

INDUSTRIAL RELATIONS AND LABOUR WELFARE

UNIT-I

Meaning

The relationship between the employers and employees and trade unions is called Industrial Relations. Harmonious relationship is necessary for both the employers and employees to safeguard the interests of both the parties of production.

Definitions: Industrial relations have been defined by some of the thinkers as follows:-

1. "Industrial relations and personnel management are almost synonymous terms with the only difference the former places emphasis on the aspect of employer relationship rather than on the executive policies and activities that are set up to foster good relations." - E.F.L. Brec

2. "Industrial relations is that part of management which is concerned with the man power of the enterprise- *whether machine operator, skilled worker or manager*". - Lethel,

3. "Industrial relationship is the composite result of the attitudes and approaches the employers and employees towards each other with regard to planning, supervision, direction and co-ordination of the activities of an organization with a minimum of human efforts and friction, with an animating spirit of co-operation and with proper regard for the genuine well-being of all the members of the organization." - Tead and Matcal

It is clear from the analysis of the above definitions that employment relations are generally called industrial relations. It is a relationship between employer and employees, employer and employee and trade unions and employees.

INDUSTRIAL RELATION IN PUBLIC SECTOR

The entry of public sector in the economic sphere is post-independence development. Prior to 1947, public sector investment was limited to the railways, posts and telegraphs department, the ordnance factories, and a few State-managed factories like salt manufacturing, etc. The philosophy and programme of public sector undertakings are incorporated into the Industrial Policy Resolutions of 1947 and 1956. The Industrial Policy Resolution of 1947 declared that "a dynamic national policy must be directed to a continuous increase in production by all possible means, side by side with measures to secure its equitable distribution. The problem of State participation in industry and the condition in which private enterprise should be allowed to operate must be judged in this context". Consequently, expansion in public sector began to take after this period.

CODES OF CONDUCT

PURPOSE

This "Code of Conduct and Work Ethics Policy" (the "Policy") has been formulated in order to foster and maintain Employee trust and confidence in the professionalism and the integrity of the Employees of the Company by ensuring that all Employees adhere to appropriate

standards of conduct as set out in this Policy, that maintains and enhances the reputation of the Company.

This Policy aims to provide guidance to all Employees of the Company on how and in which manner should the conduct of Employees be when they are undertaking business on behalf of the Company.

The circumstances of conducts as set out below in this Policy, although not exhaustive, are intended to cover those situations, which are most likely perceived to be encountered by Employees. In case any Employee

encounters any circumstance which is not covered hereunder or in case of any doubt, Employees should seek guidance from the Reporting Manager/ Reviewing Manager and/or from the Human Resource Department and

act accordingly. A breach of the Policy may result in disciplinary action against the Employee concerned including, potential dismissal or termination of employment or any other legal action as may available with the Company or all of the above together.

COVERAGE

This Policy applies to all the Employees of the Company. Employee shall mean all individuals on full-time or part-time employment with the Company, with permanent, probationary, trainee, retainer, temporary or

contractual appointment. The Company also expects its managers to lead by example and perform their duties in accordance with this Policy and ensure that the content of this Policy are communicated to all persons reporting to them. If a business location or region has policies, practices, laws or regulations that require more than what is stated in this Policy,

then the Employees must follow this policy as a minimum and comply with such policies, practices, laws, or regulations in that particular region/ country; Business units and locations are responsible for ensuring that their location specific policies and practices are consistent and in compliance with this Policy. The Company's reputation and credibility are based upon its total commitment to ethical business practices and also on ethical conduct of its Employees. To safeguard the Company's reputation, Employees must conduct themselves in accordance with the highest ethical standards and also be perceived to be acting ethically at all times. Compliance with all policies of the Company, relevant applicable laws and regulations is the minimum standard which should be adhered to by all the Employees all the times.

CLAUSES COVERED UNDER THE POLICY

Professionalism

The personal and professional behaviour of Employees shall confirm to the standards expected of persons in their positions, which includes:

- A commitment to and adherence to professional standards in their work and in their interactions with other Employees of the Company;
- A commitment to maintaining the highest standards of integrity and honesty in their work;
- An adherence to ethical and legal standards to be maintained in business;
- A responsibility to support the Company in its efforts to create an open and mutually supportive environment;
- A responsibility to share information and give willing assistance in furthering the goals and objectives of the Company; and
- A responsibility to ensure that there is no misrepresentation of facts. Wherever a misunderstanding is thought to have taken place through unclear communications, this should be corrected promptly.

Conflict of Interest

- Each Employee is expected to avoid situations in which his or her financial or other personal interests or dealings are, or may be, in conflict with the interests of the Company. Accordingly, the Company expects its Employees to act in the Company's interest at all times.
- Employees are advised not to engage in any other business, commercial or investment activity that may Conflict with their ability to perform their duties to the Company.
- Employees must also not engage in any other Activity (cultural, political, recreational, and social) which could reasonably conflict with the Company's interests and interfere with the performance of their duties.
- Employees must not use any Company's property, information or position, or opportunities arising from these for personal gains or to compete with or to tarnish the image of the Company.
- Employees should not engage in any business activity, which could be detrimental to, or in competition with,
- the Company's any business activities.
- All Employees must avoid situations in which their personal interest could conflict with the interest of the Company. If, under any circumstance, Employees' personal interests conflict with those of the Company's', in all
- such cases the Employee must seek advice from his or her reporting/ reviewing manager or from senior management. For avoidance of doubt, mere financial portfolio investments shall not be considered as activities that conflict with the business of the Company.

Confidentiality of Information

As a result of employment with the Company, Employees may be entrusted with confidential information; with regard to the Company and/or its affiliates, its customers and suppliers. Upon joining, Employees are required to separately read, acknowledge and sign the 'Confidentiality Agreement' that shall explicitly mention the terms and conditions of the confidentiality obligation and treatment of confidential information and intellectual property of the Company.

Integrity of Financial Information

Shareholders, management and other interested parties must have complete and accurate financial information in order to make informed decisions. Many Employees participate in accounting processes that directly impact the integrity of external financial statements and internal management reports.

All such Employees have a responsibility to ensure that all transactions are recorded in Company's accounts accurately and promptly and they must immediately report any known inaccuracies. Misrepresentations by Employees that result from intentional acts that may conceal or obscure the true nature of a business transaction are clear contraventions of this Policy.

Protection and Use of Company Property

All Employees of the Company are responsible for protecting and taking reasonable steps to prevent the theft or misuse of, or damage to Company's assets, including all kinds of physical assets, movable, immovable and tangible property, corporate information and intellectual property such as inventions, copyrights, patents, trademarks and technology and intellectual property used in carrying out their responsibilities.

All Employees must use all equipments, tools, materials, supplies, and Employee time only for Company's legitimate business interests. Company's property must not be borrowed,

loaned, or disposed of, except in accordance with appropriate Company's policies. All Employees must use and maintain Company's property and resources efficiently and with due care and diligence.

Acceptance of Gifts and Other Benefits

Employees should not give or accept gifts, entertainment, or any other personal benefit or privilege that would in any way influence or appear to influence any business decision. Accepting money, gifts, entertainment, loans or any other benefit or preferential treatment from any existing or potential customer, supplier or business associate of the Company, is strictly prohibited, except occasional gifts of modest value and entertainment on a modest scale as part of customary business practice. As a general principle, gifts of minor estimated value (e.g. pens, golf balls, desk diaries) are acceptable. Where the estimated value of the gift is considered to be over Rs.2500, such gift should be declined. All other prospective offers of gifts or entertainment falling outside the foregoing guideline, but which reflect customary and transparent business practice in a particular market, may be accepted. However, in case of doubts, the Employee must refer the case to his/her reporting manager and/or the relevant business unit head who will decide on the action to be taken. It is unacceptable to directly or indirectly offer, pay, solicit or accept any kind of inducements or bribes. Any attempted transaction of this nature should be immediately reported to the Reporting Manager/ Business Unit Head or the HR Department. The funds and resources of the Company shall not be used directly or indirectly for any such purpose.

Whole Time and Attention

All Employees shall devote their time and their best efforts to promote the Company's business and may not without the prior written consent of the Company (and subject to any terms and conditions as may be imposed by the Company) engage or be interested in (whether directly or indirectly) in any other business, employment or vocation for pecuniary gain.

Harassment

The Company is committed to provide a work environment that is free of inappropriate behavior of all kinds and harassment on account of age, physical disability, marital status, race, religion, caste, sex, sexual orientation or gender identity. Employees are responsible for supporting the Company in its endeavour to protect others from any form of such harassments. In the course of business conduct of any Employee, wherever harassment occurs to any such Employee as a result of an act or omission by any third party or outsider, the Company shall take all steps necessary and reasonable to assist such affected Employee in terms of support and preventive action. This is separately detailed in the ***“Prevention of Workplace Harassment Policy”***.

Alcohol & Substance Abuse

The use or possession of alcohol, illegal drugs, and other controlled substances in the workplace and being under the influence of these substances on the job and during working hours is strictly prohibited. However, possession of prescription medication for medical treatment is permitted. There may be company-sponsored events where management approves the serving of alcoholic beverages. In these cases, all appropriate liquor laws must be followed, including laws regarding the prohibition of serving of alcohol to those under the legally permissible age. However, under all such cases, excessive drinking, intoxication and misbehavior at these events is prohibited and will be dealt with severely.

Fraud

Fraud — or the act or intent to cheat, trick, steal, deceive, or lie — is both dishonest and, in most cases, criminal. Intentional acts of fraud are subject to strict disciplinary action, including dismissal and possible civil and/or criminal action against the concerned Employee.

Some examples of Fraud include:

- Submitting false expense reports;
- Forging or altering checks;
- Misappropriating assets or misusing Company's property;
- Unauthorized handling or reporting of transactions;
- Inflating sales numbers by shipping inventory known to be defective or non-conforming;
- Making any entry on Company records or financial statements that is not accurate and in accordance with proper accounting standards

Compliance with Laws and Agreements

All Employees shall conduct business in compliance with all applicable laws and regulations of the particular District, State or Country.

Health, Safety and Environment

All Employees shall comply with the company health and safety norms as communicated to them from time to time. Employees shall bring to the management's attention any workplace safety or health hazard.

MISCONDUCT AND NON-CONFORMANCE WITH THE POLICY

Non-observance of this Policy shall be construed as misconduct that could warrant disciplinary action, including dismissal in deserving cases. The decision in this regard will lie with the Management, including the Business Unit Head and concerned HR Manager and shall be binding on the Employees.

EXCEPTIONS

Any exceptions to the norms laid down in this Policy may be at the discretion of the Chairman/ Managing

Director or any appropriate authority delegated by them.

CONTACT

All queries and clarifications on the policy and procedures may be referred to the HR-Office

ACCOUNTABILITY

It is a condition of an appointment and/ or employment that all Employees must understand and adhere to

UNIT - II

Industrial Disputes

An industrial dispute may be defined as a conflict or difference of opinion between management and workers on the terms of employment. It is a disagreement between an employer and employees' representative; usually a trade union, over pay and other working conditions and can result in industrial actions. When an industrial dispute occurs, both the parties, that is the management and the workmen, try to pressurize each other. The management may resort to lockouts while the workers may resort to strikes, picketing or gheraos.

