have also been framed under various labour laws.

Review/updation of labour laws

2. Review/updation of labour laws is a continuous process in order to bring them in tune with the emerging need of the economy. The National Common Minimum Programme (NCMP) provides as follows:

“The UPA rejects the idea of automatic hire fire. It recognizes that some changes in the labour laws may be required but such changes must fully protect the interest of workers and families and must take place after full consultation with trade unions. The UPA will pursue a dialogue with industry and trade unions on this issue before coming up with specific proposals. However, labour laws other than the Industrial Disputes Act that create on Inspector Raj will be re-examined and procedures harmonized and streamlined.”

The Thrust of the Agenda Item

3. The agenda item needs to be discussed against this background, the basic objective being that the labour laws have been enacted to confer certain benefits to the workers, which are denied if their

implementation is tardy and ineffective. The labour laws are implemented by the implementation machineries of the appropriate Governments. To facilitate this, the Acts / Rules provide for a framework of maintaining records, furnishing returns, inspection system, penal provisions etc. Since our ultimate goal is to minimize violations, the thrust of the agenda item is to have changes required in the Acts and Rules, inspections and concomitant action and the need to strengthen the labour enforcement machinery. In this context, the ILC may consider deliberating and suggesting broad parameters taking which into account the requirements of the individual Acts would be examined separately and subsequently.

Recommendation of the Second National Commission on Labour

4. In this context, certain recommendations made by the Second National Commission on Labour in its Report submitted in 2002 in 'Chapter-VI Review of Laws' and 'Chapter-XI: Labour Administration' appear relevant. These are summarized below:-

Review of Laws

- Any violation of a law or rules thereunder be treated as an offence, which must be made triable by a labour court which will have to be empowered for the purpose and those violating basic human rights should attract more stringent punishment (Para: 6.136).
- Law may provide for compounding with 75% of the proceeds of such compounding getting credited in an appropriate welfare fund. A subsequent offence of the same type will invite double the penalty in addition to imposition of fine for each day of continuance of offence or infringement (Para 6.137).
- A complainant worker must be reimbursed for loss of wages and expenditure incurred by him for travel etc. in respect of the second and subsequent hearings (Para 6.138).
- A provision may be made in the laws that all cases must be disposed off in a span of three hearings, and where this is not possible, labour court should in its award give reasons for making more hearings (Para 6.139).
- The right to file a complaint in the court of competent jurisdiction may be vested, in addition to an inspector or an officer authorized for this purpose, in the person aggrieved or an office bearer of a trade union of which the aggrieved person is a member or in a recognized welfare institution or organisation (Para 6.141).

Labour Administration

- Officers and staff of Labour Ministry/Department of Central and State Governments should have highest degree of competence, vision, empathy, fact, skill etc. and should be provided with officers, infrastructure and facilities commensurate with their functions and dignity (Para 11.3 & 11.4) and some norms for the laws-inspection ratio and the infrastructure be laid down (Para 11.75).
- The procedure for prosecution for non-payment of wages under the Payment of wages Act and payment of less than minimum rates of wages under the Minimum Wages Act should be simplified and these Acts should contain a provision for recovery officers to be appointed by the Labour Department, as has been done in section 8-B of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (Para 11.32 and 11.34).
- Criminal cases under labour laws are tried by labour courts (Para 11.376).
- All employing Ministries should be advised to implement awards or sanction prosecution within one month of the matter being referred to them, failing which it should be deemed that the sanction has been given. Labour Courts should be given powers to issue decrees or initiate contempt proceedings for non-implementation or non-compliance of awards (Para 11.43 and 11.60).
- For effective labour administration, there should be legislative backup for the simplification of laws and procedures through uniform definitions of 'appropriate government', 'workmen', 'employer' etc., enabling provisions to cover all employments in the unorganized sector under the Minimum Wages Act, speedy recovery of dues payable to workers, empowerment of the appropriate government to exempt from the provisions of the laws in deserving cases, ensuring that employment of contract labour is restricted for areas beyond those of core competence, deterrent punishment to make the cost of violation dearer than the cost of implementation, clubbing the existing set of laws into five or more groups pertaining to (i) industrial relations, (ii) wages, (iii) social security, (iv) safety and (v) welfare and working conditions etc., and reduction in the number of registers to be maintained and returns to be submitted (Para 11.81).

Report of the Hoda Committee

5. As a follow-up of the NCLP and in pursuance of the deliberations in the meeting of Prime Minister's Council on Trade & Industry held on 4th December, 2004 a Committee was set up under the Chairmanship of Shri Anwarul Hoda, Member (Industry), Planning Commission to look into the requirements of multiple inspections and recommend on steps to be taken to streamline and simplify them. The Committee submitted its Report in December, 2005, the major recommendations being as follows:-

- (i) A system of third party inspection should be established to give to enterprises an option to get their regulatory compliance certified by reliable agencies {e.g. ISO 14001 certification by the Quality Council of India, Occupational Health and Safety Standard (OHSAS 18001) by the British Standard Institute, UK, Social Accountability Standard (SA 8000) by Social Accountability International, USA and corresponding standard developed by Bureau of Indian Standards (BIS)}. Once such certification has been obtained the unit should be exempted from routine inspection. Special Inspection would be authorized only on receipt of credible complaints;
- (ii) Mechanisms of joint inspections and joint annual calendar of inspections to be developed;
- (iii) Introduction of a scheme of self-certification.

