



भारतीय मजदूर संघ  
BHARATIYA MAZDOOR SANGH

# Social Security

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# **SOCIAL SECURITY**

## **Social security in ancient times**

Most people in India, as in other parts of the world, depend for their living on their capacity to put in a day's work for a day's wage. If, for any reason, they were unable to work, they found themselves in financial difficulties. In ancient and medieval times, such persons were cared for by the village community as a whole or by their joint families. During the crop season, when the work was heavy, all persons put in their share of work, and the whole community or the family shared in the produce. The aged, the young and the sick were cared for by the other members of their families. These conditions are, at present, gradually ceasing to obtain.

## **Result of industrialization**

As a result of the industrial revolution, a dynamic change has occurred in the economic and industrial structure of the world. The modern forms of industrial technology and organization are no doubt regarded as man's best hope for overcoming poverty and improving the material conditions of life, but almost everywhere, industrialization has touched off a conflict between old and new forms, attitudes and human values. The sufferers are the people whose security in the old society has been undermined and who have not yet found security in the new society. Industrialisation has meant urbanisation, and workers who come from the villages to the cities are being gradually uprooted from their ancestral moorings. In times of sickness, unemployment, old age and other contingencies, they have nothing to fall back upon.

## **The concept of the modern age**

Social security, as at present understood, is one of the dynamic concepts of the modern age which is influencing social as well as economic policy. It is the security that the state furnishes against the risks which an individual of small means cannot, today, stand up to by himself

or even in private combination with his fellows.

In modern times, the active participation of the state in social security has resulted in two distinct methods of solving the problem. The first method is that of social insurance, in which the persons concerned, their employers and the state make contributions, and mainly out of these contributions are benefits necessary to prevent want during unemployment, sickness, old age and other contingencies given as a right, subject to certain qualifying conditions. In other words, social insurance can be defined as a device to provide benefits as of right for persons of small earnings, in amounts which combine the contributors effort of the insured with subsidies from the employer and the state, like second method is that of social assistance, where the state or the local bodies step in to ameliorate the distress caused by these contingencies to the population in general. In this method, there are generally no contributory conditions. In concrete terms, social assistance includes non-contributory benefits towards the maintenance of children, mothers, invalids, the aged, the disabled and others. It also includes unemployment assistance. Social assistance can, therefore, be defined as a device to provide benefits as of right from taxation or general revenues to persons of small means in amounts sufficient to meet minimum standard of needs.

The social insurance approach has grown from the system of friendly societies, which developed in western countries and particularly in the United Kingdom during the last three centuries. The social assistance approach is the outcome of the Poor Laws, which also developed in these countries at the same time. In fact, in the United Kingdom, where social security is now available to the entire population from the cradle to the grave, the main approach is that of social insurance, and persons are entitled to benefits by virtue of compulsory contributions. Those who are not qualified for or can no longer get such benefits, are looked after by measures of social assistance.

Present-day developments show that social insurance and social assistance are moving closer to one another in fact, they even meet and

combine as, for example, in New Zealand and Denmark, where it is difficult to say whether social insurance or social assistance predominates. Such countries have adopted a national system of social security.

To be equitable, measures of social assistance should provide for the population as a whole. The extent to which this can be done will depend on the level of national income and in an under-developed country cannot be adequate. Measures of social insurance, on the other hand, depend very much more on the capacity of the individual industry. As such, it can be introduced in phases, first in more prosperous industries and later in less prosperous ones. In a country like India, where it is impossible at present to provide social security for the whole population, the main approach has to be that of social insurance.

### **Significance of social security**

Social security measures have a twofold significance for every under-developed country. They constitute an important step towards the goal of a welfare state, by improving living and working conditions and affording the people protection against the uncertainties of the future. These measures are also important for every industrialization plan, for, not only do they enable workers to become more efficient, but they also reduce wastage arising from industrial disputes. The man-days lost on account of sickness and disability also constitute a heavy drain on the slender resources of the worker and adversely tell upon the industrial output of the country. Lack of social security impedes production and prevents the formation of a stable and efficient labour force. Social security is therefore not a burden, but a wise investment which yields good dividends in the long run.

### **International Labor Organization on Social Security The role of the International Labor organization**

Under the Philadelphia declaration, the International Labour Organisation is charged with the obligation to promote "the extension of social security measures to provide a basic income to all in need of such

protection and comprehensive medical care". In pursuance of this declaration, the International Labour Organisation has adopted a series of conventions and recommendations laying down international standards for workmen's compensation, medical care, sickness benefit, unemployment benefit, old age benefit and maternity benefit.

### **Asian countries**

Special action has also been taken by the International Labour Organisation with regard to Asian countries. The Preparatory Asian Regional Labour Conference, held in New Delhi in 1947, adopted a comprehensive resolution on social security, recommending that the progress of social security schemes in various Asian countries should be accelerated. The risks covered should be sickness, maternity, invalidity, death of bread winner and employment injury and, in the case of industrial workers, old age and unemployment under certain conditions. Income security, the resolution recommended, should be afforded by means of social insurance and, while formulating the social insurance policy, an illegal and long-term plan of social insurance, to be fulfilled by stages, should be in line at the outset and, as first step towards making adequate provision against risks of old age and death, appropriate measures should be taken.

### **Technical advice**

In addition to the formulation of international standards of social security, technical advice to member countries regarding the framing, implementation and administration of social security schemes has also been an important activity of the International Labour Organisation. In India, such advice was given in framing the Employees' State Insurance Scheme.

### **Social Security Schemes in Foreign Countries**

- (a) The schemes are contributory, noncontributory, voluntary,
- (b) Provided through various legislations.
- (c) Some schemes provide a minimum benefits.
- (d) Some schemes provide benefits to all the citizens, i.e. universal protection.

**Benefits:**

1. Family allowances, providing cash payments in addition to various benefits.
2. National Health Service, a comprehensive free medical service for all citizens.
3. Old Age pension widowhood pension, orphan hood pension.
4. To provide a high level of employment, designed to prevent any return to un-employment.
5. Unemployment benefit as fundamental principle of State Policy.
6. Children's allowance.
7. Sickness insurance, health insurance, maternity benefit.
8. Industrial injuries insurance, and compensation for injury at work.
9. Employment insurance.

**Social Security in Bharath**

Sarvepi sukhinah santhu, sarve santhu niramayah,

Sarve bhadrani pasyanthu, maa kaschit dukha mapnayeth.

(Let all be happy, healthy, safe, and free from want and sorrow.)

Sahana vavathu, sahanou bhunaktu, saha veeiyam karavavahai,  
Thejaswina vadhita mstu, mavidvishavahai, om shanthihi.

(let us live together, dine together, work together, let all prosper and develop together, let there be no differences of any kind, let there be peace) The concept of social security is not unknown to Bharat. It is a part of our culture to think and consider the wellbeing of others before self. We are taught to lead our life in the service of society, and its wellbeing. Unfortunately, we lost this heritage due to foreign aggression and their rule for over one thousand years. The Indian independence has further eroded our moral, ethical and philanthropic ideals, leaving scope for divisive and fissiparous tendencies.

Social security as it is presently understood was provided by few employers, such as pension, provident fund, assistance at the time of marriage of children, sickness, and gifts on festival occasions, in the form of cash or articles. This was in the past.

Labour is in the concurrent list of our Constitution. The Central



Government, and several State Governments made Laws, set up welfare boards as social security measures.

The Workmen's Compensation Act, 1923 was the first legislation. The Maternity Benefit Act followed. The Coal Mines Provident Fund & Bonus Schemes-1948, The Seamen's P.F. Act, 1966 are noteworthy. The Employees State Insurance Act 1948 The Employees Provident Fund & Miscellaneous Provisions Act 1952 provided social security cover to crores of workers. Yet several crores are not covered due to the criteria of the the number of workers engaged. The I.D. Act-1947 provided certain benefits to workers in the event of retrenchment or lay-off. From 1953, unemployment benefits have been provided to workers in Plantations and Industrial Establishments employing more than 50 persons. Payment of Bonus of Act 1965, Payment of Gratuity Act brought some relief to workers. The bonus Act is applicable to establishments that completed the infancy period of five years. The workers drawing more than Rs. 3500/- are not covered by the Act, and payment cap is Rs. 2500/- . The worker is not eligible for gratuity unless completes five years of service. The 2-NCI. Recommended for merging this scheme with EPF or to entrust the scheme administration to EPF organization. These Acts became redundant in lire modern practices of employment like contractualisation and out sunning.