As per Section 2(k) of Industrial Disputes Act, 1947, an industrial dispute is defined as any dispute or difference between employers and employees, or between

employers and workmen, or between workmen and which is connected with the employment or non-employment or the terms of employment or with the conditions of labor, of any person.

This definition includes all the aspects of a dispute. It, not only includes the disagreement between employees and employers, but also emphasizes the difference of opinion between worker and worker. The disputes generally arise on account of poor wage structure or poor working conditions. This disagreement or difference could be on any matter concerning the workers individually or collectively. It must be connected with employment or non-employment or with the conditions of labor.

From the point of view of the employer, an industrial dispute resulting in stoppage of work means a stoppage of production. This results in increase in the average cost of production since fixed expenses continue to be incurred. It also leads to a fall in sales and the rate of turnover, leading to a fall in profits. The employer may also be liable to compensate his customers with whom he may have contracted for regular supply. Apart from the immediate economic effects, loss of prestige and credit, alienation of the labor force, and other non-economic, psychological and social consequences may also arise. Loss due to destruction of property, personal injury and physical intimidation or inconvenience also arises.

For the employee, an industrial dispute entails loss of income. The regular income by way of wages and allowance ceases, and great hardship may be caused to the worker and his family. Employees also suffer from personal injury if they indulge into strikes and picketing; and the psychological and physical consequences of forced idleness. The threat of loss of employment in case of failure to settle the dispute advantageously, or the threat of reprisal action by employers also exists.

Prolonged stoppages of work have also an adverse effect on the national productivity, national income. They cause wastage of national resources. Hatred may be generated resulting in political unrest and disrupting amicable social/industrial relations or community attitudes.

Strike

A strike is a very powerful weapon used by trade unions and other labor associations to get their demands accepted. It generally involves quitting of work by a group of workers for the purpose of bringing the pressure on their employer so that their demands get accepted. When workers collectively cease to work in a particular industry, they are said to be on strike.

According to Industrial Disputes Act 1947, a strike is “a cessation of work by a body of persons employed in an industry acting in combination; or a concerted refusal of any number of persons who are or have been so employed to continue to work or to accept employment; or a refusal under a common understanding of any number of such persons to continue to work or to accept employment”. This definition throws light on a few aspects of a strike. Firstly, a strike is referred to as stoppage of work by a group of workers employed in a particular industry. Secondly, it also includes the refusal of a number of employees to continue work under their employer.

In a strike, a group of workers agree to stop working to protest against something they think is unfair where they work. Labors withhold their services in order to pressurize their employment or government to meet their demands. Demands made by strikers can range from asking for higher wages or better benefits to seeking changes in the workplace environment. Strikes sometimes occur so that employers listen more carefully to the workers and address their problems.

Causes of strikes:

Strikes can occur because of the following reasons:

- Dissatisfaction with company policy
- Salary and incentive problems
- Increment not up to the mark
- Wrongful discharge or dismissal of workmen
- Withdrawal of any concession or privilege

- Hours of work and rest intervals

- Leaves with wages and holidays

- Bonus, profit sharing, Provident fund and gratuity

- Retrenchment of workmen and closure of establishment

- Dispute connected with minimum wages

TYPES OF STRIKE

1. **Economic Strike:** Under this type of strike, labors stop their work to enforce their economic demands such as wages and bonus. In these kinds of strikes, workers ask for increase in wages, allowances like traveling allowance, house rent allowance, dearness allowance, bonus and other facilities such as increase in privilege leave and casual leave.
2. **Sympathetic Strike:** When workers of one unit or industry go on strike in sympathy with workers of another unit or industry who are already on strike, it is called a sympathetic strike. The members of other unions involve themselves in a strike to support or express their sympathy with the members of unions who are on strike in other undertakings. The workers of sugar industry may go on strike in sympathy with their fellow workers of the textile industry who may already be on strike.
3. **General Strike:** It means a strike by members of all or most of the unions in a region or an industry. It may be a strike of all the workers in a particular region of industry to force demands common to all the workers. These strikes are usually intended to create political pressure on the ruling government, rather than on any one employer. It may also be an extension of the sympathetic strike to express generalized protest by the workers.
4. **Sit down Strike:** In this case, workers do not absent themselves from their place of work when they are on strike. They keep control over production facilities. But do not work. Such a strike is also known as 'pen down' or 'tool down' strike. Workers show up to their place of employment, but they refuse to work. They also refuse to leave, which makes it very difficult for employer to defy the union and take the workers' places. In June 1998, all the Municipal Corporation employees in Punjab observed a pen down strike to protest against the non-acceptance of their demands by the state government.

5. **Slow Down Strike:** Employees remain on their jobs under this type of strike. They do not stop work, but restrict the rate of output in an organized manner. They adopt go-slow tactics to put pressure on the employers.
6. **Sick-out (or sick-in):** In this strike, all or a significant number of union members call in sick on the same day. They don't break any rules, because they just use their sick leave that was allotted to them on the same day. However, the sudden loss of so many employees all on one day can show the employer just what it would be like if they really went on strike.
7. **Wild cat strikes:** These strikes are conducted by workers or employees without the authority and consent of unions. In 2004, a significant number of advocated went on wildcat strike at the City Civil Court premises in Bangalore. They were protesting against some remarks allegedly made against them by an Assistant Commissioner.

ARBITRATION

Arbitration, a form of alternative dispute resolution (ADR), is a legal technique for the resolution of disputes outside the courts, where the parties to a dispute refer it to one or more persons (the "arbitrators", "arbiters" or "arbitral tribunal"), by whose decision they agree to be bound. It is a settlement technique in which a third party reviews the case and imposes a decision that is legally binding for both sides. Other forms of ADR include mediation¹ (a form of settlement negotiation facilitated by a neutral third party) and non-binding resolution by experts. Arbitration is often used for the resolution of commercial disputes, particularly in the context of international commercial transactions. The use of arbitration is also frequently employed in consumer and employment matters, where arbitration may be mandated by the terms of employment or commercial contracts.

Arbitration can be either voluntary or mandatory (although mandatory arbitration can only come from a statute or from a contract that is voluntarily entered into, where the parties agree to hold all disputes to arbitration, without knowing, specifically, what disputes will ever occur) and can be either binding or non-binding. Non-binding arbitration is, on the surface, similar to mediation. However, the principal distinction is that whereas a mediator will try to help the parties find a middle ground on which to compromise, the (non-binding) arbitrator remains totally removed from the settlement process and will only give a determination of liability and, if appropriate, an indication of the quantum of damages payable.

Arbitration

Arbitration (sometimes called "Adjudication"), is a private, trial-like process that can be commenced by any two or more parties who agree to arbitrate — either under a contract, by legislation, or by simple written agreement. A properly designed, well managed arbitration process can be completed quickly and is a highly efficient means of resolving many types of dispute.

The Arbitrator is usually an expert in the area of the dispute, eg: an accountant for a

financial/commercial dispute; a doctor for a medical dispute etc. If the issues are mainly legal in nature, the Arbitrator may be a legal expert, eg: a solicitor, barrister or even a retired judge.

All properly qualified arbitrators have been trained and tested in both law and arbitration process, in addition to their own professional/technical training. Experienced arbitrators can therefore deal very efficiently with both difficult legal and technical issues.

The main advantage of appointing an Arbitrator to determine a technical dispute lies in their dual qualification in law and their own discipline. This substantially reduces the time otherwise required to educate the Arbitrator in the technicalities of the dispute.

In large cases a panel of (usually) three Arbitrators may be appointed to cover all likely technical and legal aspects of the dispute (eg: engineer + lawyer + accountant). Each arbitrator is briefed to take the lead in their respective areas of technical expertise.

Arbitrations are conducted under the Commercial Arbitration Acts. The Acts give Arbitrators most of the power and authority of Supreme Court judges. The Acts encourage Arbitrators to use this power to make the process quick, fair, pragmatic, tightly managed and, above all, cost-effective.

The Arbitration Process

In effect, an Arbitrator is appointed to be a “private judge”, and is required to manage a confidential, “private trial”.

The process is adversarial, like conventional litigation, although the parties and the Arbitrator can determine the degree of formality required. This decision should be based on trying to achieve the most time and cost-efficient process, above all other considerations. Inevitably, the more formal the process, the lengthier and more expensive it becomes.

Depending on the issues and the parties, the whole process can be based solely on documents. However, most arbitrations involve hearings where, under the watchful eye and control of the Arbitrator, the parties have an opportunity to present and promote their arguments and to have them tested by their opponents.

After all information and arguments have been presented and tested, the Arbitrator evaluates everything he or she has heard or seen and produces a written decision, called the "award". The award is legally binding on the parties and is enforceable through the courts, like a court judgment. It provides finality because it can only be appealed, directly to Court, on very restricted grounds - and even these can be excluded by agreement!

Benefits of Arbitration

Well-managed arbitrations can deal efficiently with a vast range of disputes. Small, non-complex disputes can usually be resolved within weeks, while even the largest and most complex disputes should only require a few months to resolve – an attractive proposition compared to the years such disputes take in the courts.

Well-managed arbitrations are much cheaper and quicker than conventional litigation. Parties are generally more satisfied with the outcomes as they are more involved in the process and gain a better understanding of what is happening.

Confidentiality is another advantage of this process - both the problem and its solution remain

confidential - often a critical factor in sensitive commercial and family business disputes.

Dispute Resolution is an essential component of human civilisation. The State is the ultimate Arbitrator of any dispute between the parties. However, several Alternative Dispute Resolutions have grown up over the period. In India, the Village Panchayats have acted as one of the Dispute Resolution Mechanisms. The disputants were given the choice to choose their own elders either one or two or more depending on the agreement between the parties and each arbitrator chosen by the parties to find amicable settlement without jeopardizing the legitimate rights of the party on behalf of whom, he is acting as Arbitrator. It is also not uncommon that the elders chosen by both the parties chose another person to head the Panchas. This traditional mechanism is still available in our villages throughout the country and exercises considerable influence in many social and other questions.

Side by side we have the State Courts sanctioned under the authority of Legislative enactments including the Constitutional Courts. These courts have a fixed place with a set of procedures already laid down in the form of Acts and Rules and the mechanism of providing appeals, revision, review of the judgments of the courts either by the same or by the superior courts. The decision rendered by the courts by following the set of procedures is binding on the parties and the same can be executed.

The contrast between the State Courts and the traditional Village Panchayats is obvious. One is fixed by the law and the other is fixed by the agreement between the parties.