Action taken

6. (i) The Hoda Committee Report has been circulated and some States like Gujarat, Punjab etc. have already introduced the system of self-certification;
- (ii) In the Central Sphere, the enforcing agencies, viz. Chief Labour Commissioner (Central), Employees' Provident Fund Organization, Employees State Insurance Corporation have taken steps to reduce arbitrariness in the system of inspection and make it mostly complaint driven.
- (iii) Under various Labour Acts, a number of forms of registers and returns are prescribed. In many cases, identical data is required to be maintained in different registers. In order to provide relief to small establishments in this regard, the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 was enacted. It provides for maintaining combined registers and submission of simplified returns in respect of 9 scheduled Acts. At present, this Act is applicable to establishments employing upto 19 persons only. In order to make the facility available to larger number of establishments, i.e. by

increasing the coverage to 16 Acts and establishments employing upto 500 persons, with provision for maintaining registers in computer and sending returns through soft devices, the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment and Miscellaneous Provisions Bill, 2005 was introduced in the Rajya Sabha on 22.08.2005.

The Bill has been referred to the Parliamentary Standing Committee on Labour. The Committee desired that the Government may hold discussions with the Employers' and the Employees' Groups in order to arrive at a consensus on various provisions of the Bill. Three meetings were held on 23.01.2006, 22.06.2006 and 01.03.2007 under the Chairmanship of former Secretary (L&E), former Additional Secretary (L&E) and Hon'ble Minister of State (IC) for Labour & Employment respectively with the representatives of Central Trade Unions and Employers' Organizations to seek their views on the Bill. Another meeting is scheduled to be held on 15.03.2007 under the Chairpersonship of Secretary (L&E).

It may be noted that trade union leaders in various fora have criticized any attempt to dismantle inspector raj, as according to them, it would compromise the interests of vulnerable workers.

Consensual direction of the ILC would help the Government in taking further necessary action in the matter.

Central Labour Laws and their classification

A list of the important Central labour enactments can be grouped on the basis of their thrust to specific areas under the following heads:-

I. Laws related to Industrial Relations such as:

- (1) Trade Unions Act, 1926. (C)
- (2) Industrial Employment Standing Order Act, 1946. (B)
- (3) Industrial Disputes Act, 1947. (B)

II. Laws related to Wages such as:

- (1) Payment of Wages Act, 1936. (B)
- (2) Minimum Wages Act, 1948. (B)
- (3) Payment of Bonus Act, 1965. (B)

III. Laws related to working hours, conditions of services and Employment such as:

- (1) Factories Act, 1948. (C)
- (2) Plantation Labour Act, 1951. (C)
- (3) Mines Act, 1952. (A)
- (4) Working Journalists and other Newspaper Employees' (Conditions of Service and Misc. Provisions) Act, 1955. (C)
- (5) Motor Transport Workers Act, 1961. (C)
- (6) Beedi & Cigar Workers (Conditions of Employment) Act, 1966. (C)
- (7) Contract Labour (Regulation & Abolition) Act, 1970. (B)
- (8) Sales Promotion Employees Act, 1976. (C)
- (9) Inter-State Migrant Workmen (Regulation of Employment and conditions of Service) Act, 1979. (B)
- (10) The Employers Liability Act, 1938. (C)
- (11) Dock Workers (Safety, Health & Welfare) Act, 1986. (A)
- (12) Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996. (B)
- (13) Building & Other Construction Workers Cess Act, 1996. (B)
- (14) Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981. (B)

IV. Laws related to Equality and Empowerment of Women such as:

- (1) Maternity Benefit Act, 1961. (B)
- (2) Equal Remuneration Act, 1976. (B)

V. Laws related to Deprived and Disadvantaged Sections of the Society such as:

- (1) Bonded Labour System (Abolition) Act, 1976. (C)
- (2) Child Labour (Prohibition & Regulation) Act, 1986. (B)
- (3) Children (Pledging of Labour) Act, 1933. (C)

VI. Laws related to Social Security such as:

- (1) Workmen's Compensation Act, 1923. (C)
- (2) Employees' State Insurance Act, 1948. (A)
- (3) Employees' Provident Fund & Miscellaneous Provisions Act, 1952. (A)
- (4) Payment of Gratuity Act, 1972. (B)

VII. Laws related to Labour Welfare

- (1) Limestone & Dolomite Mines Labour Welfare Fund Act, 1972. (A)
- (2) Beedi Workers Welfare Fund Act, 1976. (A)
- (3) Beedi Workers Welfare Cess Act, 1976. (A)
- (4) Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Fund Act, 1976. (A)
- (5) Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Cess Act, 1976. (A)
- (6) Cine Workers Welfare Fund Act, 1981. (A)
- (7) Cine Workers Welfare Cess Act, 1981. (A)
- (8) The Mica Mines Labour Welfare Fund Act, 1946. (A)

VIII. Laws related to Employment & Training

- (1) Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959. (C)
- (2) Apprentices Act, 1961. (B)

IX. Others

- (1) Weekly Holiday Act, 1942. (C)
- (2) Personal Injuries (Emergency) Provisions Act, 1962. (C)
- (3) Personal Injuries (Compensation Insurance) Act, 1963.
(C)
- (4) Labour Laws (Exemption from Furnishing Returns and Maintaining Register by Certain Establishments) Act, 1988. (B)

Note:-

A = Labour Laws enacted and enforced by Central Government

B = Labour Laws enacted by Central and enforced by both Central and State Governments

C = Labour Laws enacted by Central and enforced by State Govt.