The Bonded Labour System (Abolition) Act, The Minimum Wages Act 1948, The Payment of Wages Ad, The Equal Remuneration Act, 1976 and The Intel State Migrant Workmen (REGS) Act, 1979 have also provided relief and social security to law sections of workers.

A small fraction of workers are covered and majority workers are denied the benefit due to manipulation and machinations of Employers. An overwhelming majority of workers are beyond the scope of these acts, which are termed as workers of no formal or unorganized or self-employed sectors. BMS named this sector as Viswakarma Sector.

The Beedi Workers (Conditions of Employment) Ad 1966 and The Beedi Workers Welfare Cess Act 1976 and The Beedi Workers Welfare Fund Act 1976 provided for job security regulations of service, welfare measures to Beedi Workers. The benefits are non-contributory. This Act is being implemented by the Central Government.

For the benefit of Construction Labour, the Government of India enacted the Building and other Construction Workers Act 1996, and left to State Governments to implement. The schemes are contributory. Unfortunately none of the State Governments implemented the Act and benefits except Kerala & Tamilnadu, where similar Welfare Schemes sponsored by State Governments are existing. The Government of Delhi notified Rules and constituted the Board but the registration of workers is not yet stalled. The Government framed Rules, constituted the Board and collected cess. The benefits could not be delivered to the workers as (he identification of beneficiaries is not taken up.

For the benefit of Agricultural labour, the Government of India is drafting & redrafting Bill, since last 2 decades and not even placed on the floor of Parliament.

### **Efforts of State Governments**

Several State Governments took decision to provide social security and welfare measures to workers in the unorganized sector.

1. In this regard the Government of Kerala is the pioneer to enact legislations, and establish welfare board, welfare funds, and to provide welfare measures. A list of such boards are at annex-1.
2. The Government of Tamil Nadu followed suit, by enactments and by setting up of welfare boards and welfare funds, and by providing welfare measures. A list is at annex-2.

It is noteworthy that the governments of Kerala & Tamil Nadu conducted review of the welfare measures, and attempts to improve. The employers are not cooperating in the registration of their establishments, and not paying their contribution. The Administrative costs of the board and fund management are very heavy, rendering the objective unsustainable. The Tamil Nadu government has taken a decision to merge all the boards into one, except the Tamil Nadu construction workers welfare hoard.

3. The efforts of Karnataka government are still in the form of a bill which is prepared in consultations with trade and workers.
4. The government of Andhra Pradesh drafted a bill, held consultations with the concerned interests, but it is yet to become law. A list of employments cover able by the proposed legislation is at annex-3. The

employments are categorized on the basis of identification of employer and worker relations. Category 'A' consists of employments where employer employee relationship is exclusive, i.e. the employers take work from the same set of workers, and vice versa. These establishments and workers can be covered under the existing labour acts and welfare acts like EPF Act, ESIC Act, Gratuity Act, Bonus Act, Workmen Compensation etc. if the restrictive clauses of coverage, i.e. number of workers employed, length of service of workers, and infancy period of establishment are removed. These sections of establishments are in the formal sector and workers cannot be workers of unorganized sector and hence need not wait for the enactment of "umbrella legislation" for unorganized sector workers. The employers shall give up their avoiding nature", and the government machinery shall function with sincerity and determination.

5. The Government of Maharashtra by Legislations provided (a) Employment Guarantee Scheme and (b) Mathadi Mandal Kalyanakari Yojana and (c) Gumastha Mandal Kalyanakari Yojana. The Mathadi (Head load) Boards are working well and are providing not only welfare schemes and benefits but also catering the needs of regulating the employment and wages and service conditions.
6. The Governments of Tamil Nadu and West Bengal floated funds and schemes for financial assistance to the workers of locked out closed industries.
7. The Government of Gujarath provided schemes for payment of stipend for one year during training period, payment of subsistence for widows, and child allowance.

Details of welfare schemes at are Annexure - 4, 5, 6 and 7

## **Limitations**

The existing social security schemes in India have their limitations.

1. The present social security schemes, which are in force cover only a small fraction of the total working population. Major section of the labour namely the unorganized and agricultural labour, which forms about 87% of the total labour force, is out of the purview of the social security legislation.

2. The social security legislation have only imposed statutory obligation on employers. The implementing machinery is ineffective with the result the employers easily evaded the compliance with the said legislation.
3. Majority of the employers have treated social security as a charity, which they feel is a burden imposed by the State. Because of this philosophy, they leave no opportunity to escape the said burden. The spirit behind the schemes is not taken into consideration and as a result of this approach the implementation is in letter and not in spirit. The procedure is cumbersome regarding maintenance of records as verification of those records is carried by officers of various departments resulting in duplication of the work.
4. The social security program in India has suffered from lack of finances. Various measures of social security though well planned and properly phased could not be implemented successfully, as they lacked, adequate financial support.

### **National Commissions on Labour**

The First National Commission on Labour headed by Justice Sri P.B. Gajendragadkar submitted its report in 1969. Improvements were suggested in the then existing social security measures envisaged by the Workmen's Compensation Act 1923, ESI Act 1948 and EPF & MP Act 1952 and other Acts. The non-coverage of the un-organized and rural workers by the First National Commission on labour, necessitated constitution of National Commission on Rural Labour (NCRL), which submitted its report during July 1991.

The I.L.O.'s definition of Rural Labour include self-employed workers, and middle-level peasants. The NCRL defined rural labour as "A person who is living and working in rural area and engaged in agricultural and or non-agricultural activities requiring manual labour, getting wage or remuneration partly or wholly, in cash or in kind or both during the year or such own account workers who are not usually hiring in labourers but are a part of the petty production system in rural area". Therefore, those who do wage paid manual labour and those small and marginal farmers who may be supplementing their income by earning wages, tenants and

sharecroppers and artisans should come within the definition.

The NCRL examined the conditions of the following categories

of employments & employees

1. Agricultural Worker;
2. Non-Agricultural Labor
- (a) Handloom workers
- (b) Beedi workers
- (c) Construction workers
- (d) Brick Kiln workers
- (e) Toddy Tappers
- (f) Fishermen

Of the unorganized sector.

- (g) Leather workers
- (h) Sweepers & Scavengers
3. Bonded Labour
4. Migrant Labour
5. Women Labour
6. Child Labour
7. Forest Labour - trials

Among others, The NCRL made recommendation for elimination of rural indebtedness, Agrarian and land reforms, fixation of minimum wage, with provision to protect real wage from the spiraling prices syndrome, and social security measures like group insurance, life insurance, disability benefit, accident compensation, minimum health care, sickness benefit, Welfare Funds & Schemes to meet various needs and old age pension. The NCRL recommended several amendments to the minimum wages act 1948 and other acts. They are considered while formulating demands of unorganized sector workers mentioned in the end.

The recommendations were neither examined nor implemented, so far by the Government of India, or by any agency.

The 2nd National Commission on Labour which submitted its report during June 2002 examined the social security measures so far available to workers of both organised sector and unorganised sector and the existing legislations and recommended for improvements. Among others, the 2 NCL examined (the conditions of the following

categories of employments & on

1. Domestic workers
2. Sex workers
3. Plantation workers

employees in unorganised sector.