The practice of Arbitration and Conciliation provides mechanism that is similar to the practices in our traditional village system, but, however, given the sanction of law. The Arbitration and Conciliation Act, 1996 is going more approximate to the traditional system giving more liberty to the parties to choose their own procedures and Arbitrators. This Act was passed by the Parliament to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards. Further it also defines the law relating to conciliation process

Now the people are looking forward more interested in developing Alternative Dispute Resolution Mechanisms (ADRM) subject to the law laid down under the Arbitration and Conciliation Act, 1996, which will provide an effective mechanism for minimising the overall time and cost of a person, while maximising the time available at one's disposal to be utilised in a more productive manner and thereby maximising one's utility and profit while maintaining good relations, even among the disputant parties. It would also promote honesty, truthfulness, transparency and morality in social life.

Since every person's time has value in social life and the value is again measured in terms of either utility or in money, a person, who is capable of producing a most socially useful product or service with appropriate skill or specialisation, his time is more valuable than a person, who has no such skill or specialisation. This is also applicable in case of a company or an Institution. If such individuals or company are locked up in any dispute, the same will result in wasting of their time in an unproductive arena by diverting their mental and physical faculties from other than their own useful purposes or faculties. The time that is wasted in this manner is nothing but wasting more of the social energies in the wasteful expenditure which does not contribute to the wealth of the country. Any effort in reduction in wastage of one's time in mundane and unproductive litigation is definitely a contributing factor for the efficiency and growth of an individual and the State. But the present court system with no

choice left to the parties over the control of its procedure or its time or its judges has an inherent tendency to promote this wasteful expenditure from the point of view of an individual and the State as a whole and any step taken in the direction to provide Alternative Dispute Resolution, which has the capacity to reduce wasteful time and expenditure, will have its effect in increasing the time available with an individual or institution to use it for socially useful product or service, thereby enhancing the productivity and efficiency of an individual or institution in the market place.

The need for searching for such type of Alternative Dispute Resolution has become more urgent to our people in view of the opening of the flood gates of our borders to the global competition and any laxity in finding ways and means in reducing the wasteful time and expenditure in unproductive and time consuming litigation in the courts will be only contributing to our incompetence in the sense that our cost price of any product or service will not be matching to the International or global price structures and our maneuverability of price suited to the market environment will be at a stake. Hence, we have fine tune the existing Alternative Dispute Resolution mechanisms, so as to provide better channels to the people to resolve their disputes without resorting to the traditional court justice delivery systems and therefore utilise the opportunities to establish Arbitration institutions as contemplated under the Arbitration and Conciliation Act, 1996.

In fact it is not out of place to recollect that the conference of the Chief Ministers and the Chief Justices of High Courts of States held in New Delhi on 4th December, 1993 under the Chairmanship of the then Prime Minister of India and presided over by the then Chief Justice of India, adopted a resolution to the effect that "courts were not in a position to bear the entire burden of justice system and that a number of disputes lent themselves to resolution by alternative modes such as arbitration, mediation and negotiation". They emphasized the desirability of disputants taking advantage of alternative dispute resolution which provides procedural flexibility, saves valuable time and money and avoids the stress of a conventional trial.

The usefulness and the advantages of the Arbitration and Conciliation methods over the justice delivery system through the traditional statutory and constitutional courts are evident from the following table: -

	Court	Arbitration	Conciliation
Choice of Judges	No	Yes	Yes
Choice of place/venue	No (fixed)	Yes	Yes
Choice over procedure	No (fixed)	Yes	Yes
Control over time	No	Yes	Yes

Predictability	Largely Predictable	Totally unpredictable	Predictable
Technical pleas	Full play	Very restricted	Nil
Unending litigation through remedies	Yes	Restricted	Nil
Control over proceedings	No control	Yes	Full control
Binding nature of the decisions	binding as decree	binding as decree	binding as decree

From the above table we find that the advantages of Alternative Dispute Resolution Mechanisms through Arbitration and Conciliation procedures have more advantageous features with equally efficacious results than the court system from the point of view of control over the proceedings, binding nature of orders, predictability and the efficacy in its social relations.

Another advantage of the Arbitration and Conciliation procedure is its confidentiality in respect of trade secrets, family reputations and other such factors. It has the advantage of transparency between the parties and bringing about a voluntary settlement, compromise and mutual sacrifice for the purpose of maintaining good social relations. It has also the advantage of choosing one's own arbitrator of choice fulfilling the mutual agreed criteria laid down by the parties and the said selection of the arbitrators can be either through the procedure of a voluntary choice or by random method drawn from among the data - base of number of arbitrators panels maintained by the institution. This will reduce the complaints of bias, impartiality or impropriety and will enhance the confidence of the parties in the decision making process. The parties also have the choice over the technology to be used in the arbitration process for preserving the records by use of electronic and other traditional means.

The foregoing brief statement of the prevailing state of affairs relating to administration of justice by the Courts and the inherent lacunae in the system shows that it is fraught with many disadvantages. Comparatively the process of Arbitration and Conciliation employed by the parties has many advantages over the traditional justice delivery system. The ADR mechanism which can be adopted right from the village level upto the global level is more informal, convenient, expeditious and economical in contradistinction with the rigid, technical, time consuming, inconvenient and costly court justice system. If the present global trend is an indication, the people will have to resort to Arbitration and Conciliation procedures as means of dispute settlement through Arbitration Institutions permitted under the Act of 1996. Another advantage of such ADR mechanism would be that it virtually embraces all the branches of Law including Matrimonial services, Contractual, Corporate, Tortuous, and even criminal jurisdictions not touching the offences of serious nature.

We conclude that all disputes other than the disputes where substantial question of Law touching upon the constitutional, statutory or other doctrinal interpretations should be encouraged to be settled through Alternative Dispute Resolution Mechanisms and this will go a long way in resolving many of the long pending maladies affecting the administration of justice in our Country.

State intervention in industrial relations is essentially a modern development . With the emergence of the concept of welfare state, new ideas of social philosophy, national economy and social justice sprang up with result that industrial relation no longer remains the concern of labour and management alone. Many countries realized that for general progress to be assured, economic progress was a must. In no country is a complete laissez faire attitude now adopted in the matter of labour management relations.

In all the countries, over a period of time, the state has assumed power to regulate industrial relations. It is the state The distinct role that state performs are broadly, categorized by him as five. Firstly, it acts as a third party regulator promoting a legal framework which establishes general ground rules for union-management inter-action, particularly in the procedure for collective bargaining . Secondly, and additionally, as a means of supporting

and underpinning collective bargaining or as a supplement to it the law can be used establish minimum standards while collective bargaining exploits particular advantages to secure higher standards whenever it can. The third well established function in many countries is the provision of state service for conciliation, mediation and arbitration with a view to facilitating the settlement of industrial disputes. A fourth aspect of the role of the state that has become increasingly important is that of a direct and primary participation as a major employer in the public sector. In this respect, it influences the pattern of industrial relations by its own behaviour and example. A fifth role that the state has come to play in many countries is that of a regulator of incomes. As a result, direct and active state involvement in the industrial relations has become much more pronounced in recent years.

The concern of state in matters relating to labour is product of its obligations to protect the interest of industrial community, while at the same time fostering economic growth in almost all countries. State has assumed powers to regulate labour relations in some degree or the other. In some, it has taken the form of laying down bare rules or observance by employers and workers; in others, the rules cover a wider area of these rules⁶. So far as our country is concerned, State intervention in labour matter can be traced back to the enactment of the Employers and Workmen's Disputes Act 1860 which provided for the speedy disposal of the dispute relating to the wages of workmen engaged in railways, canals and other public works, by Magistrates. After World War-1 however, State intervention in Dispute Resolution became more systematic and effective.

The Trade Dispute Act was passed providing for constituting courts of Inquiry and Conciliation Boards and forbidding strikes in public utility services without notice. The Act 1920 was replaced by the Trade Dispute Act 1929 incorporating provisions relating to general strikes as well. Thereafter Bombay Trade Dispute (Conciliation) Act 1934 was passed providing for permanent cadre for conciliators in selected industries. In the Year 1938, Trade Dispute Act 1929 was amended authorizing Central and Provincial Govts. to appoint Conciliation Officers. In the same year, Bombay Industrial Dispute Act 1938 was passed providing for setting up of an industrial Court and prohibiting strikes and lockouts under certain conditions. Thereafter, during the emergency caused by World War II, under Rule 81A of the Defence of India Rules, power was given to the appropriate Govt. to appoint industrial tribunals and enforce the awards passed by them.

Later on Bombay Industrial Disputes Act was replaced by the Bombay Industrial Relations Act 1946. Little later in the year 1947, the Industrial Dispute Act 1947 (here after referred as the Act) was passed providing for appointing /constituting conciliation officers, boards of conciliation, courts of inquiry and industrial tribunals.

The Act was amended in the year 1956 providing for constituting labour courts and national industrial tribunals. The subject labour having been in the concurrent list of the Constitution of India, both the centre and states have the power to legislate on labour matters. Several states have amended the Central Act 1947 so as to suit to them while others have enacted their own Acts.

The main object of the enactment of the Act is to ensure social justice to both the employees and employers and advance the progress of industry by bringing about the existence of harmony and cordial relationship between the parties so as to bring about industrial peace which would accelerate procedure activity of the country. The Act provides for prevention and settlement of industrial disputes. Industry means a business (as a merchant), a trade (as a

culter), a manufacture (as a flour mill), an undertaking (as a gas company), a calling as a engineer, or service (as a carrier) or an employment (a general term like calling embracing some of the others; and intended to extend to vocations which might not be comprised in any of the rest),

There are two types of Industrial Disputes-interest disputes and rights disputes. Interest disputes relate to determination of new wage level and other condition of employment while rights disputes on the other hand relate to interpretation and application of existing standards and usually involve an individual worker or group of workers. Under category of rights disputes, claim is made that the workmen have not been treated in accordance with the rules, individual contracts of employment, laws and regulations and as per collective agreements. Such disputes are also described as grievance disputes. Such grievances may be regarding retrenchment, dismissal, payment of wages, working time, overtime, demotion, promotion, transfer, seniority, job classification, work rules and fulfillment of obligation relating to safety and health laid down in an agreement. The definition of Industrial Dispute as given in the Act has a wide coverage. All disputes relating to employment or non-employment, or the terms of employment or with the condition of labour are covered under the definition. Settlement means a settlement arrived at in the course of conciliation proceeding and included a written agreement between employer and workmen arrived at otherwise than in course conciliation proceeding where such agreement has been signed by the parties there to in such manner as may be prescribed and a copy thereof has been sent to the officer authorized in this behalf by the appropriate government and the conciliation officer.¹¹The definition envisage two categories of settlement.

- (1) Settlement arrived at in the course of conciliation and
- (2) Settlement arrived at privately or otherwise than in the course of conciliation.

The settlement arrived at in the course of conciliation stand on a higher plane than the settlements arrived at otherwise than in the course of conciliation. The legal effect of both these settlements is not identical. The settlement arrived at otherwise than in the course conciliation binds only the parties to settlement and none else. In any case it does not stand on higher plane than the settlements arrived at in the conciliation and that makes the two distinct and different from each other.

Procedures for settling labour dispute: Collective Bargaining, Negotiation, Conciliation and Mediation, Arbitration and Adjudication are well known methods for settlement of industrial disputes.