ITEM II: PAYMENT OF BONUS ACT

BACKGROUND

The Payment of Bonus Act, 1965 provides for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith. The Payment of Bonus Act, 1965 provides for payment of bonus to the employees of factories and establishments employing 20 or more persons (excluding some categories of employees as contained in Section 32 of the Act). As per Section 10 of the Act, a minimum bonus of 8.33 % is payable to the eligible employees. However, as per Section 31 A of the Act, where the employees enter into any agreement or settlement with the employer for payment of annual bonus linked with production or productivity in lieu of bonus based on profits payable under this Act, then such employees shall be entitled to receive bonus under such an agreement but not in excess of 20% of the salary/wages earned during the relevant accounting year.

2. The Payment of Bonus Act, 1965 further provides for two ceilings, known as **eligibility ceiling** and **calculation ceilings** as defined under section 2(13) and Section 12 of the Act respectively for payment of Bonus. The eligibility limit / calculation limit as revised over the period are indicated in the table below.

Year	Eligibility Limit	Calculation Limit
1965	Rs. 1600/- p.m.	Rs. 750/- p.m.
1985	Rs. 2500/- p.m.	Rs. 1600/- p.m.
1993	Rs. 3500/- p.m.	Rs. 2500/- p.m.

PRESENT STATUS

3. The Payment of Bonus Act, 1965 provides for payment of bonus to employees as defined under the Act. According to the Act, "employee" means any person (other than an apprentice) employed on a salary or wage not exceeding Rs.3500 per mensem in any industry to do any skilled or unskilled, manual, supervisory, managerial, administrative, technical or clerical work for hire or reward. However, according to Section 12 of the Act, the bonus payable to an employee whose salary or wage exceeds Rs. 2500 per mensem, the bonus payable to such employee shall be calculated as if his salary or wages were Rs. 2500/- p.m. The above wage ceilings under Section 2 (13) and Section 12 of the Act respectively were last revised in the year 1995 through an

amendment in Payment of Bonus (Amendment) Ordinance, 1995 and made effective from 1st April, 1993.

VIEWS OF VARIOUS STAKE HOLDERS

4. Government Employees are not covered under the Payment of Bonus Act, 1965; they are covered under the Ad-hoc Bonus Scheme administered by the Department of Expenditure. Under the Ad-hoc Bonus Scheme all Non-Gazetted Central Government Employees irrespective of their salary are covered. However, the calculation ceiling at Rs. 2500/- p. m, as per the provisions contained in the Payment of Bonus Act, 1965, is taken into consideration for calculation of bonus in respect of Central Government Employees.

5. As the revision in the ceilings were made in 1995, the trade union have been representing for abolishing/hiking of the ceilings. The Second National Commission on Labour had recommended that the eligibility limit should be increased to Rs.7500/-p.m. from the existing Rs.3500/-p.m. and the calculation ceiling should be hiked to Rs.3500/-p.m. from the existing Rs.2500/-p.m.

6. Seized of the matter, the Ministry sought the comments/views of all stake holders, as well as the financial implications on account of proposed hike in the eligibility ceiling to Rs. 7500/- p.m. from Rs. 3500/- p.m. and calculation ceiling from Rs. 2500/- p.m. to Rs. 3500/- p.m. as recommended by the Second National Commission on Labour.

7. The Employers want payment of bonus linked strictly to profits so that loss making establishments should not be made to pay bonus. The employees' unions are for abolishing the ceilings altogether. While not agreeing to the demands of the employees in view of the huge financial burden on the establishments in the private as well as the public sector, a proposal, as recommended by the Second NCL was sent to the M/o. Finance for their comments, since the proposal also had an impact on the Ad-hoc Bonus Scheme on account of the proposed increase in calculation ceiling to Rs. 3500/- p.m. On 19.8.2006, the Hon'ble PM had a meeting with Trade Union leaders, wherein the amendments to the Payment of Bonus Act were also discussed. Soon after, the M/o Finance agreed to the proposal and asked this Ministry to take necessary action for amending the Act to hike the ceilings. Now that consultations with all stakeholders have been completed, the proposal is under active consideration of the Ministry.

NEED FOR CHANGES IN THE CONTEXT OF THE PRESENT SCENARIO

8. The proposal to amend the Payment of Bonus Act, 1965 by increasing the eligibility ceiling from Rs. 3500/- p.m. to Rs. 7500/- p.m. and the calculation ceiling from Rs. 2500/- p.m. to Rs 3500/- p.m. as

recommended by the Second National Commission on Labour was discussed in the Conference Committee on Amendment of Wage Related Labour Laws of the 40th Indian Labour Conference. The overall view of the Committee was in support of the proposed amendment proposals.