13. Brass ware Industry, Moradabad, U.P.
14. Carpet looms, Mirzapur, U.P.
15. Street Vendors/Hawkers

- |                                     |  |
|-------------------------------------|--|
| 4. Underground Mine workers         | 16. Rickshaw pullers                       |
| 5. Small Mines, Quarries workers    | 17. Workers depending on natural resources |
| 6. Scavengers (Safai Karmachari)    | 18. Adivasis                               |
| 7. Ship breaking workers            | 19. Forest based Agriculturists            |
| 8. Construction workers             | 20. Agricultural workers                   |
| 9. Rag picking and scrap collection | Taungya workers                            |
| 10. Fish harvesting                 | 22. Pastoral Toilers                       |
| 11. Fish processing                 | 23. Anganwadi/Balwadi                      |
| 12. Glass Bangle Industry, U.P.     |  |

## **The Organised & the Unorganised**

Economic activity consists of production, distribution and services. Land labour, capital and entrepreneur are the requirements. While food grains, pulses, fruits, flowers etc. for human beings and grass, fodder for animals and birds are produced in fields, Agricultural farms and forests, the factories and establishments produce goods and services. For this purpose, while the capital and entrepreneurship is invested by one section, labour and sweat is invested by another which is complimentary and supplementary to each other in producing wealth, and one cannot exist without the other. Both seek remuneration while the former is called capitalist and his remuneration is termed as profits; the latter is called worker, labour, employee, staff and his remuneration is termed as wage and allowances, benefits & social security. Inequitable distribution of wealth causes friction, and the high handedness of capitalist has been the cause for industrialisation actions by the workers; and the trade union movement. Workers are the creators of National wealth, but remain deprived of appropriate share of it. Workers are entitled for their share.

About a century ago, there were no unions, no labour acts and no protection to workers. Employers extracted maximum work and paid less to the worker, which was not sufficient to make a living like human being. Here and there in bits and in group, workers organized themselves into Trade Union, Labour Acts like I.D. Act, Factories Act, Shops & Establishments Act, Workmen's Compensation Act, ESI Act, EPF Act etc. came into operation concerning job security, service conditions, wage rates, safely at work place compensation for injury social security and

welfare measures. Such of the unionized workers, covered by Labour Acts and improved their conditions have come to be called as organized sector workers which account for 7 crores. The rest about 30 crores are called un-organised sector workers.

Existence of Factory, Industry, Shop, Establishment, service center, and work place, Avenue of employment or earning is the prerequisite to convert or call any human being as worker. Hence, classification of establishment and avenue of earning as organised and unorganised is crucial.

As per the regulations of the central and state governments, any activity related to production of goods or services are registered and licenses are obtained. In this context we may cite Industries Act, shops & establishments Act, Companies Act: The contract labour (R&A) Act 1970. There are a number of Acts related to levy and collection of taxes by Local self, Municipal, State and Central Governments. The agriculturists and farmers and their Agricultural fields and produce and crops, like tobacco, turmeric etc. are registered. The employers do file returns periodically. These units of employment and employers can be identified.

The dictionary meaning of Formal is "functioning in orderly manner". As such as the above units of employment and the employers can be treated as in the formal sector or organised sector. Accordingly, the workers there may be classified as of organised sector workers.

Where the employer cannot be identified, when workers work under multiple employers where the workers are self-employed, owner of tools and fixed or other assets may be classified as unorganized sector of employment and unorganized sector worker. BMS named this sector as Vishwakarma .Sector.

The workers of the organised sector of employments are coverable under the existing Labour Acts concerning job, job security, & social security like ID Act, shops & Establishments Act, contract labour (R&A) Act, Bonus Act, Gratuity Act, ESI Act, EPF & MP Act etc. But a majority of the workers are not covered by the Acts, and are deprived of the benefits and protection. A brief analysis of causes and remedies are mentioned here under.

- (a) The I.D. Act, Contract Labour (R & A) Act, EPF Act, ESI Act do not cover an establishment employing less than 20 or 10 workers. Bonus Act is not applicable during the infancy period of 5 years, and the worker is not entitled for gratuity before completion of 5 years' service. So, several establishments are out of the purview of the Acts. Removal of the restrictive clauses, is required, to cover all establishments, engaging even a single worker.
- (b) The unscrupulous Employers, engage workers with different names like permanent, temporary, casual, contract, trainee, badli, on probation, and their number is not aggregated to arrive at the total number of workers engaged by the establishment. Workers engaged in loading and unloading, security services, Transport services and Drivers, Canteen Workers are also not aggregated. The contracts are split up, each consisting of less than 20 workers.

All these manipulations and machinations are intended to avoid the coverage of existing Labour Acts & social security legislations. The criteria of the minimum number of workers in a given establishments, for application of the existing Acts be removed to provide coverage, where even one worker is engaged in an establishment.

- (c) The apathy, indifference, of the government machinery, and Labour Enforcement setup is yet another cause for the non- coverage of workers, otherwise coverable under the existing Acts. The law enforcement machinery is inadequate, lacks mobility, and is ineffective. There are also altitudinal problems which are often not positive and supportive of action at the grass roots level on the part of the lower echelons of bureaucracy. Strengthening and streamlining of the Labour enforcement machinery is needed.
- (d) The law is a hostage of the haves. Consequently the poor section of the humanity finds the entire socio and economic and legal system heavily weighed against the worker. The Police and law and order system often acts against the worker at the instance of employers. The political set up has no sincerity towards the poor worker. A regulatory machinery & time frame for disposal of cases by legal system and law and order wings of Government is the imperative need.



(e) Last, but not the least, the not so strong Trade Unions, Trade Union Movement and the unorganized & disorganized worker, could not rescue the worker. When will the 'Trade unions become strong? When will the worker stand up and demand his due?

It is not surprising that a majority of the workers of organised sector, workers of identifiable Employers and establishments, are not covered under the existing Acts relating to service conditions and social security. It would be appropriate to name these workers as exploited and deprived sections of the organised sector.

### **The L.P.G Syndrome**

The dictates of World Trade Organisation, the conditionalities of World Bank, International Monetary Fund, Asian Development Bank and the manipulations and machinations of multinational corporations, have created yet another section of workers victims of deceit, unethical and immoral acts of the employers. In (heir greed, the employers are resorting to downsizing, restructuring, outsourcing, contractualisation, casualization, modernization, and turning several workers, organised sector worker as unemployed, as job less, as under employed worker etc. Normal employment relations are converted to typical employment relations, and more and more workers are entering the ranks of contract and casual nature, after being repelled by the modern market forces of economy. It is a direct outcome of the plans, policies and programmes launched from 1991 in Bharath. As a consequence of structural adjustment policies, the displaced workers have no other alternative than to join the ranks of informal scrim, as the only oasis in a vast desert of jobless growth.

The industrial restructuring lead to greater decentralization of production which are carried out through systems of subcontracting. In the process the products and services secured by Employer are accounted, and formalized by the main & ultimate Employer. How can the workers making such formalized production be treated as informal workers? The main unit of production, its subsidiaries, ancillaries, outsourced, casualised and contractorised units and workers shall be treated as one establishment. Principles of natural justice demand that these workers

shall be treated as workers of the Main Establishment, whom & which they are complimenting & supplementing. These workers constitute yet another section called displaced & misplaced section they shall not be treated as unorganized sector.

There is a process of deskilling of rural artisans which also needs to be understood in a proper perspective. Our country had an illustrious tradition of skilled artisans acquiring knowledge, information and skills through 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 production in the wake of industrial revolution dealt a lethal blow to further refinement, evolution and growth of these indigenous skills. A large number of rural artisans lost their skills and in the process got impoverished. Thus, colonialism set in motion the process of deskilling in a big way. Consequent upon the loss of age old skills, large number of rural artisans were reduced to landless agricultural labourers. The handloom workers, rural craftsmen lost their jobs.

### **Unorganised-Organised Paradigm**

The distinction between organised labour and unorganised labour is an artificial one; indeed it is our creation. "The National 'divide' between the organised Sector (Formal) and the Unorganised Sector (informal) of the country's economy, and the workers/labour engaged in them, is unreal because these sectors are interdependent Legislation cannot be effective unless it integrates their needs for protection and welfare; with those of the rest of our society and economy. Workers in the Unorganised Sector are not recognized as workers." (Para 7-396 & 398 of '2 NCL Report)

#### **Unfair labour practice**

The landmark Judgment of the Supreme Court of India dated 9-5-1995, in the case of the Gujarat Electricity Board is worthy of consideration and implementation. Contract labour is an unfair labour practice. "The

only ostensible purpose of engaging contract labour instead of the direct employees is the monetary advantage by reducing the expenditure. Apart from the fact that it is an unfair labour practice, it is also economically shortsighted and unsound policy, both from the point of view of the undertaking concerned and a country as a whole. The economic growth is not to be measured only in terms of production and profit. It has to be gauged primarily in terms of the employment and earning of the people. Man has to be a focal point of development. The attitude adopted by such undertakings is inconsistent with the need to reduce unemployment and the Government Policy declared from time to time to give jobs to unemployed. This is apart from the mandate of the directive principles contained in Article 38, 39, 41, 42, 43 & 47 of our constitution. The 2-NCL recommended that contract labour be regularized progressively so that no worker shall remain unregularised after completion of 2 years' service. Contract labour is treated as organised sector worker.