Collective Bargaining :- Collective Bargaining is a technique by which dispute as to conditions of employment, are resolved amicably, by agreement, rather than by coercion. The dispute is settled peacefully and voluntarily, although reluctantly, between labour and management.¹² In the context of present day egalitarian society, with its fast changing social norms, a concept like 'collective bargaining' is not capable of a precise definition. The content and Scope collective bargaining also varies from country to country. Broadly Speaking Collective bargaining is a process of bargaining between employers and workers, by which they settle their disputes relating to employment or non-employment, terms of employment or conditions of the labour of the workman, among themselves, on the strength of the sanctions available to each side.¹³ Occasionally, such bargaining results in an amicable settlement, arrived at voluntarily and peacefully, between the parties. But quite often, the workers and employers have to apply sanctions by resorting to weapons of strike

and lockouts, to pressurize one another, which makes both the sides aware of the strength of one another and that finally forces each of them to arrive at a settlement in mutual interest. It is thus the respective strength of the parties which determine the issue, rather than the words which are largely put on for show, as an element of strength in one party is by the same token, an element of weakness in another.¹⁴ The final outcome of bargaining may also depend upon the art, skill and dexterity of displaying the strength by the representatives of one party to the other.

Negotiation: Negotiation is one of the principal means of settling labour disputes. However, due to lack of trust between the employers and workmen or their trade unions or inter-rivalry of the trade unions and the employers being in a commanding position, many a time negotiations fail. Through Amendment in the Act by Act 46 of 1982 Chapter II B providing for reference of certain individual disputes to Grievance Settlement Authority has been inserted in the Act. Under this Chapter, section 9 C has made it obligatory for the employers to make provision for Grievance Settlement Authority for settlement of industrial disputes connected with an individual workman employed in an establishment in which fifty or more workmen are employed or have been employed on any day. In the preceding twelve months. This amendment however even in spite of having been made twenty one years back has not seen the light of the day.

Conciliation & Mediation: Through conciliation and mediation a third party provides assistance with a view to help the parties to reach an agreement. The conciliator brings the rival parties together discuss with them their differences and assist them in finding out solution to their problems. Mediator on the other hand is more actively involved while assisting the parties to find an amicable settlement. Sometimes he submits his own proposals for settlement of their disputes.

Conciliation may be voluntary or compulsory. It is voluntary if the parties are free to make use of the same, while it is compulsory when the parties have to participate irrespective of whether they desire to do so or not. Section 4 of the Act provides for appointment for conciliation officers and Section 5 for constitution of Boards of Conciliation. The Board of conciliation is to consist of an independent Chairman and two or four members representing the parties in equal number. While the former is charged with the duty of mediating in and promoting the settlement of industrial disputes, the latter is required to promote the settlement of industrial disputes. The act generally allows registered trade unions or a substantial number of workers/ employees and also in certain cases individual workman to raise disputes. The performance of conciliation machinery, though it does not appear to be unsatisfactory¹⁵, causes delays due to casual attitude of the parties towards conciliation, defective processes in the selection of personnel and unsatisfactory pre-job training and period-in-service-training¹⁶. Delays in conciliation are attributed partly to the excessive work-load on officers and partly to the procedural defects. Since conciliation officer has no powers of coercion over labour and management, he can only persuade them to climb down and meet each other. The settlements that are claimed to result from conciliation are increasingly the result of political intervention¹⁷. Success of conciliation depends upon the appearances and their sincere participation in conciliation proceedings of the parties before the conciliation officers. Non-appearance and non-participation of the parties in conciliation proceedings poses a serious hindrance in this direction. On the attitude of the parties National Commission on Labour observed **conciliation is looked upon very often by the parties as merely hurdle to be crossed for reaching the next stage. The representatives sent by the parties to appear before him are generally officer who do not have the power to take decisions or make**

commitments: they merely carry the suggestion to the concerned authorities on either side. This dampens the spirit of a conciliator. We have been told by the employer's and workers, organizations alike that the conciliation machinery is weakened because of its falling into this type of disuse in recent years,¹⁸ Section 11 of the Act has clothed the conciliation officers with the power to enter premises occupied by any establishment and also has been invested with the powers of civil court under the Civil Procedure Code, 1908 when trying a suit for enforcing the attendance of any person and examining him on oath, compelling the production of documents and material objects and issuing commission for examination of witness for the purpose of inquiry in to any existing or apprehended industrial dispute. These provisions are seldom enforced. Moreover, conciliators most often do not have requisite information on the employers and trade unions, up to date wage/productivity, information and relevant up to date case laws which affect his capability to conciliate effectively . The National commission on labour in this context laid emphasis for pre job and on the job training of conciliation officers.

Arbitration: The resort to arbitration procedure may be compulsory or arbitrary . Compulsory arbitration is the submission of disputes to arbitration without consent or agreement of the parties involved in the dispute and the award given by the arbitrator being binding on the parties to the dispute. On the other hand in case of voluntary arbitration, the dispute can be referred for arbitration only if the parties agree to the same. Section 10 A of the Act, however, provides only for voluntary reference of dispute to arbitration. This system, however, has not been widely practiced so far. One of the main reasons for not gaining popularity of this procedure is lack of arbitrators who are able to command respect and confidence of the parties to the dispute. Inter Union rivalry also sometimes makes it difficult in arriving at an agreement on settlement of an arbitrator who is acceptable to all the trade unions in the industry.

The Apex court in case *Kurnal Leather Employess Union vs Liberty Footwear Co.*¹⁹ has held that the remedy under section 10K is voluntary and alternative for settlement of industrial dispute but if the parties to the dispute have agreed in writing for settlement of their disputes through arbitrator, then the Govt. cannot refer the dispute to the Tribunal for adjudication.

Adjudication: If despite efforts of the conciliation officer , no settlement is arrived at between employer and the workman, The Industrial Dispute a provides for a three tier system of adjudication viz. Labour Courts , Industrial Tribunals and National Tribunals under section, 7 , 7A and under section 7B respectively. Labour Courts have been empowered to decide disputes relating to matters specified in the Second Schedule. These matters are concerned with the rights of workers, such as propriety of legality of an order passed by an employer under the standing orders, application and interpretation of standing orders, discharge or dismissal of workman including reinstatement of grant of relief to workman wrongfully discharged or dismissed, withdrawal of any customary concession or privilege and illegality or otherwise of a strike or lockout. The industrial tribunal are empowered to adjudicate on matters specified in both the Second and Third schedule i.e. both rights and interest disputes. The jurisdiction of the Industrial Tribunal is wider that the labour courts.

In *Paulos vs State of Kerala* , per Mathew J.²⁰ The government entrusted the work of selection of candidates for the appointment of presiding officers of industrial tribunals and labour courts to the advocate-general . This mode of selection of candidates was challenged by writ petition in High Court of Kerla on the ground that the government is bound to make

appointment to this post after giving an opportunity to all eligible persons before considering for appointment by proper publicity through advertisement in newspapers. In the absence of such opportunity being given to all the persons having such prescribed qualification to be appointed, the method was unfair and arbitrary, and, therefore, violative of Article 14 and 16 of the Constitution. A Single Judge of the Kerala High Court upheld the appointment holding that the action taken by the government was within the powers enjoined by law and it is not the requirement of law that for every recruitment to an office under state, there must be an advertisement in the public press. Therefore, it is not necessary that the state must in every case of public employment issue an advertisement or notice inviting applications for an office.

In *Shellac Industries Ltd v/s Their workmen*, per Dutt J.21 A tribunal once appointed cannot be abolished by an executive act merely because the government chooses to put an end to it when a reference is pending before it, for the state cannot do indirectly what is not permissible to it to do expressly or impliedly under the Act. Hence, a dispute pending before such a tribunal cannot be referred to another tribunal under Sec 10 (1) (d) as that can be done only under Section 33 B.

In case of disputes which in the opinion of the Central Govt. involve question of national importance or is of such nature that workers in more than one State are likely to be affected. The Act provides for constitution of National Tribunals.

Industrial adjudication has undoubtedly played a conclusive role in the settlement of industrial disputes and in ameliorating the working and living conditions of labour class. In this context the National Commission of Labour observed : the adjudicating machinery has exercised considerable influence on several aspects of conditions of work and labour management relations. Adjudication has been one of the instruments for the improvement of wages and working conditions and for securing allowances for maintaining real wages, bonus and introducing uniformity in benefits and amenities. It has also helped to avert many work stoppages by providing an acceptable alternative to direct action and to protect and promote the interest of the weaker sections of the working class, who were not well organized or were unable to bargain on an equal footing with the employer.

The Act empowers the appropriate government to refer industrial disputes when the industrial disputes exist or are apprehended. The Apex court has also held in *Shambu Nath vs Bank of Baroda* that the power conferred by Section 10 (1) on the Govt. to make reference can be exercised not only when an industrial dispute exists but when it is also apprehended. *Kotwal J. Kashmir Ceramics Ltd. v/s Labour Court* It is not permissible for the labour court to entertain more disputes than are contemplated in the reference nor is it permissible for it to decline to adjudicate matters which clearly arise in the terms of the reference.

Under the Act, an award made by the adjudication authority is final as there is no appeal. However actual practice almost every award made against the employer is challenged in the High Court under Article 226 and 227 & in the Supreme Court under Article 136. It takes year before final orders are passed in writ petitions pending before the High Court/Supreme Court. If the period taken before the adjudicating authority is counted, it does not take less 10 to 20 years before the protracted litigation could be disposed off. It is the weaker sections who are inconvenienced and handicapped the most, by the delay. It is submitted that the need of the day is to evolve the frame-work in which workers and the

management perceive the need to co-operate. Bilateral regulation is the most effective method of evolving norms which enjoy wide acceptance.

It will be appreciate to recall the observation made by a jurist on the subject: No doubt, the state intervention in the form of compulsory adjudication has significantly contributed to the settlement of all sorts of industrial disputes between industrial employers and their employees. But its very success is the failure of the collective bargaining process as the normal method of settling industrial disputes. It follows that if collective bargaining has to gain ground, the state intervention through compulsory adjudication must wane to the vanishing point. It has outlive its utility . It is far better to leave the management and Trade unions to settle their differences and disputes among themselves than referring the issue to a third party settlement. Any attempt to solve socio-economic problems arising out of industrial relations within the old framework may have some limited usefulness, but cannot, in the nature of the case, achieve any, adequate solution. The frequent break-down in industrial relations must give way to constructive programmes. The State intervention through compulsory adjudication has often been directed to , in the words of Prof. Mathews, the peripheral area of legal pathology rather than to the healthy core of practical working cooperation.³⁰

The settlement of disputes, reached by mutual discussion, debate and negotiation, leaves no rancour behind and helps to create an atmosphere of harmony and co-operation.