To Sum Up

9. Since consultations including on financial implications have been held, with State Governments, concerned Departments of the Central Government including the Department of Expenditure, Private Sectors, and Central Trade unions as well as Employers' organizations; and as also the proposal to enhance the eligibility from Rs. 3500/- to Rs. 7500/- p.m. and calculation ceiling from Rs. 2500/- p.m. to Rs. 3500/- p.m. as recommended by the Second National Commission on Labour has been agreed in the 40th ILC held on 9-10 December, 2005, it would be, however, not advisable to consider enhancing further the eligibility limit beyond Rs. 7500/- p.m. in the present circumstances since there may be further delay of at least 2 years in enhancing the eligibility limit/ calculation limit by way of amendments through discussions with various stake holders and by way of examining financial implications both in the public as well as private Sectors.

ITEM III: CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970

CONTRACT LABOUR IN INDIA

BACKGROUND

1. Contract Labour is a significant and growing form of employment. It is prevalent in almost all industries, in agriculture and allied operations and in service sector. It generally refers to workers engaged through an intermediary and is based on a triangular relationship between the user enterprises, the contractor (including the sub contractor) and the workers. These workers are millions in number and generally belong to the unorganised sector. They have very little bargaining power, have little or no social security and are often engaged in hazardous occupations endangering their health and safety. They are often denied minimum wages and have little or no security of employment. On the other hand, reasons like sporadic nature of work, difficulty in ensuring closer supervision by the employer or cost effectiveness, flexibility in manpower deployment, concentration in core competencies etc. justify the system of contract labour.

2. Recognizing the need for protecting the interest of contract labour, the Contract Labour (Regulation and Abolition) Act, 1970 was brought on

the Statute Book to regulate the employment of Contract Labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

3. The Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour (Regulation and Abolition) Central Rules, 1971 came into force on 10.2.71. The Constitutional validity of the Act and the Central Rules was challenged before the Supreme Court in Gammon India Limited Vs. Union of India 1974-I-LLJ-480. The Supreme Court upheld the constitutional validity of the Act & Rules and held that there is no unreasonableness in the measure. The Act & Rules were enforced w.e.f. 21.03.1974.

PROVISIONS OF THE ACT & THE PRESENT STATUS

4. The Act applies to every establishment/contractor in which 20 or more workmen are employed or were employed on any day in the preceding 12 months as contract labour and to every contractor who employs or who employed on any day of the preceding 12 months, 20 or more workmen. It does not apply to establishments where the work performed is of intermittent or seasonal nature. An establishment wherein work is of intermittent and seasonal nature will be covered by the Act if the work performed is more than 120 days and 60 days in a year respectively. The Act also applies to establishments of the Government and local authorities as well.

Appropriate Government

5. The jurisdiction of the Central and State Government has been laid down by the definition of the 'Appropriate Government' in Section 2(1)(a) of the Act, as amended in 1986. The Appropriate Government, in respect of an establishment under the Contract Labour (Regulation and Abolition) Act, 1970 is the same as that in the Industrial Disputes Act, 1947.

The Central and State Advisory Boards

6. The Central Government and State Governments are required to set up Central and State Advisory Contract Labour Boards to advise the respective Governments on matters arising out of the administration of the Act as are referred to them. The Boards are authorized to constitute Committees as deemed proper.

7. The Central Advisory Board - a tripartite Body was reconstituted on 24th June 2002 and the non-official members hold office for a term of

three years. The Chairman of the Board was appointed on 10th June 2005 for a period of three years. Sixty-seven meetings of the Central Advisory Contract Labour Board (CACLB) have been held so far. The last meeting was held on 30th - 31st October, 2006.

8. The existing Central Advisory Contract Labour Board has held three meetings during 2006-2007 and considered various issues relating to abolition of contract labour system in certain establishments. The working of the Act was also reviewed in this meeting.

Registration

9. The establishments covered under the Act are required to be registered as principal employers with the appropriate authorities. Every contractor is required to obtain a licence and not to undertake or execute any work through contract labour, except under and in accordance with the licence issued in that behalf by the licensing officer. The licence granted is subject to conditions relating to hours of work, fixation of wages and other essential amenities in respect of contract as prescribed in the rules.

Facilities for Contract Labour

10. The Act has laid down certain amenities to be provided by the contractor to the contract labour for establishment of Canteens and rest rooms; arrangements for sufficient supply of wholesome drinking water, latrines and urinals, washing facilities and first aid facilities have been made obligatory. In case of failure on the part of the contractor to provide these facilities, the Principal Employer is liable to provide the same.

Payment of Wages

11. The contractor is required to pay wages and a duty is cast on him to ensure disbursement of wages in the presence of the authorised representative of the Principal Employer. In case of failure on the part of the contractor to pay wages either in part or in full, the Principal Employer is liable to pay the same. The contract labour who performs same or similar kind of work as regular workmen, will be entitled to the same wages and service conditions as regular workmen as per the Contract Labour (Regulation and Abolition) Central Rules, 1971.

Penal Provisions

12. For contravention of the provisions of the Act or any rules made thereunder, the punishment is imprisonment for a maximum term upto 3 months and a fine upto a maximum of Rs.1000/-.

Other Provisions

13. The Act makes provisions for the appointment of Inspecting staff, for maintenance of registers and records and making of Rules for carrying out the purpose of the Act. In the central sphere, officers of the Central Industrial Relation Machinery (CIRM) have been appointed as Inspectors.

Prohibition

14. Apart from the regulatory measures provided under the Act for the benefit of contract labour, the 'appropriate government' under section 10(1) of the Act is authorized, after consultation with the Central Board or State Board, as the case may be, to prohibit, by notification in the official gazette, employment of contract labour in any establishment in any process, operation or other work.