### **Job Security**

The worker has two aspects of service. First & foremost demand is job, job security, job continuity. Nowhere in the CL is (HA) Act 1970 is mentioned that the worker shall be terminated along with the termination of contractor, who is supposed to be the employer. In the event of snapping of relationship with the contractor on his termination, the worker's relationship with the Principal Employer, need not necessarily be treated as terminated. The workers is attached to work, and establishes his right to continue in the work so long as the work continues, as long as the work exists. It cannot be denied that the worker is performing the work of Principal Employer, as the contractor has no work. Principles of natural justice demand, that the worker shall not be removed from work, in spite of the change in the contractor. Making appropriate amendment to the CL (RA) Act 1970 is just and proper.

### **Equal Pay for Equal Work**

The second aspect of the worker is wage rates, allowances, benefits and social security. Naturally the contract labour are entitled for equal pay for equal work; and shall get full remuneration for his services, including

all allowance and benefits and social security measures.

It is often argued that contract labour are entitled for minimum wage fixed by the governments under Minimum Wage Act 1948. It is a universal truth that, the M.W. Act does not object payment beyond the minimum threshold.

In an establishment, some employees are paid wages and benefits and social security as per regular pay scales, on the pattern of government employees. A perusal of notification issued by the Government fixing minimum wages under the Minimum Wages Act, would reveal that the wages are fixed for Manager also, along with Employees. In practice, we find that the Managers are paid over and above the Minimum Wage Rates so notified, making this as a bone of contention. Under the same roof and work place, Employees are discriminated in the application of the minimum wage notification.

As a contract labour, neither there is job security nor proper wage and benefits and social security. The later can be paid, in spite of the former. The Supreme Court of India in its latest judgment in the case of SAIL stated that the CL (RA) Act 1970 do not envisage "regularization" of the services of contract labour, but not stated that the Act shall not be amended to provide for regularization. The SCI did not state that the contract workers be paid only minimum wages, or need not pay even minimum wages, or need not be provided social security benefits. Nor suggested for payment of, or remuneration of services at the rate less than that of a "poverty line", nor suggested for remuneration to be a mere pittance. Why then the contract workers are not paid properly and social security benefits along with? To hit the contract worker, on both the aspects, simultaneously is inhuman. This militates against (lie social justice.

The following recommendation of the 2 National Commissions on Labour is noteworthy.

Para 6.109 the contract labour will however be remunerated at the rate of a regular worker in the same organization doing work of a comparable nature or if such worker does not exist in the organization, at the lowest salary of a worker in a comparable grade i.e. unskilled, semi-skilled or skilled. The Principal Employer will also ensure that the prescribed social

security and other benefits are extended to the contract worker.

Para 6-110 No worker should be kept continuously as a casual or temporary worker against a permanent job for more than 2 years.

### **Umbrella legislation**

On account of the sustained Trade Union struggles and the recommendations of the 2 N.C.L. the Government of India expressed their commitment to bring in legislation and provide job security and social security for workers of unorganized sector. A draft of the un-organised sector workers bill - 2004 was circulated among all concerned and suggestions were elicited. The bill has not even been moved in the Parliament.

The Government of India launched the un-organised sector workers social security scheme - 2004 in 50 districts in Bharath covering all states during March - April 2004, on pilot basis. The Welfare Commissioners, (who are implementing the welfare schemes of Beedi workers, cinema workers, and mine workers), were alerted to conduct awareness programmes and camps, among the un-organised sector workers. Similar instructions were given to the Central Board for workers education and other institutions. They were advised to take the help of NGOs. These educational and awareness programmes were not conducted.

The EPFO (Employees Provident Fund Organisation) the designated implementing authority could not make any progress. 'The authority to implement the schemes, delegation of powers to exercise authority and the like formalities are not completed by the Government of India. Method of collection of Welfare Fund, and their preservation, maintenance of accounts etc., are not made clear. The EPFO is anticipating further instructions, and Government Order, covering all aspects which the Government of India did not issue. Above all the EPFO has no infrastructure and manpower to administer the scheme which is expected to cover about 30 Cr. Workers. The insincerity of the Government of India is evident.

The scheme - 2004 is evolved, under Sec. 23 of the un-organised sector workers bill - 2004. It shall be noted that unless the Act is passed, the scheme - 2004 has no statutory support. As such the implementation of

the scheme - 2004 became questionable.

Vide circular no. M-21022/8/2004 - RW db. 29.09.04, Ministry of Labour stated that the employers are not coming forward to contribute their share, and as such the scheme would not be sustainable and expressed that there is a strong need to revamp the scheme to make it both financially and administratively viable. This statement deserves attention. It may be recalled, the employers have been avoiding the implementation of the existing Acts related to job security social security like EPF, ESI by various manipulations and machinations, and a vast section of the workers remained uncovered. The Government shall address this "avoiding nature" of the employer, without which the social security scheme 2004 would not progress, nor would any future legislation be implemented. The apathy and indifference of Labour enforcing machinery has compounded the malady.

The proposed scheme - 2004 envisaged that the workers whose employer cannot be identified, the worker has to make payment of the employers share also, besides his, which is Rs.100/- per month and it is draconian. This is a heavy burden on the workers of un-organised sector, who are low paid, and without job security. In these cases, the Government of India shall function as the employer and pay the employer's slum\*.

The suggestion of the Ministry of Labour, vide Circular dated 29.9.04 (cited above) "to revamp the scheme to make it both financially and administratively viable" is worthy of consideration. In this regard setting up of a Fund for the Welfare and Social Security of unorganized sector workers and to set up an independent Administration is desirable. The Welfare Fund be created by allotting 1% of the budget amount and be augmented by transferring the amount lying with LIC, ESIC, EPF unclaimed, unutilized and that which could not be paid to the beneficiaries.

The exercise of the Government of India, so far exhibited in the name of providing a legislation and social security and welfare of unorganized sector worker is a betrayal, as so far, no relief reached the intended worker. The delay is resulting in the continued exploitation of a vast section of workers. The unorganized sector workers have been denied and

deprived of welfare and social security during the last several decades, and the government shall take expeditious step in providing relief without any dilly dallying. The delay will only help the Employers, to become fat and fatter.

It may be recalled that India is living in the villages. Rural economy is the base. The industries called village industries, cottage industries, small scale industries, informal sector industries and the self-employed sector are producing goods and services, increasing our Country's wealth and earning foreign exchange. This sector is providing more employment, creating more employment avenues and earning to about 30 Cr. Population of our country. Naturally, it shall be our Endeavour to encourage, develop and support this sector industries and workers.

### **Crocodile tears**

FAPCCI (The Federation of Andhra Pradesh Chamber of Commerce and Industry), ASSOCHAM (The Associated Chambers of Commerce and Industry of India) FES (Friedrich Ebert Stiftung) A German based Non-government organisation jointly conducted a seminar on 26.10.2004 at Hyderabad (Andhra Pradesh) on "Corporate Social Responsibility".