UNIT III LABOUR WELFARE

_ The unorganized sector constitutes the *90% of the total work force*. It doesn't have the benefit of the social security cover provided to the workers in the organized sector through a legal framework and institutional infrastructure created under the Employees' State Insurance Act, 1948 and the Employees Provident Fund and Miscellaneous Provisions Act, 1952. Since workers in the unorganized sector in general suffer from low earnings, lack of stability & durability of employment including its migratory nature in many cases, frequent changes in the employer and nature of employment, it has not been possible to extend to them the benefits of a contribution oriented or employers' liability oriented social security scheme enjoyed by their counterparts in the organized sector, except to a small section of beedi workers and that too on a limited scale in respect of provident fund and Employees State Insurance Corporation Schemes.

CONCEPT OF LABOURWELFARE FUND:

_ The concept of Labour Welfare Fund has been evolved in order to extend a measure of social assistance to workers in the unorganized sector. Towards this end, separate legislations have been enacted by Parliament to set up five Welfare Funds to be administered by Ministry of Labour to provide housing, medical care, educational and recreational facilities to workers employed in beedi industry, certain non-coal mines and cine workers. Efforts are afoot to substantially expand the Welfare Fund approach to cover more categories & sub-categories of workers in the unorganized sector such as tendu patta pluckers, fish processing industry workers and salt industry workers . _ The scheme of Welfare Funds is outside the framework of specific employer and employee relationship in as much as the resources are raised by the Government on a non-contributory basis and

delivery of welfare services effected without linkage *to individual worker's contribution*. This approach has been adopted by some State

Governments also as in Gujrat, Orrisa, Madhya Pradesh, Maharashtra, Goa and Kerala etc.

Welfare funds which follow a sectorial approach are in addition to a large number of various other poverty alleviation and employment generation programmes, which follow a regional approach and for which most of these workers are eligible.

SOCIAL SECURITY: GROUP INSURANCE SCHEMES FOR BEEDI AND CINE WORKERS:

Group Insurance Schemes for beedi and cine workers came into force w.e.f. 1.4.1992 and 1.4.197 respectively. These are managed by LIC on no profit no loss basis. The beedi and cine workers between the age group of 18 to 60 years and those who have been issued genuine Identity Cards up to end of the preceding financial year by the following authorities have been covered under the purview of this Scheme :

(i) by employers;

(ii) by executive authorities of local bodies;

(iii) by authorities implementing Beedi & Cigar Workers (Conditions of Employment) Act, 1966; /Cine Workers Welfare Fund Act, 1981; and 59

(iv) by Officers of the Labour Welfare Organization. However, those Identity Cards holders who are enrolled as subscribers by the Employee's Provident Fund Organization are not covered under these Schemes. The premium is charged at the rate of Rs.18/- and Rs.30/- for beedi and cine workers respectively, per annum per member. While for beedi workers, premium is shared by Labour Welfare Organization and Social Security Fund of India on 50-50 basis, for cine workers, full premium is paid by Labour Welfare Organization. The claim amount is Rs.3,000 and Rs.5,000/- for natural death and Rs.25,000/- and Rs.10,000/- in case of accidental death, for beedi and cine workers respectively, subject to the provisions of the Schemes. The attempts are afoot to improve delivery of these Group Insurance Schemes.

SOCIAL SECURITY UNDER MINE WORKERS WELFARE FUND

An amount of Rs.1500/- is admissible in case of permanent incapacitation of mine workers.

Besides, a sum of Rs.450/- per month for 5 years is also admissible to his widow. In addition to this scholarship of Rs 100 to each of the school going child till the age of 21 or his/her marriage, whichever is earlier.

LABOUR WELFARE FUNDS:

The Ministry of Labour is administering five Welfare Funds for beedi, cine and certain categories of non-coal mine workers. The Funds have been set up under the following Acts of Parliament for the welfare of these workers. The Mica Mines Labour Welfare Fund Act, 1946; The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972 The Iron Ore, Manganese Ore and Chrome Ore Mines Labour Welfare Fund Act, 1976; The Beedi Workers' Welfare Fund Act, 1976; and The Cine Workers' Welfare Fund Act, 1981 The above Acts provide that the Fund may be applied by the Central Government to meet the expenditure incurred in connection with measures and facilities which are necessary to provide the welfare of such workers and in particular: to defray the cost of measures for benefit of such persons, directed towards the provision/and improvement of the public health and sanitation, medical facilities and the prevention of disease after supply and facilities for washing; educational facilities; housing and recreational facilities including standards of living, nutrition and amelioration of social conditions; family welfare, including family planning education and services; transportation to and from place of work (for mine workers only); and such other welfare measures and facilities as may be prescribed; to grant loan or subsidy to a State Government, a local authority or an employer, in aid of any scheme approved by the Central Government for the purpose connected with the welfare of workers

engaged in beedi/cine/non-coal mine sector; to pay annual grants-in-aid to a State Government/local authority/agency/owner of a mine which satisfies the prescribed criteria or to an employer who provides to the satisfaction of the Central Government welfare measures and facilities of the prescribed standard for the benefit of workers engaged in Beedi/Cine and non-Coal Mine sector; to meet the allowances of the members to the State Advisory Committees and the Central Advisory Committee; any other expenditure which the Central Government may direct to be defrayed from the Fund. In order to give effect to the above objectives laid down in the above Acts, various welfare schemes have been formulated and are under operation in the fields of:

- _ Health
- _ Social Security
- _ Education
- _ Housing
- _ Recreation
- _ Water Supply
- _ The Labour Welfare Organization which administers these Funds is headed by a Director General (Labour Welfare)/Joint Secretary. He is assisted by the Welfare Commissioner (Headquarters) of Director rank, who supervises nine Regional Welfare Commissioners for the purpose of administration of these Funds in the States.

ADVISORY COMMITTEES:

To advise the Central Government on matters related to administration of the above Funds, tripartite Central Advisory Committees have been set up under the respective Welfare Fund Acts. These Committees are headed by Union Labour Minister. The C.A.Cs. have 18 members, 6 each from Central Government, Employers' Organizations, and Employees' Organization excluding the Chairman and Secretary. State-wise tripartite Advisory Committees headed by the Labour Minister of the concerned State, have also been set up in the States of Andhra Pradesh, Bihar, Madhya Pradesh, Rajasthan, Orissa, West Bengal, Karnataka, Kerala, Tamil Nadu, Gujarat and Maharashtra under the Beedi Workers Welfare Fund. Under the Limestone & Dolomite Mines Labour Welfare Fund, SACs have been constituted in the States of Uttar Pradesh, Madhya Pradesh, Bihar, Maharashtra, Karnataka, Gujarat, and Orissa. Under Iron Ore, Manganese Ore & Chrome Ore Mines Labour Welfare Fund, State Advisory Committees have been set up in the States of Madhya Pradesh, Bihar, Karnataka, Maharashtra, Goa, and Andhra Pradesh. Mica Mines Labour Welfare Fund has SACs in the States of Rajasthan, Bihar, and Andhra Pradesh. Cine Workers Welfare Fund has SACs in the States of Maharashtra, Andhra Pradesh, Kerala, Tamil Nadu, Karnataka, and West Bengal.

MINE WORKERS:

The eligibility ceiling of monthly income has been raised to Rs 10000 per month to bring more workers in the net of welfare schemes. The need for this was being felt for quite some time as most of the workers had gone out of the preview of the schemes on general increase of the wages in the industry.

LABOUR WELFARE

The State Governments have to ensure the identifying and issuing of cards to beedi workers. LWO having primary aim of running welfare schemes can supplement their efforts in limited manner only. The number of identity cards issued by them in various States is given in . The *Beedi Workers' Welfare Fund Rule, 1978* have recently been amended to authorize Welfare

Commissioners/Assistant Welfare Commissioners and Welfare Administrators to file prosecution in appropriate course against beedi manufacturers for violation of Rules which also includes issue of identity cards by the employer. However the primary responsibility in this regard remains that of State Governments who have extensive machinery by way of Labour Department to enforce the Beedi & Cigar Workers (Conditions of Employment) Act.1966.

ENHANCEMENT IN THE QUANTUM OF FINANCIAL ASSISTANCE:

The Central Advisory Committees on various Welfare Funds in their meetings held on 2.5.2000 have approved the proposals to enhance quantum of financial assistance in various schemes covering various aspects in the areas of health care, education, housing, and recreation. In most of the schemes, the quantum of financial assistance has been doubled. In case of Integrated Housing Scheme, the amount has been enhanced from Rs.9,000/- to Rs.20,000/- per dwelling unit. The financial assistance for treatment of diseases related to heart and kidneys has been raised to Rs.1.00 lakh each from the present amount of Rs.10,000/- and Rs.15,000/-, respectively.

FINANCIAL ASSISTANCE FOR HOUSING FACILITIES

Shelter has been recognized as one of the necessities for protection of all living beings from the vagaries of nature. Human habitation in a civilized society perceives certain irreducible minimum standards of living.

INDUSTRIAL DISPUTE

CAUSES:

The most common causes of industrial disputes are economic causes. These are follows:

Demand for higher Wages: Rise in the cost of living forces the workers to demand more wages to meet the rising cost of living index and to increase their standards of living. This brings them into conflict with their employers who are never willing to pay more wages to workers.

Demand for Allowances and Bonus: Increase in cost of living was the main cause of the demand of certain allowance allowances such as dearness allowance, house allowance, medical allowance, night shift allowance, conveyance allowance etc; by the workers to equate their wages with the rise of prices. Bonus also plays an important role as a cause of industrial dispute. Both the amount and the method of bonus payment have led to a number of disputes.

High Industrial Profits: In the changing world, concept of labour has changed considerably. At the present, employers consider themselves as a partner of the industry and demand their share in the profits.

Non- Economic Causes:

Working Conditions and Working Hours: The working conditions in Indian industries are not hygienic. There is not ample provision of water, heating, lighting, safety etc. On the other hand, working hours are also greater. The demand of palatable working conditions and shorter hours of work led to labour disputes

Modernization and Automation of Plant and Machinery: The attempt at modernization and

introduction of automatic machinery to replace labour has been the major cause of disputes of India. Workers go on strike, off and on, to resist such rationalization.

Personnel Causes: □ Sometime industrial disputes arise because of personnel problems like dismissal, retrenchment, layoff, transfer, and promotion etc.

Political Causes: □ Various political parties control trade unions in India. In many cases, their leadership vests in hands of persons who are more interested in achieving their political interests rather than the interests of the workers.

□ Indiscipline: Industrial disputes also take place because of indiscipline and violation on part of the workforce. The managements to curb indiscipline and violence resort to lockouts

Non-reorganization of trade unions: The □ employers usually do not like the interference by trade unions. They do not recognize them. This brings the workers into conflict with their employers.

Weakness of Trade Unions: Weaknesses of trade unions encourages the □ employers to deny certain basic needs of the workers such as medical, education and housing facilities etc. This led to resentment on the part of workers who resorted to direct action.

Miscellaneous causes: Behaviour of □ supervisors, Lack of proper communication between management and workers, Rumors spread out by trade union, Inter-trade union rivalry etc; are the other causes that cause dispute between management and employers.