Sub-section (2) of Section 10 lays down sufficient guidelines for deciding upon the abolition of contract labour in any process, operation or other work in any establishment. The guidelines are mandatory in nature and are: -

- Conditions of work and benefits provided to the contract labour.
- Whether the work is of a perennial nature.
- Whether the work is incidental or necessary for the work of an establishment.
- Whether the work is sufficient to employ a considerable number of whole-time workmen.
- Whether the work is being done ordinarily through regular workman in that establishment or a similar establishment.

15. The Central Government on the recommendations of the Central Advisory Contract Labour Board, have prohibited employment of contract labour in various operations/ category of jobs in various establishments. So far 73 notifications have been issued since inception of the Act.

Exemption

16. The 'appropriate government' is empowered to grant exemption to any establishment or class of establishment or any class of contractors from applicability of the provisions of the Act or the rules made there under on such conditions and restrictions as may be prescribed. Eleven notifications granting exemption to establishments in exercise of this power in the Central sphere have been issued.

Enforcement

17. In the Central sphere, the Central Industrial Relations Machinery (CIRM) has been entrusted with the responsibility of enforcing the provisions of the Act and the rules made thereunder, through Inspectors, Licensing Officers, Registering Officers and Appellate Authorities appointed under the Act.

18. Regular inspections are being conducted by the Field Officers of the CIRM and prosecutions are launched against the establishments, whenever violations of the Act/Rules/notifications prohibiting employment of contract labour are detected. In order to ensure compliance with the labour laws from time to time, instructions/directions have been issued to the field officers of CIRM and State Government for proper implementation of the Act.

19. A number of complaints alleging violation of contract labour Act especially the notifications prohibiting the employment of contract labour are being received. These complaints are being investigated and remedial action taken in accordance with the provisions of the law by launching prosecutions if considered necessary. References are received for regularisation of the contract labour or abolition of the contract labour system on the ground of perennial nature of work/ ordinarily done through regular workmen etc. Writ Petitions are also being filed by Union/Workers seeking absorption where the contract labour system has been abolished or pleading that the contract is sham. The requests for abolition of contract labour system are examined in consultation with the Central Advisory Contract Labour Board and notifications abolishing contract labour system in various establishments in different jobs have been issued. So far as the regularisation of the workers is concerned, no such provision, either express or implied, exists in the Act. This has also been affirmed by the Constitution Bench of the Supreme Court in the matter of Steel Authority of India Limited Versus Water Front Worker's Union on 30th August, 2001.

20. A statement indicating the number of inspections carried out, prosecutions launched, licences issued, establishments registered, and number of cases received during the last three years under rules 25(2)(v)(a)&(b) of the Contract Labour (R&A) Central Rules, 1971 relating to payment of wages is annexed (**Annexure-I**).

EMERGING ISSUES/PROBLEMS

21. In the context of globalisation, privatisation and liberalisation, in March 2000 a GOM was constituted to examine the proposal of the Ministry to suitably amend the provisions of the Act with a view to facilitating outsourcing of activities to specialized firms having professional experience and expertise in the relevant area and at the same time to provide for a safety net to contract labour in such outsourced activities. Such a measure, it was felt, would generate employment growth. The GOM held a series of meetings in the years 2000, 2001 and 2003. After in-depth deliberations on the issues involved, it was agreed that certain activities which form support services of an establishment be excluded from the application of Section 10 of the existing Act, which provides for prohibition of employment of contract labour in certain circumstances. However, the same could not be finalized.

22. While the trade unions have demanded that the Act should be amended to provide for automatic absorption of contract labour in the event of prohibition of employment of contract labour, the employers' organizations are vehemently opposed to it. According to them such a step would lead to capital-intensive measures like mechanization, automization, etc. and fall in employment. Their view is that the employers should be given flexibility to determine the composition of the workforce for the industry to survive in the competitive environment. Further, according to them, contract labour should not be abolished in non-core activities of an establishment and should be allowed to be parcelled out to specialized agencies, which have grown rapidly, for better time management, better operational efficiency and high percentage of consumer satisfaction.

23. Some of the State Governments, in tune with the changing times, have proposed measures to liberalise the Act to spur the growth of industry, as for example, grant of exemption to Special Economic Zones and Export Oriented Units from the applicability of the Act to boost exports. The Government of Andhra Pradesh have amended the Contract Labour Act with a view to prohibiting employment of contract labour in the core activities of an establishment and to allow engagement of contract labour in none-core activities of an establishment such as watch and ward, sanitation, cleaning works, etc. The Government of Goa has introduced a bill in the legislature to abolish contract labour in core activities of an establishment.

ISSUE FOR CONSIDERATION

24. In view of the diametrically opposite views held by the trade unions and the employers' organizations, on the issue of absorption, and the present thinking of some State Governments, a view needs to be taken on amending the Act to facilitate outsourcing or prohibit employment of contract labour in core activities and to mandate automatic absorption of existing contract labour.