The organisers confessed that the corporate are laying more emphasis on business strategies, technological up gradation, marketing strategies etc., with least regard for socio-economic development of the society. They expressed that they realised the urgent need to redefine their business policies to contain social policies and to contribute their resources for socio-economic, development of the society. Various corporate houses that participated enumerated, and detailed their programmes and activities which they conducted in the areas of air and water pollution, environment and van-mahotsav. They provided facilities, for education health, hygiene etc., and created awareness against HIV/AIDS, and other social evils like alcohol, tobacco etc. Their guilt is pricking them and disturbing their sleep, i.e. meting out inhuman treatment to their own coworkers. Hence the seminar on

### **"Corporate Social Responsibility".**

One of the participants Hindustan Animosities Limited (A

Central public sector undertaking) went on record as having formulated and implemented the following Principles

1. Businesses should support and respect the protection of internationally proclaimed human rights within their sphere of influence.
  2. Businesses should make sure their own corporations are not in complicity in human right abuses.
  3. Businesses should uphold the freedom of association and the effective in recognition of the right to collective bargaining.
  4. Businesses should uphold the effective abolition of child labour.
  5. Ensures that no contractor employs child labour in any form and also ensures compliance of all statutory provisions applicable to contract labour.
  6. Business should uphold the elimination of discrimination in respect of employment and occupation.
  7. Businesses should support a precautionary approach to environmental challenges.
  8. Businesses should undertake initiatives to promote greater environmental responsibility.
  9. Businesses should encourage the development and dissemination of environmentally friendly technologies.
- (A) HAL ensures the right to social and economic security. Right to work, equal pay for equal work and to just and favorable remuneration for the worker and the worker's family. Adhering to the United Nations Declaration on Human rights HAL recognizes the right to form and join trade unions, the right to rest and leisure, reasonable limitations on working hours and leave with pay. The right to a standard of living adequate to retain health and wellbeing, including food, clothing, housing & medical care.

**To Quote:**

- (B) HAL ensures that no contractor employees child labour in any form and also ensures compliance of all statutory provision applicable to contract labour.

The HAL declared to have spent Rs. 75.5 lakhs during 2002- OS on welfare and CSR.



The intentions are laudable, but alas they are practiced only in breach. "The equal pay for equal work" is absent, social security is not provided to all workers, and the workers are engaged in the systems called casual & contract services to make savings on the workers wage bill. By these exploitative low wage practices, do the employers not pushing the children of this exploited labour to child labour? After pushing the children to labour, the employer, are taking up measures to effectively abolish child labour. A great social service! It is not difficult for the govt, and countrymen to identify those that make CSR (Corporate Social Responsibility) gestures for the purpose of mere image-building. While fulfilling their corporate social responsibility to the community in the vicinity, are they justified in resorting to unethical saving in the cost of production, by fleecing the workers in the form of outsourcing, contractualisation, casualization, instructing, downsizing, etc. etc.? If this is not double standards, what else? If this is not immoral and unethical, what else?

### **Poverty Line**

Poverty line is the minimum required consumption expenditure level of items such as clothing, shelter, transport, and health care which meets the average per capita daily calorie requirement of 2400 calories in rural areas and 2100 calories in urban areas, along with a minimum of non-food expenditure.

In 1979 the Planning Commission's Task Force worked out the monetary equivalent of these norms at Rs. 49.09 per capita per month in the rural areas and Rs. 56.64 per capita per month in urban areas, based on N.S.S.O. Survey data on observed consumer behavior in 1973-74. The equivalent of these norms at the present prices, cannot be less than Rs. 100/ per day per capita per month. Should not the wage or income of any category worker be above the poverty line equivalent?

The Minimum Wage Act 1948 envisaged rock bottom threshold wage, with a provision for neutralization against rising prices. The Supreme Court of India in its Historic Judgment in *Retakes Brett & Co Ltd.* Held that an industry which cannot assure payment of minimum wages has no right to exist.

Quote: The 2.NCL Report: Para 12-247. "Our study group on unorganized labour has recommended that the minimum wage prescribed by the V Central Pay Commission for the lowest category of Government Employees, i.e. Rs.2400/- + Rs.2100/- DA, Total Rs.4, 500/- should be the minimum wage for a worker in the unorganized sector.

Para 12-248: we fully appreciate the considerations that have prompted the study group to make this recommendation. But we regret that we do not find it possible to accept and endorse this suggestion.

Rs.4500/- per month was recommended, and was felt proper and appreciated by 2-NCL during 1996-97 and we are now in 2005. The appropriate wage rate required to be paid in 2005, basing on the cost of living indices can well be imagined.

### **Sustenance for the no-work period**

The workers both in the organised and unorganized sectors are not assured work for all the days in a month and year after year, due to the LPG syndrome. The entitlement of the workers for remuneration for sustenance during no work period is an established fact. Take the example of the seasonal Industries like Sugar Factories, where the workers are paid retention allowance during no-work season. Similar allowance is paid to workers of all the establishments. Or in the alternative, the wages paid during the working days shall be sufficient to take care of no-work period. This is required as a measure of social security.

### **Payment of Bonus**

The Beedi workers wage is paid on piece rate, treating rolling of 1000 Beedi as a unit of wage. The minimum wage is fixed by the Government under M.W. Act and DA as panda paid over and above the basic wage. In Andhra Pradesh. House rent allowance at 2.5%, Holiday allowance at 2.5% and Bonus 8.33%. added to the Basic Wage on the unit of production i.e. 1000 beech Allowances and Bonus are paid instantly with each wage payment the serve as a protection against denial of Bonus payment after the completion of financial year for various reasons, genuine and fake As a social security measure similar payment of Allowances and bonus. To all workers would be proper.

In a given establishment worker, classed as permanent, temporary, trainee, probationer, Badh, casual, on service contract, contract labour, loading & unloading labour, precerate labour, transport labour, security staff, office stall, workshop worker, etc. But it should not be lost sight of that then activity as complimentary and supplementary to each other, and that the production of goods or services are achieved by then collective efforts In the circumstances they deserve common and wage & benefits and separating them as organised sector workers unorganized sector workers, and covering them under different act as against natural justice.

Classifying workers as organised sector workers or unorganized sector worker basing on the level of number of workers engaged in an establishment, level of wage and benefits casual nature of job, piece rate work and wage is not proper and scientific. The Classification of workers shall and commensurate with the Classification of establishments and avenue of earnings.

### **System of Social Security**

The system envisaged by the 2 NCL comprises of the following tiers:

- a) Social Assistance programmes financed from the exchequer and wholly based on the tax revenue
- b) Schemes which are partly contributory and partly subsidized by the State
- c) Wholly contributory social insurance schemes
- d) Voluntary schemes

Particularly the workers of informal or unorganized or rural sectors cannot afford the schemes mentioned in a), b), c) and d). The contributions, if any, collected from the workers would be necessarily small and would not be adequate to provide any meaningful social security. The welfare fund provided for Beedi workers is wholly contributed by the employer, by way of welfare cases, levied on the production of goods. The governments and the employers shall share the entire burden, and shall make significant contributions.

### **The Mechanism of Delivery**

The recommendations of the 2-NCL would be appropriate here. Para

8.421 : The mechanism of delivery should be based on two key principles : (a) it should be as decentralized and as close to the beneficiaries as possible; and (b) it should be tripartite or multipartite involving workers, employers, governments and other stake holders.

Para 8.422: We recommend constitution of District and area level Committees, which may be tripartite or multi-partite as the need demands with necessary secretarial assistance.

Para 8. 423: Services should be delivered at the door step of the Beneficiaries.

## **Conclusion**

Worker is a human being and has every right to live like a human being. For this, the first requirement is employment / avenue of earning income, and its guarantee, security, and continuity, safe working conditions, compensation for injury, and social security in respect of health, old age and disablement, and welfare. This in precise is the area of Trade Union activity, and the responsibility of democratic socialistic Welfare State of Bharath.

## **Right to Social Security**

The workers that are not covered under the existing labour and social security acts, either due to the restrictive clauses of the existing acts or due to the manipulations machinations and avoiding nature of employers and workers that are victims of L.P.G. policies, like that, of forced retrenchment and loss of employment due to restructuring, downsizing, right sizing etc., and subsequently joined service and the workers that are rendering services in the outsourced and contractorised units of production, the workers in the small industries, small scale industries, khadi and gramodyog industries, village industries, the self-employed workers, the workers producing goods or services without knowing who their employer is constitute a vast majority of Bharatiya Mazdoor, and are identified and are called as un organised sector, informal sector workers. These are either not covered under the existing social security acts even though coverable, or are not coverable under the existing acts regarding employment and service conditions or for social security. These workers

are contributing about 60% of G.D.P and providing subsistence to the Govt, of India, and to the country's economy. But what they get in return? Their wages are a "Pittance", and social security is nil. It could be seen that the Govt, of India is spending a mere 1.8% of G.D.P towards social security while Sri Lanka spends 4% as also other countries in the world. The employers are benefited by the sweat and toil of this section of workers, and this benefit swells further by making savings in the wage bill, and spending nothing towards their welfare & social security. In the circumstances, both the govt, and employers owe an obligation to this section of workers. These sections of workers have established their right to secure social security measures and welfare measures. The Social Security is their Right.