UNIT IV

Causes of Industrial Accidents

Definition:

an accident, often causing serious injury, that is job-related in that it usually happens on a work site such as a factory floor or a construction site

There are a just as many causes of industrial accidents as there are types of industrial accidents. The broad category of industrial accidents covers anything from small cuts and bruises to huge disasters that affect a large population of people. Approximately 120 million industrial accidents occur in the work place world wide each year. Approximately 210,000 of these accidents result in fatality. The industries which have the highest rate of accidents are the mining, construction, transportation, and agricultural industries. Construction accidents account for fifteen percent of all accidents and thirty percent of all fatalities in industrial work environments.

Causes of industrial accidents can be broken down into two broad categories: unsafe conditions and unsafe acts. The causes of industrial accidents that pertain to unsafe conditions can include insufficient workspace lighting, excessive noise, slippery or unsafe

flooring, extreme temperature exposure, inadequate protection when working with machinery or hazardous materials, unstable structures, electrical problems, machine malfunction or failure, and more. The causes of industrial accidents that involve unsafe acts can include actions or failures to act which result in injury. This can be a result of employee negligence but employers, organizations, and product manufacturers can also be liable for the causes of industrial accidents.

The causes of industrial accidents can occur in the environment around the workplace or within the work environment. External causes of industrial accidents may include fires, chemical spills, toxic gas emission or radiation. The causes of industrial accidents in these cases might include organizational errors, human factors, abnormal operational conditions, natural forces, software or component failures, and outside interference. Internal causes of industrial accidents can involve equipment or other work related tangibles, harmful materials, toxic chemicals, and human error.

There are several ways that a worker can be injured in the work environment. Injuries that result from the causes of industrial accidents can include any one or combination of the following occurrences: falls, being struck by objects in motion, slides and cave ins, structure collapse, being trapped in or by an object, overexertion or strenuous physical actions, exposure to temperature extremes, electrical accidents, radiation exposure, and the inhalation, ingestion, or absorption of harmful substances. These industrial accidents can result in a number of injuries including superficial injury, fractures, sprains and strains, amputation, concussion, internal injury, poisoning, infection, and death.

The causes of industrial accidents are numerous. There are several cases where employee negligence is a factor in industrial accidents. As a general rule, worker's compensation laws protect employers from lawsuits brought by injured employees. There are cases where an employer can be held liable for worker injuries if they had knowledge of unsafe conditions and failed to act in order to prevent injury. Injured workers may also be able to seek compensation for their injuries from the makers of faulty or dangerous industrial products. Victims of industrial accidents greatly benefit from consulting a personal injury lawyer who can advise them of their rights and options in a case.

Industrial Accident Prevention

Industrial accidents refer to any accident that occurs on an industrial site. Causes can range from workers' negligence or fatigue to faulty machinery, improper supervision of the work site, inadequate safety precautions and unknown safety hazards.

When industrial accidents are the result of workers' negligence or fatigue, the injured party can seek workers' compensation - a portion of pay to compensate for disability and medical

expenses due to the accident. When a third party - such as a site supervisor or equipment manufacturer - is responsible for inadequate safety training, enforcement of safety regulations or design and production of faulty products, the injured party may be entitled to additional damages gained through an industrial accident lawsuit.

In most cases, industrial accident prevention revolves around the safety of the industrial site. On construction sites, for example, contractors are required to inspect the site with safety engineers and to warn employees of possible danger zones. Workers, in turn, must comply with the safety requirements set forth by their supervisors in order to maximize industrial accident prevention. If contractors or subcontractors fail to enforce safety rules or take safety precautions on their industrial site, they can be held liable in a third party suit. If workers' negligence is to blame, the injured party is only entitled to workers' compensation.

Industrial accident prevention also lies on the shoulders of the manufacturing companies of equipment frequently used on industrial sites. Such equipment consists of, but is not limited to: scaffolding (many industrial accidents are caused by falls from heights or faulty scaffolds), motorized vehicles (tractors, forklifts), gas pressure machinery, electricity conductors and heavy machinery. Industrial accident prevention obligates equipment and machinery manufacturers to design, produce and maintain properly functioning products.

When industrial accident prevention fails and an incident occurs, it is imperative to determine the negligent party in order to reach a fair settlement. A personal injury lawyer can help ascertain responsibility in an industrial accident case.

Occupational Health

Introduction

Occupational hazards cause or contribute to the premature death of millions of people worldwide and result in the ill health or disablement of hundreds of millions more each year. The burden of disease from selected occupational risk factors amounts to 1.5% risks of the global burden in terms of DALY. The World Health Report 2002 places occupational risks as the 10th leading cause of morbidity and mortality. Almost 22.5 million DALY and 699,000 deaths are attributable to these risk factors.

According to the Report, work related injuries cause nearly 310,000 deaths each year, and nearly 146,000 deaths are attributable from the region remains largely uncharacterised. Member countries of South East Asia Region have witnessed major occupational health problems highlighted by the Bhopal disaster in India and the Kader Toy Factory fire in Thailand. However, workers of the region are exposed to a wider range of occupational hazards and risks including chemical, physical and biological hazards as well as inadequate ergonomics practice and high psychosocial stress.

Most of the countries in the Region are in the process of rapid economical development, a process that potentially amplifies the pre-existing traditional risks and introduces new

occupational risks in the region. Thus, occupational health is of major concern in the South East Asia Region of WHO with a work force of about 500 million persons.

Goals and Objectives

As shown in the figure below the Occupational Health Program consists of three strategic goals: strengthening a regional occupational health network, promoting the use of health risk paradigm, and capacity building.



building.

WHO Strategic Goals for Occupational Health in the South East Asia Region

Each of the goals has related objectives that are summarized in the accompanying table.

Strategic Goals	Objective	Activity
1. Strengthening of occupational health network	1. Sharing a common occupational health and safety strategy 2. Expansion of network 3. Information sharing 4. Enhanced Inter Agency collaboration	1. Existing National centers to start local networking 2. Expansion of network towards eventual WHO Designation 3. Share information on norms, standards, guidelines, modules and methods through web base, mail and meeting

2. Promotion of health risk paradigm		
2.1 Health risk assessment	<ol style="list-style-type: none"> 1. Compilation of country profiles on occupational hazards. 2. Improvement and applications of exposure assessment methods and guidelines 	<ol style="list-style-type: none"> 1. Development of standard protocol for rapid assessment of country hazard profile 2. Establishing national data base of hazards profiles 3. Development and promulgation of standard protocols for exposure assessment 4. Developing and compilation of job-exposure matrix
2.2 Health Risk Management	<ol style="list-style-type: none"> 1. Promoting Protective Policies 2. Promoting Protective Practices through engineering, biological, administrative and training measures 3. Strengthen surveillance system for tracking pattern of occupational injuries and diseases 4. Formulation of National plan of action 	<ol style="list-style-type: none"> 1. Including safety clause in international trade and technology transfer. 2. Collaborating with Ministries of Labor, factory inspectorate and UN agencies to improve engineering control and use of Personal Protective Device 3. Intersectoral collaboration to improve environmental monitoring of worker places 4. Strengthening methods for regular biological monitoring of work-places 5. Enhancing health promotion by training of health care giver and workers 6. Conducting epidemiological studies in relevant target and vulnerable groups to assess Threshold Limit Values(TLV) of occupational hazards 7. Develop regional guidelines and national protocols and data bases for occupational disease and injury surveillance 8. Provide technical support for formulation of national plan based on regional strategy and national situation analysis.

3. Capacity Building	<ol style="list-style-type: none"> 1. Assessing, Strengthening and implementation of Occupational Safety and Health Training 2. Building capacity for research in occupational Safety and Health 	<ol style="list-style-type: none"> 1. Review of existing short course curriculum in each country and regionally 2. Standardize course contents and teaching method in industrial hygiene, basic medical surveillance, occupational health and safety management, chemical exposure in agricultural hygiene and other nationally relevant areas. 3. Support training in these areas and surveillance of occupational diseases 4. Standardize protocol for burden of disease estimates in major economic sectors.
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UNIT IV

PSYCHOLOGICAL PROBLEM – MEANING

Scientific discipline that studies mental processes and behaviour in humans and other animals. Literally meaning "the study of the mind," psychology focuses on both individual and group behaviour. Clinical psychology is concerned with the diagnosis and treatment of mental disorders. Other specialized fields of psychology include child psychology, educational psychology, sports psychology, social psychology, and comparative psychology. The issues studied by psychologists cover a wide spectrum, including learning, cognition, intelligence, motivation, emotion, perception, personality, and the extent to which individual differences are shaped by genetics or environment. The methods used in psychological research include observation, interviews, psychological testing, laboratory experimentation, and statistical analysis.

Psychological Disorders

Symptoms, Treatments, & Statistics of Psychological Problems

Here's a guide to various mental illnesses and psychological disorders, such as obsessive compulsion, schizophrenia, phobias, anxiety disorders, and depression.

Psychological disorders range from post traumatic stress syndrome to common phobias. This guide to various psychological disorders is a good introduction to mental illnesses, both mild and severe.

Schizophrenia

- Who Gets Schizophrenia?
- Surviving Schizophrenia
- Treating Schizophrenia

Depression

- Causes of Depression
- Signs of Depression
- Seasonal Affective Disorder
- Treatment of Depression
- About Antidepressants

Post Traumatic Stress Disorder

- Post Traumatic Stress Disorder
- Signs of Post Traumatic Stress

Obsessive Compulsive Disorders

- Obsessive Compulsive Disorders

Anxiety & Panic Disorders

- Anxiety Disorders
- Causes of Anxiety Disorders
- Panic Attacks & Panic Disorders
- The Most Common Phobias

Body Dysmorphic Disorder

- Body Dysmorphic Disorder
- Anorexics' Brains Are Different

Unusual Psychological Disorders

- Sleep-Related Eating Disorders
- Eating While Sleeping
- Three Bizarre Cases
- The Morgellons Mystery

Miscellaneous

- Signs of Mental Illness
- Repetition Compulsion
- School Shootings
- Suicide

- Suicide Myths Busted
- False Memories

Getting Help With Psychological Disorders

- Finding a Therapist
- What is Music Therapy?
- Flower Therapy

Diagnosing and treating psychological disorders is an objective procedure involving past research and experience. That knowledge of psychological disorders has been combined into a large, comprehensive manual called the DSM-IV.

Diagnosing and Treating Psychological Disorders: DSM-IV

The Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) is published by the American Psychiatric Association. It's a comprehensive tome of all mental health and psychological disorders in adults and children. Not only does it list the names and symptoms of psychological disorders, it also includes possible causes, treatments, statistics, and research.

The DSM-IV has been called the psychiatrist's Bible because it increases understanding of patients, treatments, and even 3rd party insurance payers. Psychological disorders are classified and explained.

There are 5 Axes in the DSM-IV that cover psychological disorders:

Axis 1. Clinical Syndromes, also known as the diagnosis of the psychological disorder.