ENFORCEMENT OF CONTRACT LABOUR (R & A) Act, 1970

Sl. No.	Item	2003-04	2004-05	2005-06
1.	No. of Registration Certificates issued to principal employers.	720	590	675
2.	No. of Licences issued to contractors.	6788	7277	6973
3.	No. of Inspections conducted.	4991	4540	5663
4.	No. of Irregularities detected.	71632	59301	59298
5.	No. of prosecutions launched.	3896	3356	2914
6.	No. of convictions.	2072	2018	1000
7.	No. of contract labourers covered by licences.	853690	968792	971570
8.	No. of Licences revoked/ cancelled.	4014	6601	7578
9.	No. of registration certificates revoked.	52	08	211

No. of cases received/disposed of during the last five years under Rule 25(2)(v)(a)&(b) of the Contract Labour (Regulation and Abolition) Central Rules, 1971 relating to payment of wages.

Year	No. of cases received during the last three years under Rule 25(2)(v)(a)&(b)			ORDER	
	B/F	Received	Total	Issued	Pending
2003-04	33	1	34	18	16
2004-05	16	2	18	12	06
2005-06	06	-	06	04	02

ITEM IV: Measures to increase Employability of Youth

Background

Skills and knowledge are the driving force of economic growth and social development of any country. The economy becomes more productive, innovative and competitive through the existence of skilled human potential. The level of employment, its composition, and the growth in employment opportunities, is a critical indicator of the process of development in any economy.

As per the survey carried out by the National Sample Survey Organisation, out of about 470 million in the labour force around 459 million are working, and the remaining 11 million are openly unemployed. Considering the size of the population of the country, the open unemployment of 11 million which means that these persons did not do any work during the last 365 days is not significant. What is of concern is that a large number of workers (around 130 million) are working poor, i.e. they are working, but are not able to fetch sufficient income to bring their family above the poverty line. The main reason behind such a situation is the low level of productivity and the income earnings from such work. The situation arises because of economic compulsions of the persons, i.e. in order to survive they are forced to work, which actually cannot be termed as quality work at all.

Increase in quality of work has direct relation with productivity, which in turn is connected with skill availability of the workforce. In this context, it is necessary not only to create quality employment but also to equip such quality employment with sufficient skills. Creating quality employment and equipping the labour force with sufficient skills are thus the major challenges before the country.

2. Issues in Skill Development:

- ***Lower percentage of skilled persons in the workforce*** - As per 1999 –2000 National Sample Survey Organization on survey results, only 5% of the Indian labour force in the age group of 20-24 has received vocational training through formal institutes whereas the percentage in industrialized countries is much higher, varying between 60% and 96%. While on the one hand, the level of educational attainment of the existing work force is very low, the educated (secondary and above) without professional skills on the other hand constitute 61% of the total unemployed. A major reason is that system is excessively oriented towards general academic education with little or no vocational orientation.

- **Lower Labour Productivity** – Labour productivity of an Indian worker in US \$ is 3.05 per worker per hour while in most of the developed economies, it is more than US \$ 30.
- **Large %age of population living below poverty line** - As per 61st round of NSSO survey, large number of workers (around 130 million out of 470 million working population) are living below the poverty line.
- **Demand for vocational training from school drop-outs** - 175 million students enroll in class one every year, 96 million drop out upto class VII and 122 million by class X. 20 million finish class XII & 152 million have no access to vocational training.
- **New entrant to labour force** -. On an average, about 12.8 million labour persons entered the labour force in a year during 2000 to 2005.
- **Need to focus on the skills for the informal sector** - The largest share of new jobs in India come from the unorganized sector that employs around 93 per cent of the national workforce whose training needs are largely untouched by the training system.

3. Training programmes for skill building under Directorate General of Employment & Training (DGE&T)

Directorate General of Employment & Training (DGE&T) in Ministry of Labour is an apex organization for development of the vocational skills including women's vocational training and to provide skilled manpower to the industry at the shop floor level .DGE&T caters to the training needs of school leavers, industrial workers, supervisors of industries & instructors of vocational training institutes.

I. Scheme for school leaver:

Craftsmen Training Scheme for school leaver:

Training under Craftsmen Training Scheme is being imparted in 107 Engineering & non-Engineering trades through a network of 5114 Industrial Training Institutes/Centres (ITIs/ITCs) with a seating capacity of 7.73 Lakh, spread all over the country. Students with 8th class pass to 12th class pass take admission in these ITIs & duration of training period varies from 6 months to 3 years and youth from 14 to 40 years of age take admission in these ITIs/ITCs.

II. Apprenticeship Training for the School leavers and ITI passed out persons:

Apprenticeship Training is offered to the school leavers and the ITI passed out trainees through a network of 20,854 establishments in 153 designated trades covered under 32 trades group. 2.53 lakh training seats are available in these establishments. Students with 8th class pass to 12th class pass take admission in above scheme & duration of training period varies from 6 months to 4 years and youth of age above 14 years take admission under the scheme.

III: Schemes for skill up-gradation of Industrial Worker__

In order to upgrade the skills of serving industrial workers, short-term courses for industrial workers of one week to 12 weeks duration are being conducted at Six Advanced Training Institutes at Mumbai, Howrah, Hyderabad, Kanpur, Ludhiana, and Chennai.

Short & long term courses in specialized areas in the field of Electronics & Process Instrumentation are offered at two Advanced Training Institutes for Electronics & Process Instrumentation at Hyderabad & Dehradun. Courses for middle level management are also offered at Foremen Training Institute (FTI) at Bangalore & Jamshedpur.