### **The Requirement**

Labour is not being treated as a commodity, not merely as a statistical unit of production, not merely as a resource for development but as a partner and active participant in development.

Based on this premise which is a natural and logical corollary of the lofty principles enshrined in the Philadelphia Declaration of 1918 and of our commitment arising out of the ratification of 37 ILO Conventions so far there is a need to ensure that:

- a) Labour is not employed in subhuman conditions.
- b) Labour is not subjected to unfair practices in terms of payment of wages, discharge, dismissal and termination of employment.
- c) Wages are fair and reasonable and they progressively reach the level of living wage.
- d) Fair opportunity to the up gradation of skills necessary for career progression and continued employment.
- e) To meet exigencies arising out of unemployment, temporary unemployment and under employment.
- 1) Security against risks such as injuries and accidents at work, occupational health hazards, sickness, invalidity and insurance there to, and maternity benefit.
- g) Pensionary, domiciliary and other kinds of care in old age
- h) To meet the needs for housing, education of children, medical and

nutritional care of family members

- i) Ability meet essential requirements of life and living,
- j) Protection of rights that are essential to protect one's bargaining power and
- k) Social status

Social security benefits envisaged by the ILO

1. Family allowance. 2. Old age benefit, 3. Survivor benefit (including PF, gratuity) 4. Invalidity benefits 5. Unemployment benefit (including lay off, retrenchment, NRF (National Renewal Fund) 6. Maternity benefit 7. Sickness benefit, 8. Employment injury benefit (including emergency expenses) 9. Medical care: long term/permanent disability & temporary disability.

A: Convention No: 102 of 1952

B: Article 4 of convention no. 177 of 1996 calls for promotion of equality of treatment for Home workers including right to organize, to protection against discrimination, to occupational safety and health, remuneration social security , access lo training etc...

The Constitution, of India - Conclusion of 2-NCL

7,385 Our constitution, the ILO Conventions that we have ratified and the existing laws together guarantee some rights to the workers. The Universal Declaration of human rights, proclaimed by the General Assembly of the United Nations on 10 December 1948, is an assertion of the universal right to freedom and life with dignity. Article 23(1) of the declaration states everyone has the light to work, to free choice of employment, to just and favorable conditions of work and protection against unemployment UN declaration is one of the basic documents on human lights and justice that has become a standard -bearer or standard setter for peoples, communities and nations.

7.387 The need to extend special attention and care to the child has been affirmed in Geneva Declaration of the rights of the hold(1924) and in the Declaration of the rights of the child adopted by the general assembly of the UN in November 1989 (to which in India acceded in 1992)

7.390 Fundamental Rights include the right to equality (Article 14), the protection against discrimination (Article 15), the rights to freedom of speech and association (Article 1.9), the right to life and personal liberty

(Article 21, protection against traffic in human beings, protection from forced labour (Article 23), and the rights of child (Article 24). Directive Principles of State Policy (Part IV of Constitution - Articles 36 to 51) spell out the concept of social security. Article 38 of the constitution, requires the State to strive to promote the welfare of the people by 'securing justice - social, economic and political, and to minimize inequalities in income and status between individuals, groups and regions'. 7.392 Article 39(a), (b) and (e) of the Constitution requires that the citizens have the right to adequate means of livelihood, that the material resources are so distributed as best to serve the common good, that the health and strength of workers and the tender age of children are not abused, and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Article 41 requires that within the limits of its economic capacity and development, the State shall make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 42 requires that the State should make provision for securing just and humane conditions of work and maternity relief. Article 43 requires that the State shall endeavor to secure work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities. Article 47 requires that the State should regard the raising of the level of nutrition and standard of living of its people, and improvement of public health, as among its primary duties.

7.393 Section 2(1)(d) of the Protection of Human Rights Act, 1993 (Act 10 of 1994) defines human rights as 'the rights relating to life, liberty and dignity of the individual guaranteed by the Constitution. This Act also justifies the need for legislation in favour of workers who are not yet covered by existing legislation.

7.394 ILO Conventions are codifications of universally applicable Labour standards and have led many countries to accept labour rights as basic rights. Its Conventions protect children from labour, women from night shifts, and all workers from forced labour. In 1998 the ILO adopted the 'Declaration on the Fundamental Principles and Rights at Work'. These fundamental principles lay down (1) Right to organize and

collective bargaining (Convention 87 and 98), (2) Abolition of Child Labour (Conventions 138 and 182), (3) Elimination of Discrimination (Conventions 100 and 111) and (4) Against Forced Labour (Conventions 29 and 105). The follow up mechanism envisaged in the Declaration makes it binding on member States, irrespective of the fact whether the concerned State has ratified the Conventions or not and to submit annual reports to the ILO on the observance of the respective Conventions.

7.395 It is, therefore, necessary to ensure that the proposed Umbrella Legislation for Workers in the Unorganised Sector incorporates the core rights that have been enshrined in the Constitution of India, UN Conventions and ILO Conventions.

### **Quality of life**

Earning lively hood in good, proper and sufficient quantity is one aspect and management of the same is equally important It is discussed many a limes as to where the worker is going soon after receiving remuneration for his services whether he is walking to his house to share (lie earnings with his life partner and children and be merry or seeking please at other places and people Though not capable, the worker do not change the style and spending at social functions like children's marriage, often landing in debts and bondage. The income is squandered. Enlightening and educating the worker to realize the good and the bad of life and living and priorities of spending. This would go a long way in ensuring Social Security.

The women constitute 50% of our Country's population, yet their share at the work place is insufficient and not proportionate. Comparatively the women in the organized sector air less than in the unorganized sector. Industries like beedi, handloom, fish related activity, building and other construction activity and several jobs performed at the dwellings and in the villages and hamlets employ crores of workers, mostly unskilled. Among these workers of rural base and belonging to economically and socially barf ward and illiterate majority are women. Exploitation of these section of workers and particularly women is rampant and extensive, beyond imagination. Implementation of minimum wages act, equal



remuneration act is absent. Women related benefits like maternity benefit, night work are denied and violated. Social security efforts shall cover these aspects.

In the rural and urban areas, the workers in unorganized sector are addicted to Beedis, Cigarette, Gutka, Alcohol and similar other avoidable bad habits, which are injurious to health. The family & children are starved of their daily necessities, of food, clothing shelter, Health Care etc., In the event of addicts meeting with premature death, the surviving family members are adversely effected. Same is the position in the event of accidental or suicidal deaths. The social security shall cover this aspect also.

### **Objectives to be aimed at**

The basic objectives of development can without exception be listed as (a) reduction in the incidence of poverty and unemployment, (b) increase in the rate of growth of all sectors of the economy, (c) promotion of efficiency in the use of scarce resources as would step up productivity, (d) strengthening the impulses of modernization for achieving economic and technological self-reliance, (e) improving the quality of life of people in general with special reference to the socially and economically deprived and handicapped population, (f) strengthening the redistributive bias of public policies and services in favour of the poor, the deprived and the handicapped contributing to a reduction in inequalities of income and wealth and (g) promoting the active involvement of all sections of the people in the process of development through appropriate education, orientation and skill formation.

Respect to the Rule of law, whichever in vogue and not finding ways to evade and recognition of the roll of Trade Unions and not blocking their formations, exhibition of willingness to share the gains with workers, and above all commitment to defend domestic industrialization are expected from Employer.

### **Demands of the Unorganised Sector Worker**

1. (a) Industries, Shops & Establishments are registered under various acts like the Industries Act, 1951, Shops & Establishments Act, Companies Act, Associations Act, the Contract Labour (Regulation & Abolition) Act 1970. For the purpose of collection of Commercial Tax, Sales Tax, Excise Duty etc. by both central and various state governments, several acts are in force. The employers get themselves registered and function with license, permission and file returns periodically to the Govt. Authorities. These industries, shops & establishments & the employers can be identified and as such be classified as in the organised sector and workers there-with be treated as organised sector workers. Rest of the establishments may be treated as unorganized sector establishments and the workers there-with be treated as unorganized sector workers.