Axis 2. Developmental Disorders & Personality Disorders. Developmental disorders typically occur in childhood, and can affect physical, intellectual, and emotional development (eg, autism, Down's Syndrome). Personality disorders have long lasting symptoms that affect one's interaction in the world.

Axis 3. Physical Conditions (such as brain injuries or physical impairments). Some psychological disorders spring from physical aspects, others have unknown causes.

Read on

- Anxiety and Panic Disorders
- Facts About Post-Traumatic Stress Disorder
- Do you Suffer from Panic Attacks?

Axis 4. Severity of Psychosocial Stressors, including events in the patient's life: deaths, divorces, traumas, celebrations, new beginnings, etc. Lifestyle affects most psychological disorders.

Axis 5. Highest Level of Functioning describes how well the person functions at present and within the last year, with the psychological disorder.

The DSM-IV is not necessarily involved in the diagnosis and treatment of all psychological disorders - it depends on the psychiatrist, psychologist, or counselor. Whether or not an official DSM-IV diagnosis is made, it may be important to obtain objective support on any psychological condition or psychological disorder.

Psychological Disorders & Psychological Counseling

Unfortunately, there's a great deal of stigma attached to counseling for psychological disorders -- or psychological disorders in general! Mental illnesses are often embarrassing -- few people are thrilled to tell their friends and family they're seeing a "shrink"! It's also painful to delve into the depths of your soul or apply cognitive behavioral theories to your life, even if the psychological disorder can be overcome this way. Finally, counseling for psychological disorders can be expensive; not many insurance providers cover the cost easily. Overcoming the hurdles of seeing a psychologist or psychiatrist can be extremely valuable to your whole self - not just your mind and emotions, or the psychological disorder. Your physical health is intricately connected to your mind and soul, so dealing with one aspect of your self invariably boosts other parts.

Just like a physical disease like cancer, a psychological disorder can hit anyone at any time in their life, regardless of how wealthy, happy, or well-adjusted they are. It's the luck of the draw - just like many things in life.

Counseling Psychology

Counseling psychology is a specialty that encompasses research and applied work in several broad domains: counseling process and outcome; supervision and training; career development and counseling; and prevention and health. Some unifying themes among counseling psychologists include a focus on assets and strengths, person-environment interactions, educational and career development, brief interactions, and a focus on intact personalities

Counseling psychologists are interested in answering a variety of research questions about the counseling process and outcome. Counseling process might be thought of as how or why counseling happens and progresses. Counseling outcome addresses whether or not counseling is effective, under what conditions it is effective, and what outcomes are considered effective—such as symptom reduction, behavior change, or quality of life improvement. Topics commonly explored in the study of counseling process and outcome include therapist variables, client variables, the counseling or therapeutic relationship, cultural variables, process and outcome measurement, mechanisms of change, and process and outcome research methods.

Therapist variables

Therapist variables include characteristics of a counselor or psychotherapist, as well as therapist technique, behavior, theoretical orientation and training. In terms of therapist

behavior, technique and theoretical orientation, research on adherence to therapy models has found that adherence to a particular model of therapy can be helpful, detrimental, or neutral in terms of impact on outcome (Imel & Wampold, 2008).

Research on the impact of training and experience is still somewhat contradictory and even counter-intuitive. For example, a recent study found that age-related training and experience, but not amount or quality of contact with older people, is related to older clients. However, a recent meta-analysis of research on training and experience suggests that experience level is only slightly related to accuracy in clinical judgment. Higher therapist experience has been found to be related to less anxiety, but also less focus. This suggests that there is still work to be done in terms of training clinicians and measuring successful training.

Client variables

Client characteristics such as help-seeking attitudes and attachment style have been found to be related to client use of counseling, as well as expectations and outcome. Stigma against mental illness can keep people from acknowledging problems and seeking help. Public stigma has been found to be related to self-stigma, attitudes towards counseling, and willingness to seek help.

In terms of attachment style, clients with avoidant styles have been found to perceive greater risks and fewer benefits to counseling, and are less likely to seek professional help, than securely attached clients. Those with anxious attachment styles perceive greater benefits as well as risks to counseling. Educating clients about expectations of counseling can improve client satisfaction, treatment duration and outcomes, and is an efficient and cost-effective intervention.

Counseling relationship

therapeutic relationship

The relationship between a counselor and client is the feelings and attitudes that a client and therapist have towards one another, and the manner in which those feelings and attitudes are expressed. The relationship may be thought of in three parts: transference/countertransference, working alliance, and the real- or personal-relationship.

Another theory about the function of the counseling relationship is known as the secure-base hypothesis, which is related to attachment theory. This hypothesis proposes that the counselor acts as a secure-base from which clients can explore and then check in with. *Secure attachment to one's counselor and secure attachment in general have been found to be related to client exploration. Insecure attachment styles have been found to be related to less session depth than securely attached clients.*

Cultural variables

Counseling psychologists are interested in how culture relates to help-seeking and counseling process and outcome. Helms' racial identity model can be useful for understanding how the relationship and counseling process might be affected by the client's and counselor's racial identity. Recent research suggests that clients who are Black are at risk for experiencing racial micro-aggressions from counselors who are White.

Efficacy for working with clients who are lesbians, gay men, or bisexual might be related to therapist demographics, gender, sexual identity development, sexual orientation, and professional experience. Clients who have multiple oppressed identities might be especially at-risk for experiencing unhelpful situations with counselors, so counselors might need help with gaining expertise for working with clients who are transgender, lesbian, gay, bisexual, or transgender people of color, and other oppressed populations.

Gender role socialization can also present issues for clients and counselors. Implications for practice include being aware of stereotypes and biases about male and female identity, roles and behavior such as emotional expression. The APA guidelines for multicultural competence outline expectations for taking culture into account in practice and research.

Outcome measurement

Counseling outcome measures might look at a general overview of symptoms, symptoms of specific disorders, or positive outcomes, such as subjective well-being or quality of life. The Outcome Questionnaire-45 is a 45-item self-report measure of psychological distress. An example of disorder-specific measure is the Beck Depression Inventory. The Quality of Life Inventory is a 17-item self-report life satisfaction measure.

Process and outcome research methods

Research about the counseling process and outcome uses a variety of research methodologies to answer questions about if, how, and why counseling works. Quantitative methods include randomly controlled clinical trials, correlational studies over the course of counseling, or laboratory studies about specific counseling process and outcome variables. Qualitative research methods can involve conducting, transcribing and coding interviews; transcribing and/or coding therapy sessions; or fine-grain analysis of single counseling sessions or counseling cases.

Professional training process

Counseling psychologists are trained in graduate programs. Almost all programs grant a Ph.D., but a few grant a Psy.D. or Ed.D. Most doctoral programs take 5–6 years to complete. Graduate work in counseling psychology includes coursework in general psychology and statistics, counseling practice, and research. Students must complete an original dissertation at the end of their graduate training. Students must also complete a one-

year full-time internship at an accredited site before earning their doctorate. In order to be licensed to practice, counseling psychologists must gain clinical experience under supervision, and pass a standardized exam.

Initiatives towards Elimination of Child Labour – Action Plan and Present Strategy

The problem of child labour continues to pose a challenge before the nation. Government has been taking various pro-active measures to tackle this problem. However, considering the magnitude and extent of the problem and that it is essentially a socio-economic problem inextricably linked to poverty and illiteracy, it requires concerted efforts from all sections of the society to make a dent in the problem.

Way back in 1979, Government formed the first committee called Gurupadswamy Committee to study the issue of child labour and to suggest measures to tackle it. The Committee examined the problem in detail and made some far-reaching recommendations. It observed that as long as poverty continued, it would be difficult to totally eliminate child labour and hence, any attempt to abolish it through legal recourse would not be a practical proposition. The Committee felt that in the circumstances, the only alternative left was to ban child labour in hazardous areas and to regulate and ameliorate the conditions of work in other areas. It recommended that a multiple policy approach was required in dealing with the problems of working children.

Based on the recommendations of Gurupadaswamy Committee, the Child Labour (Prohibition & Regulation) Act was enacted in 1986. The Act prohibits employment of children in certain specified hazardous occupations and processes and regulates the working conditions in others. The list of hazardous occupations and processes is progressively being expanded on the recommendation of Child Labour Technical Advisory Committee constituted under the Act.

In consonance with the above approach, a National Policy on Child Labour was formulated in 1987. The Policy seeks to adopt a gradual & sequential approach with a focus on rehabilitation of children working in hazardous occupations & processes in the first instance. The Action Plan outlined in the Policy for tackling this problem is as follows:

- Legislative Action Plan for strict enforcement of Child Labour Act and other labour laws to ensure that children are not employed in hazardous employments, and that the working conditions of children working in non-hazardous areas are regulated in accordance with the provisions of the Child Labour Act. It also entails further identification of additional occupations and processes, which are detrimental to the health and safety of the children.
 - Focusing of General Developmental Programmes for Benefiting Child Labour - As poverty is the root cause of child labour, the action plan emphasizes the need to cover these children and their families also under various poverty alleviation and employment generation schemes of the Government.

- Project Based Plan of Action envisages starting of projects in areas of high concentration of child labour. Pursuant to this, in 1988, the National Child Labour Project (NCLP) Scheme was launched in 9 districts of high child labour endemicity in the country. The Scheme envisages running of special schools for child labour withdrawn from work. In the special schools, these children are provided formal/non-formal education along with vocational training, a stipend of Rs.100 per month, supplementary nutrition and regular health check ups so as to prepare them to join regular mainstream schools. Under the Scheme, funds are given to the District Collectors for running special schools for child labour. Most of these schools are run by the NGOs in the district.

Government has accordingly been taking proactive steps to tackle this problem through strict enforcement of legislative provisions along with simultaneous rehabilitative measures. State Governments, which are the appropriate implementing authorities, have been conducting regular inspections and raids to detect cases of violations. Since poverty is the root cause of this problem, and enforcement alone cannot help solve it, Government has been laying a lot of emphasis on the rehabilitation of these children and on improving the economic conditions of their families.

The coverage of the NCLP Scheme has increased from 12 districts in 1988 to 100 districts in the 9th Plan to 250 districts during the 10th Plan.

Strategy for the elimination of child labour under the 10th Plan

An evaluation of the Scheme was carried out by independent agencies in coordination with V. V. Giri National Labour Institute in 2001. Based on the recommendations of the evaluation and experience of implementing the scheme since 1988, the strategy for implementing the scheme during the 10th Plan was devised. It aimed at greater convergence with the other developmental schemes and bringing qualitative changes in the Scheme. Some of the salient points of the 10th Plan Strategy are as follows:

- Focused and reinforced action to eliminate child labour in the hazardous occupations by the end of the Plan period.
- Expansion of National Child Labour Projects to additional 150 districts.
- Linking the child labour elimination efforts with the Scheme of Sarva Shiksha Abhiyan of Ministry of Human Resource Development to ensure that children in the age group of 5-8 years get directly admitted to regular schools and that the older working children are mainstreamed to the formal education system through special schools functioning under the NCLP Scheme.
- Convergence with other Schemes of the Departments of Education, Rural Development, Health and Women and Child Development for the ultimate attainment of the objective in a time bound manner.