IV: Training of Potential and existing Instructors of ITIs

Crafts Instructor Training for the potential and existing instructors of ITIs in 27 trades with annual intake capacity of 1099 is offered at five Advanced Training Institutes and one Central Instructor Training Institute, Chennai. The objective of the course is to train instructors in the techniques of imparting industrial skills, who in turn would train semi-skilled/ skilled manpower for the world of work.

V: Women Training

DGE&T pay special attention for the overall development of the women. Vocational Training courses exclusively for women have been arranged in basic courses through 883 ITIs / women wings in general ITIs, with the intake capacity of 47,538. However basic, advanced, instructors training and short-term courses are offered at one NVTI and ten RVTIs exclusively for women with about 3344 training seats.

4. Challenge

India has the youngest population in the world. As per 2001 census, around 33.67% of the males and around 33.94% of the females are in the age group of 15-34. India has, therefore, got the unique opportunity to complement what an ageing rest of the world needs most i.e. productive workers. Therefore challenges before the country are:-

- Increase in skilled workforce from 5% at present to about 50% comparable with the developed countries.
- Fine tuning of skill training in accordance with the exact needs of the industry. It is envisaged that trade areas be increased to 2000 by year 2021.
- Develop effective PPP models to meet the growing need of skilled manpower in emerging sectors of the industry.
- Creation of huge infrastructure for skill training & certification
- Training for informal sector.

5. Initiatives taken by DGE&T to meet the above challenges

Following schemes have been taken up by the DGE&T to meet the above challenges

i. Introduction of multiskilling courses on modular pattern in 500 ITIs being upgraded with domestic / World Bank funding, to produce technicians of world standards.

Hon'ble Union Finance Minister in his Budget Speech 2004-05 has stressed the need for imparting skills by ITIs to keep pace with the technological demands of industry and the expanding universe of knowledge.

As a sequel to the above announcement and further instructions from Ministry of Finance, a scheme for upgradation of 100 ITIs into Centres of Excellence (CoE) with domestic resources in 22 States/UTs (other than J&K, Sikkim, NE States & Four UTs) was taken up in 2004-05. The objective of the scheme is introduction of multi skill training courses on modular pattern (with provisions for multi entry and multi exit) catering to the skill needs of cluster of industries in and around & Public Private Partnership in the form of Institute Managing Committees (IMC) to ensure greater & active involvement of industry in all aspects of training.

The total cost of the scheme is 160 crore. Central & State share being 120 & 40 crore respectively in the ratio of 75:25. The funding is available for procurement of equipment, civil work and other recurring expenditure.

Activities completed so far:

- Course curricula on modular basis for Broad Base Basic Training (BBBT) for 20 sectors & advanced training for 17 sectors (total 193 modules) has been developed in consultation with industry and are available on DGE&T web-site.
- Training in 96 ITIs have already commenced by upgrading the existing infrastructure facilities. Training in remaining four ITIs (2 in Punjab and one each in Goa and TN) would be started shortly.
- Out of 500 ITIs, 100 ITIs were taken up for upgradation from domestic resources as mentioned above. Remaining 400 ITIs are to be upgraded with the assistance from the World Bank.
- Another 100 ITIs have been taken up for upgradation from session, which started from August 2006 even before signing of project agreement with the World Bank. World Bank has agreed to provide retroactive financing for the said 100 ITIs. Training in these 100 ITIs has since been started by reorienting the existing facilities.
- Remaining 300 ITIs would be taken up for upgradation in subsequent years. However, about 1400 ITIs in the Govt. Sector still need to be taken up for upgradation.

ii. Establishment of new Industrial Training Institutes (ITIs) in the Northeastern states and Sikkim

DGE&T is implementing Centrally Sponsored Scheme (CSS) “Establishment of new Industrial Training Institutes (ITIs) in the North-Eastern states and Sikkim” with the main objective to meet both qualitative and quantitative skilled and semi-skilled manpower requirement for industry, service sector, self employment etc. by way of creating and developing infrastructure for training of youth in identified skill areas. The scheme envisages establishment of 22 New ITIs and strengthening / modernization of 35 existing ITIs in North-Eastern Region. On completion of implementation, the seating capacity in ITIs would increase from the existing 7,244 to 16,144. The scheme also provides technical assistance for training of faculty/sponsored candidates from NE Region.

The total outlay of the CSS is Rs. 100 crore. The scheme has now been merged with another CSS project for Jammu & Kashmir and the closing date for implementation has been extended till 31.03.2007.

Progress under the project:

- An amount of Rs. 76.89 crore has been released to the NE States and Sikkim out of the total sanctioned amount of Rs. 89.39 crore for Civil Works, Equipment procurement, Recurring expenses and Technical Assistance components of the CSS.
- Courses have already commenced in the newly created infrastructure in 15 new ITIs and 25 existing ITIs covered under the CSS.

iii. Scheme to strengthen ITIs of J&K state:

- A Scheme with a total out lay of Rs. 37 .00 Crore (including cost escalation) has been taken up to establish new ITIs and to strengthen existing ITIs in the state of J&K by introducing new trades, replacement of obsolete equipment, establishment of Women's wings, etc.
- The scheme envisages the improvement of the availability of seats for vocational training for the youth and existing intake capacity of all the ITIs in State of J&K will increase by 1836 after the project is completed.
- The merged scheme will be 100% centrally funded Plan Scheme, to be implemented from the Plan funds, provided during the X Plan Period (up to 31.3.2007). The 100% recurring costs under the scheme would be borne by the Central Government during the 10th Plan, and then would be passed on to the concerned State Government during the 11th Plan.
- Recently, on the advice of Prime Minister's office, establishment of three new ITIs have been approved by the Planning Commission-two in the state of Sikkim and one in Assam, with an additional allocation of Rs. 13.7 crore, within the existing scheme.