(b) Due to obvious reasons, the wage earners are called in different nomenclature like casual, temporary, trainee, on probation, contract service, contract labour, permanent, regular, NMR (nominal muster role), on the rolls of employers, workers, employees, office staff, security staff. The jobs are termed as related to production, administrative office, field work, core, non-core, of Industrial production, services etc Due to their collective, coordinated work & services, the employers could produce goods or services. In number of workers called under various names as above be aggregated I'm the purpose of application of various acts, and coverage of establishments.

(c) The Establishments & workers are not covered under various existing acts related to work and working conditions like ID Act, 1947, Shops & Establishments Act, Contract Labour (R & A) Act 1970 etc. and Acts related to social security like LIT & MP Act 1952, ESI Act 1948, payment of gratuity act and etc. due to the criteria for coverage like number of workers engaged, infancy period of establishment, length of service of workers. These criteria be removed, and coverage of all workers, under the existing acts be ensured.

(d) The application of the existing acts be ensured in respect of identifiable establishments and employees there with, by making amendments where ever necessary.

2. The proposed bill i.e. umbrella legislation for unorganized sector

workers for providing job security, proper working conditions, proper wage and allowances, compensation and social security & welfare be enacted and implement with-out further dilly dallying.

3. (a) Setting up of an independent welfare fund and administrative set up for the unorganized sector workers is demanded.

(b) On the lines of 'Finance Commission' which is entrusted with the distribution of funds and revenue earnings of Central Government among various States, basing on their population and requirements, an independent 'Finance Commission' be set up for the informal, village, cottage, rural and agricultural sector and the self-employed sector of employments and workers and hinds be provided for development and support.

(c) The Government shall set up unorganized sector workers welfare fund by allocating 1% towards welfare and social security.

(d) A separate fund is provided from the Annual budget to advance loans to the self-employed, kisan-mazdoor and to provide inputs at subsidized rates, and to provide marketing facilities.

(e) The rural entrepreneur, the self-employed, the rural worker and the artisans, the kisan and mazdoor be relieved of the debt burden and debt trap, and for this purpose appropriate funds be provided by the Government.

(f) Funds may please be provided for providing guaranteed wage-employment or self-employment to rural labour and artisans and to pay unemployment allowance in lieu thereof.

(g) The Government of India launched the unorganized sector workers social security scheme - 2004 which envisaged that the workers whose employer cannot be identified and the self-employed shall pay the employers share besides his share. This is not workable, nor can the worker bear. The Government of India shall take the place of the employer in these cases and shall pay the share of employer.

(h) The State and Central Governments shall take the place of employer in respect of workers in the un-organised and self-employed sector and where the employer could not be identified, shall pay the contributions to strengthen the sectors

Like agriculture, irrigation, small scale industries, self-employed sector, and road transport of both goods and passengers. Khadi and village industries etc., which tire providing employment to 90% of Indian Work Force.

4.(a) The Government shall increase the public investment and of the budgeted amount. Also, shall levy surcharge on Taxes and Excise duties to augment this fund. Medical and Health care and compensation for injury, disablement and death and old age pension are provided to this sector of workers. The unclaimed, unpaid and unutilized funds of workers and public lying with organizations like LIC, ESI & EPF be transferred to this fund.

(b) To free the bonded labour and to provide employment and means of living.

(c)The production of daily necessities and articles of daily usage be reserved for the village and cottage industries and self-employment sector, and entry of heavy industries and MNCs be banned in this sector.

(d) Government shall not remove the protections available for small scale industries, and shall not permit foreign direct investment in area of SSI products.

(e)Ban corporatization of and foreign direct investments in sectors of agriculture, whole sale and retail business, road transport of goods and passengers, Beedi making and fishing, Estate business, construction activity.

5. (a) To create rural employment and to increase production and Towards country's prosperity, irrigation projects be taken up, dams and tanks be constructed and water and electricity be made available for cultivation, and roads and communication and transport system be created throughout country side.

(b) Agricultural land reforms may be implemented and rural workers artisans, small farmers be relieved of debt burden. Government vacant land be distributed among weak labour, both for agricultural and housing purposes.

(c)The investment, the production and developmental activity shall be labour absorbing.

- (d) "Economic Development from the bottom and eradication of corruption from the top" is the saying of the wise and the elderly. Hence, in the same lines, the planning systems and thinking shall be directed to reach the lowest, the down trodden the weak economic being.
6. All workers in the unorganised sector be issued with photo-identity cards and the government shall extend/provide all the benefits and assistance basing on the identity cards.
  7. To provide for and encourage workers co-operatives for production activities, so as to eliminate middlemen, or contactor.
  8. Employees of local self-government institutions like gram panchayat, village health workers, teaching and non-teaching staff, anganwadi and balawadi workers be treated as workers and government employees and be covered under EPF and ESI Acts.
  9. The existing system of bracketing handloom sector with the textile mills has done greatest damage to the handloom sector, and the handloom workers. The textile mills lobby is very powerful and is cornering the developmental funds and schemes, and the combined textile policy and practices have starved the handloom sector and strangled its existence. So, the Government of India is urged to separate the handloom sector from the textile sector in respect of policy formulations planning and finances. The reservation of Articles (production by handloom sector) Act 1985 be implemented, preventing the encroachment by textile and power loom in to the Handloom products.
  10. for the workers engaged in seasonal works, besides regulation of services and wages during work-season, similar regulation be ensured during no-work season.
  11. To increase the quality and standards of the products of cottage and village industries a research institute be set up, to harness the latest technological revolution.
  12. Right to organize into Trade Union, right to collective bargain, right to conciliation, right to strike be provided to unorganized sector workers.
  13. Protection to women workers from physical and gender exploitation, and maternity benefit, equal wage/remuneration on par

with male workers be ensured.

14. The bill for the agricultural workers being contemplated long back, be made into act and strictly implemented.
15. For an effective communication among rural and unorganized labour their unions, and government and employers, the Government shall arrange programmes through T.V., Radio, and print media. The Central Board for Workers Education and similar various institutions shall provide training to create social awareness, and to impart knowledge of Labour Laws, management of community lands and assets fair price shops, and to organize rural cooperatives and industries.
16. The following existing Acts be amended and implemented fully for the benefit of the rural and unorganized sector workers.
  - a. The building and other construction workers Act 1996
  - b. The Beedi and cigar workers (C & E) Act 1966
  - c. The Beedi workers welfare fund Act 1976
  - d. Inter-state migrant workers Act 1979
  - e. Maternity benefit Act
  - f. Equal remuneration Act 1970
  - g. Plantation labour Act 1951
  - h. Bonded labour system Act 1970
  - i. Minimum wages Act 1948
  - j. Contract labour (R & A) Act 1970.
  - k. The workmen compensation Act 1923.
17. Sec. 2(i) of the Contract Labour (R & A) Act 1970 and other Acts shall be amended to cover home-based workers under a contractor.
18. The definition of workmen in the workmen's compensation Act 1923 be amended to cover rural and unorganized sector workers.
19. The State Government shall include all the employments in un-organised sector in the schedules of Employment under minimum wages Act 1948.
20. D.A. linked minimum wages on the norms of 15 I.L.C recommendations and (the provisions Labour constitution be fixed at National level for the workers of un-organised sector, and strict implementation by the employers be ensured.

21. The minimum wages Act 1948 be amended to include inter-alia the following:
- a. The definition of employee in Sec.2 (i) of the Act be expanded to include all categories of rural and unorganized sector labour.
  - b. Sec. 26 providing for giving exemption below the basic minimum wage should be deleted.
  - c. Sec.3 (3) (a) (III) of the Act which provides for fixing differential rates of minimum wages for Adults, Adolescents and children be deleted.