6. Initiatives of DGE&T for informal sector

i. Testing and Certification of Skills for workers in the informal sector:

The Ministry of Labour & Employment has recognized the need for testing & certifying the level of the competency attained informally at the work place. Therefore, during Tenth Plan period, a Centrally Sponsored

Scheme namely 'Testing and Certification of Skills for workers in the informal sector' has been taken up at cost of Rs. 2.0 crore. The scheme envisages development of competency based skill standards of different levels. Such skills acquired through informal means would be tested and certified by trained assessors. This would improve employability of individuals. The scheme is being implemented through State Directors dealing with Vocational Training / reputed organizations.

Construction Industry Development Council (CIDC) and State Directorate of Gujarat & Punjab have developed Competency Based Skill Standards in 43 areas covering mainly construction sector. Seventeen states, CIDC & NAC have confirmed their participation in the scheme. 8400 workers in construction sector have been tested & certified since inception of scheme.

ii. Skill Development Initiative through Public Private Partnership for informal sector:

Hon'ble Finance Minister during the budget speech 2005-06 had made announcement regarding 'Skill Development Initiative'. The objective of the Scheme is to provide training to one million persons in five years and thereafter one million every year by optimally utilizing infrastructure available in ITIs/ITCs and other organisations. The key features are:

- ◇ Demand driven short term training courses based on Modular Employable Skills (MES) decided in consultation with Industry
- ◇ Flexible delivery mechanism (part time, weekends, full time)
- ◇ Training to be provided by Vocational Training (VT) Providers under the Govt., Private Sector and Industrial establishments.
- ◇ Optimum utilization of existing infrastructure to make training cost effective.
- ◇ Testing of skills of trainees by an independent assessing body who would not be involved in conduct of the training programme, to ensure that it is done impartially and maintain the highest professional standards.

Progress made so far:

- ◇ Course curricula for 156 short-term courses have been developed and curricula for additional 100 courses are being developed in association with employers organisations, State governments, experts, vocational training providers, etc.

- ◇ National Council for Vocational Training (NCVT) has approved starting of short term training courses in the ITIs by optimal utilization of available infrastructure under supervision of Institute Management Committee (IMC).
- ◇ Phase-I of the Web based MIS has been developed by Bangalore Chamber of Industry and Commerce and Mphasis.
- ◇ Planning Commission has granted ‘in – principle’ approval to the detailed project report and processes of financial approval is under way.

7. Setting up of National Mission for skills

In pursuance of announcement made by Hon’ble PM during the Independence Day Speech, 2006 and also keeping in view the recent initiatives of Ministry of Labour & Employment, Government of India i.e. (i) upgradation of 500 ITIs; (ii) Skill development Initiatives through Public Private partnership; and (iii) Participation of India in World skills, a concept paper for setting up of a “National Mission for skills” was prepared and forwarded to the Planning Commission and Ministry of Finance for seeking in-principle approval. Response from Ministry of Finance has since been received advising this ministry to circulate the note for EFC after firming up funds from the Planning Commission. Planning Commission informed on 6th Dec.2006 that a Task Force on Skill Development under the Chairmanship of Dr. Tarun Das, Chief Mentor, CII has been set up to give recommendation on how to meet the requirement of skilled manpower for India’s growing economy in the Eleventh Five Year Plan period and beyond. The task force has been mandated to submit its report to the Deputy Chairman Planning Commission by Feb 28,2007.

8. Future Strategies

During XI Plan period, DGE&T has proposed following major schemes for Quantitative and Qualitative improvement of Vocational Training:

Quantitative Improvement

- Setting up of 1500 new ITIs in the blocks having no ITIs at present, out of which, 500 for disadvantaged groups on Navodaya Vidyalaya pattern.
- Setting up of an Apex Institute for Skill Building in informal sector

- Setting up of four Institutes for Training of Trainers- one in each zone
- One National Open School for Vocational Training having total seating capacity of around 1,50,000 on learning basis

Qualitative Improvement

- National Institute for skill inventory & skill building to remove mismatch.
- Strengthening of RDATs for training in informal sector
- Establishment of Directorate for Certification, Standardisation and Quality Control.
- Establishment of National Trade Testing & Certification Authority
- Participation of India in World Skills Competition
- Setting up of National Mission for Skills

9. Issues for Discussion

- Expansion of existing infrastructure facility available in country, both in public as well as private, for vocational training to enhance skilled workforce from 5% at present to about 50% comparable with the developed countries.
- Facilities for improvement of the skill level of the existing workforce.
- Expansion of vocational training facilities to cover more trade areas so as to equip the labour force with employable skills.
- Focus on skilling labour force in the informal sector & certification of skills acquired through informal means to increase their employability.
- Involve the industry in every aspect of skill development so that it is demand driven and meets its requirement.