#### ANNEX-1

#### LIST OF THE WELFARE BOARDS AND FUNDS ESTABLISHED BY THE GOVERNMENT OF KERALA

1. The Kerala Abkari Workers Welfare Fund.
2. The Kerala Agricultural Workers Welfare Fund.
3. The Kerala Artisans & Skilled Workers Welfare scheme.
4. The Kerala Auto rickshaw Workers Welfare Fund.
5. The Kerala Beedi & Cigar Workers Welfare Fund.
6. The Kerala Building & other Construction Workers Welfare Fund.
7. The Kerala Cashew Workers Relief Welfare Fund.
8. The Kerala Bamboo, Kattuvally, Pandanus Leaf Workers Welfare Fund.
9. The Kerala Handloom Workers Welfare Fund.
10. Tire Kerala Head Load Workers Welfare Fund.
11. The Kerala Labour Welfare Fund.
12. The Kerala .Motor Transport Workers Welfare Fund.
13. The Kerala Toddy Workers Welfare Fund.
14. The Kerala Tailoring Workers Welfare Fund.
15. The Kerala Welfare Schemes administrated by Labour Department.
  - A. The Kerala Agricultural Workers Pension Scheme.
  - B. The Kerala Tree Climbers Welfare Scheme.
  - C. The Cash Relief to Workers in closed Cashew Factories.

#### ANNEX-1

#### LIST OF THE WELFARE BOARDS AND FUNDS ESTABLISHED BY THE GOVT. OF TAMIL NADU

1. The Tamil Nadu Contraction Workers Welfare Board (The Scheme

lists 36 Categories, who could avail the Scheme Benefits)

2. The Tamil Nadu Manual Workers Social Security and Welfare Board.
3. The Tamil Nadu Auto rickshaws and Taxi Drivers Welfare Board.
4. The Tamil Nadu Tailoring Workers Welfare Board.
5. The Tamil Nadu Hairdressers Welfare Board.
6. The Tamil Nadu Washer men Welfare Board.
7. The Tamil Nadu Palm Tree Workers Welfare Board.
8. The Tamil Nadu Handicraft Workers Welfare Board.
9. The Tamil Nadu Handlooms and Handlooms Silk Weaving Workers Welfare Board.

## ANNEX-2

### LIST OF THE WELFARE BOARDS AND FUNDS ESTABLISHED BY THE GOVT. OF TAMILNADU

10. The Tamil Nadu Footwear and Leather Goods, Manufactory and Tannery Workers Welfare Board.
11. The Tamil Nadu Artists Welfare Board.

## Section 1.01 ANNEX 3

### LIST OF EMPLOYMENTS

- a. Categories of employments where employer-employee relationship is exclusive (including casual, temporary and contract workers)
- b.

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|--|
| 1. Arrack and Toddy Shops  |
| 2. Automobile workshops  |
| 3. Beedi making (not covered under the Beedi & Cigar workers (conditions of employment) Act 1966 (Act XXXII of 1966) |
| 4. Bleaching Dyeing and Cloth Printing   |
| 5. Breweries, Distilleries   |
| 6. Bricks and Tiles Manufacturing  |
| 7. Carpet Manufacturing  |
| 8. Cashew nut Industry   |
| 9. Catering Establishments   |
| 10. Cement Products  |



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|-----|--|
| 11. | Cinema, Exhibition, Production & Distribution  |
| 12. | Clubs and Canteens   |
| 13. | Construction of Pendants   |
| 14. | Construction of Tents, Supply of utensils and decorations for functions                    |
| 15. | Cotton Ginning and Pressing  |
| 16. | Dairy, and Dairy Products  |
| 17. | Distribution of Liquefied Petroleum Gas Cylinders  |
| 18. | Electronics and Computer Institutions (Hardware and Software)                              |
| 19. | Engineering Works  |
| 20. | Factories notified under section 85 (I) of Factories Act, 1948 (Central Act LVIII of 1948) |
| 21. | Feed Mixing & Manufacturing  |
| 22. | Fire and Match Works   |
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- |     |   |
|-----|---|
| 23. | Fisheries & Prawns Manufacturing including Nursery, Processing, Packing and other incidental activities     |
| 24. | Flour mills, oil mills, dall mills and rice mills   |
| 25. | Folding textiles goods.   |
| 26. | Food products including biscuits and confectioneries and other foods items including food material packing. |
| 27. | Gardening, parks maintenance  |
| 28. | Glass manufacturing and other allied activities   |
| 29. | Gold and silver articles manufacturing  |
| 30. | hostels   |
| 31. | Hotels and Restaurants  |
| 32. | Incense sticks manufacturing (agarbathi)  |
| 33. | Jute & Coir Industry  |
| 34. | Manufacture of packing materials  |
| 35. | Mines (other than those covered under mines act 1952 (Act 35 of 1952)                                       |
| 36. | Packing   |
| 37. | Petrol & Diesel bunks, automobile air filling tyres & tubes   |
-

repairing
38. Plantation (other than those covered under plantation labour Act 1951 (Act No. 69 of 1951)
39. Plastic Industry
40. Pottery works
41. Power loom industry
42. Printing presses
43. Private & public transport
44. Private Hospitals, Nursing Homes and Clinics.
45. Private Security services
46. Professionals like chartered accountants, auditors, attorneys, advocates, tax consultants etc.
47. Sago industry
48. Salt pans
49. Shops & Establishments
50. Slate manufacturing
51. Small scale industries
52. Societies
53. Steel mills including re-rolling
54. Sweeper & scavengers
55. T.V. Production, transmission, cable connection and other allied activities (other than Doordarshan)
56. Tanneries and leather manufacturing
57. Tanneries Footwear and leather goods manufacturing
58. Timber industry
59. Tin containers manufacturing
60. Tobacco processing
61. Vessels manufacturing
62. Wood working units

**B. Categories of employments where employer- employee relationship is not exclusive (including casual, temporary and contract workers)**

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1. Building or other construction work.
  2. Coconut tree climbing, disembarking, peeling, stacking, packing loading & unloading and other works connected with tire coconut industry.
  3. Loading of goods into public transport vehicles or unloading of goods there from and any other operation incidental & connected thereto.
  4. Loading, unloading and carrying of food-grains into godowns, sorting and cleaning of food-grains in bags stitching of such bags and such other work incidental and connected thereto.
  5. Loading, unloading, stacking, packing, carrying, weighing, measuring or such other manual work including work preparatory or incidental to such operations.
- 
- 5( In any market or shop or depot or factory or ware house or go down or any a) other establishments.
- 
- 5( In docks not being employment of a dock worker within the meaning of b) dock worker (Regulation of employment) Act 1948 (Central Act IX of 1948).
- 
- 5( In railway yards parcel offices and goods sheds of manual workers who c) are not employed by railway authorities.
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- In any market under the control of market committees.
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**(A) C. CATEGORIES OF EMPLOYMENTS, WHERE WORKERS ARE ENGAGED IN SELF-EMPLOYMENT:**

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1. Appadam manufacturing and pickle making
  2. Basket making, mat making, bamboo and cane works
  3. Blacksmith
  4. Boat making
  5. Carpentry
  6. Collection of forest products
  7. Bullock-cart driving
  8. Cooking food
  9. Door delivery of news papers
  10. Driving auto rickshaws and taxi
-

11. Driving cycle rickshaws
12. Fishing industry
13. Gunny industry
14. Hairdressing & beauty parlour.
15. Handicrafts & toy making
16. Handlooms & handlooms silk
17. Juices & Fruit Shops
18. Kirana & General Stores
19. Laundries & Washing clothes
20. Neera tapping
21. Nib-making
22. Plumbing, sanitary & electrical works
23. Rag picking & waste paper collections
24. Scooter, cycles & cycle rickshaw repairing
25. Scrap collection
26. Slaughter houses, mutton & chicken shops
27. Stone breaking or stones crushing
28. Street vending
29. Synthetic Gem cutting
30. Tailoring and embroidery
31. Toddy tapping
32. Tree climbing
33. Tribal labour
34. Vegetable shops

**(I) D. CATEGORY OF EMPLOYMENTS IN AGRICULTURE AND ALLIED ACTIVITIES**

1. Agriculture	5. Floriculture	9. Forestry
2. Poultry	6. Sericulture	10. Timbering
3. Hatcheries	7. Plantation	11. Nurseries
4. Piggery	8. Gardens	

## (II) E. CATEGORY OF EMPLOYMENTS IN DOMESTIC SECTOR

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1. Cooking	3. Nursing of sick and disabled	5. Errand boys
2. Washing of clothes, cleaning and sweeping	4. Personal car drivers	6. Baby sitting

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