The Government and the Ministry of Labour & Employment in particular, are rather serious in their efforts to fight and succeed in this direction. The number of districts covered under the NCLP Scheme has been increased from 100 to 250, as

mentioned above in this note. In addition, 21 districts have been covered under INDUS, a similar Scheme for rehabilitation of child labour in cooperation with US Department of Labour. Implementation of this Project was recently reviewed during the visit of Mr. Steven Law, Deputy Secretary of State, from the USA. For the Districts not covered under these two Schemes, Government is also providing funds directly to the NGOs under the *Ministry's* Grants-in-aid Scheme for running Special Schools for rehabilitation of child labour, thereby providing for a greater role and cooperation of the civil society in combating this menace.

Elimination of child labour is the single largest programme in this Ministry's activities. Apart from a major increase in the number of districts covered under the scheme, the priority of the Government in this direction is evident in the quantum jump in budgetary allocation during the 10th Plan. Government has allocated Rs. 602 crores for the Scheme during the 10th Plan, as against an expenditure of Rs. 178 crores in the 9th Plan. The resources set aside for combating this evil in the Ministry is around 50 per cent of its total annual budget.

The implementation of NCLP and INDUS Schemes is being closely monitored through periodical reports, frequent visits and meetings with the District and State *Government officials*. *The Government's commitment to achieve tangible results in this* direction in a time bound manner is also evident from the fact that in the recent Regional Level Conferences of District Collectors held in Hyderabad, Pune, Mussoorie and Kolkata district-wise review of the Scheme was conducted at the level of Secretary. These Conferences provided an excellent opportunity to have one-to-one interaction with the Collectors, who play a pivotal role in the implementation of these Schemes in the District. Besides, these Conferences also helped in a big way in early operationalisation of Scheme in the newly selected 150 districts.

The Government is committed to eliminate child labour in all its forms and is moving in this direction in a targeted manner. The multipronged strategy being followed by the Government to achieve this objective also found its echo during the recent discussions *held in the Parliament on the Private Member's Bill tabled by Shri Iqbal Ahmed Saradgi*. It was unanimously recognized therein that the problem of child labour, being inextricably linked with poverty and illiteracy, cannot be solved by legislation alone, and that a holistic, multipronged and concerted effort to tackle this problem will bring in the desired results.

UNIT V

WOMEN WORKERS

PROFILE OF WOMEN WORKERS

Women form an integral part of the Indian Workforce. According to the information provided by the Registrar General of India, the work participation rate for women was 25.68 per cent in 2001. This is an improvement from 22.73 per cent in 1991 and 19.67 per cent in 1981. The two important aspects that require mention are that while there has been an

improvement in the work participation rate of women, it continues to be substantially less in comparison to the work participation rate of men. In 2001, the work participation rate for women in rural areas was 30.98 per cent as compared to 11.55 per cent in the urban areas. In the rural areas, women are mainly involved as cultivators and agricultural labourers. In the urban areas, almost 80 per cent of the women workers are working in the unorganized sectors like household industries, petty trades and services, buildings and construction. 11.2 In so far as the organized sector is concerned, in March 2004, women workers constituted 18.7 per cent of the total organized sector employment in the country, as compared to 18.4 per cent in the previous year. As on 31st March, 2004, there were about 49.34 lakh women workers employed in the organized sector (Public and Private Sector). Of this, nearly 28.12 lakh were employed in community, social and personnel services sector. Plantations and factories were other important employers of women. Women workers constitute only 5 per cent of the work force in the mines sector.

WOMEN'S ACCESS TO EDUCATION AND SKILLS / VOCATIONAL TRAINING

Women's access to employment is to a significant extent related to their access to education and skill upgradation. At present, women lag behind men in terms of access to education. The Government has been implementing several programmes aimed at providing access to education and vocational training to women. In this context, a Women's Vocational Training programme was launched in 1977 under the Directorate General of Employment & Training (DGE&T), in this Ministry. The programme aims at improving employability of women in wage/self-employment through skill training/development. Under this programme, a separate Women's training wing has been set up at DGE&T Headquarters, which is responsible for designing and pursuing long term policies related to providing vocational training to women in the country. As part of the programme, in the Central Sector, one National and ten Regional Vocational Training Institutes have been set up in different parts of the country. These institutes organize regular skill/vocational training courses at basic, advanced and post advanced levels for women who have passed 10th or 12th standard and qualify the specified eligibility conditions laid down for various courses. Besides the structured long-term courses, these institutes also organize need-based short term / ad-hoc courses for general women groups – housewives, students, school drop-outs, etc. And refresher training programmes in advance skills / pedagogy for ITI instructors. So far, about 49,275 trainees have been trained in the above institutes and about 3344 seats are being currently offered to trainees in various courses. In the State Sector, a network of exclusive women Industrial Training Institutes (WITIs) have been set up under the administrative control of the State Governments. These institutes provide basic skill training to women. At present, there are 883 women ITIs and women Training Wings in General ITIs (263 Govt. Women ITIs, 93 Private Women ITIs, 443 women Training Wings in Govt. ITIs and 84 women Training Wings in Private ITIs) having 48014 training seats. Besides this, the Indian Institute of Workers Education, Mumbai has established a separate cell on "Women and Child Labour" and evolved advance training programmes for women activists who are members of the Central Trade Union Organizations and are involved in the upliftment and welfare of women and child labour in the country. From 1992-93 to August, 2006, 1131 women activists were trained in the various training programmes conducted by the Women and Child Labour Cell of the Institute.

PROTECTION OF THE INTEREST OF WOMEN WORKERS

The Government has taken several steps for creating a congenial work environment for women workers. A number of protective provisions have been incorporated in the various

labour laws. Besides this, a separate Cell for Women Labour was set up in this Ministry in 1975. The intention was to focus attention on the condition of working

women and bring about an improvement therein. The Cell has the following functions:

Formulation and coordination of policies and programmes for the female labour force within the framework of national manpower and economic policies. Maintaining liaison with other Government agencies to secure effective implementation of the programmes in respect of women workers. Monitoring the implementation of the Equal Remuneration Act, 1976. Setting up of an Advisory Committee under the Equal Remuneration Act, 1976. Giving grants-in-aid to Non-Governmental Organisations/ Voluntary Organisations to formulate and execute action oriented projects for women workers. In recent years, the Ministry has been actively involved in creating awareness among women workers especially in respect of their legal rights and duties. This is being done in cooperation with Non-Governmental Organizations/Voluntary Organizations.

EMPLOYMENT OF WOMEN – PROTECTIVE LEGAL PROVISIONS

Sl.No. Name of Enactment Protective Provisions

The Contract Labour(Regulation & Abolition)Act, 1970

Provision of crèches where twenty or more women are ordinarily employed as contract labour. Female contract labour to be employed by any contractor between 6.00 A.M. and 7.00 P.M. with the exception of mid-wives and nurses in hospitals and dispensaries.

The Maternity Benefit Act, 1961

Maternity benefits to be provided on completion of 80 days working. Not required to work during six weeks immediately following the day of delivery or miscarriage. No work of arduous nature, long hours of standing likely to interfere with pregnancy/normal development of foetus or which may cause miscarriage or is likely to affect health to be given for a period of six months immediately preceding the period of one week before delivery. On medical certificate, advance maternity benefit to be allowed. Rs.250.00 as Medical bonus to be given when no prenatal confinement and post natal care is provided .

The Equal Remuneration Act, 1976

Payment of equal remuneration to men and women workers for same or similar nature of work protected under the Act. No discrimination is permissible in recruitment and service conditions except where employment of women is prohibited or restricted by or under any law.

The Employee's State Insurance (General) Regulation, 1950

Claim for maternity benefit becomes due on the date medical certificate is issued for miscarriage, sickness arising out of pregnancy, confinement or premature birth of child.

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

Representation of a women member on Building and other Construction Worker Welfare Boards. Provisions for maternity benefit to female beneficiaries of the Welfare Fund. Provision for crèches where more than 50 female construction workers are ordinarily employed. The Industrial Employment (Standing Orders) Act, 1946. Provision regarding safeguards against sexual harassment of women workers at their work places..

EQUAL REMUNERATION

The ILO Convention No.100 of 1951 relating to equal remuneration for men and women was ratified by the Government of India in the year 1958. To give effect to the Constitutional provisions and also to ensure the enforcement of ILO Convention No. 100, the Equal Remuneration Ordinance was promulgated in the year 1975. The Equal Remuneration Act, 1976, subsequently replaced the above Ordinance. States/Union Territories have appointed

competent authorities under the Equal Remuneration Act, 1976 and have also set up Advisory Committees under the Act. The situation regarding enforcement of the provisions of Equal Remuneration Act is regularly monitored by the Ministry and the Central Advisory Committee. Annual returns are called for by the special cell from the State Governments in order to monitor implementation of the Act. The State Governments/Union Territories are being advised from time to time to ensure more rigorous enforcement of the Act so as to improve the condition of women workers.

CHILD CARE CENTRES

Statutory provisions have been made in certain Labour laws for organizing child care centers for the benefit of women workers. The Factories Act, 1948, the Beedi & Cigar Workers (Conditions of Employment) Act, 1966, and the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 provide for establishment of crèches for the benefit of women workers. The Plantation Labour Act, 1951, provides that the women workers be provided time-off for feeding children.

SUPREME COURT GUIDELINES ON SEXUAL HARASSMENT OF WOMEN WORKERS

The Hon'ble Supreme Court of India, in the case of writ petition No.666-70 of 1992 filed by Vishaka & Others vs State of Rajasthan & Others laid down certain guidelines for the prevention of sexual harassment of women employees in their work places. A number of initiatives have been taken to give effect to the guidelines. All Central Ministries/Departments, State Governments / Union Territories and Central Public Sector Undertakings have been informed of the provisions contained in the judgment. They have been asked to implement the guidelines laid down in the said judgment. The Conduct Rule applicable to the officers of the Central Government and the All India Services has since been amended to give effect to the guidelines. The Industrial Employment (Standing Orders) Act, 1946 has also been amended to make the guidelines applicable to the employees in the Private Sector.

Building and Other Construction Workers (Regulation of Employment and working Conditions) Act, 1996

There are about 8.5 million building and other construction workers in India as per the estimates of National Sample Survey (1987-88). These workers are one of the most numerous and vulnerable segments of the unorganised sector in India. The building and other construction works are characterised by their inherent risk to the life and limb of the workers. The work is also characterised by its casual nature, temporary relationship between employer and employee, uncertain working hours, lack of basic amenities and inadequacy of welfare facilities. Although the provisions of various Labour Laws i.e., Minimum Wages Act 1948, Contract Labour (Regulation & Abolition) Act 1970 and Inter-State Migrant Workmen (Regulation of Employment & Conditions of Services) Act 1979 etc., are applicable to the building and other construction workers, a need was felt for a comprehensive Central Legislation for this category of workers. Towards the above goal the following two enactments have come on the Statute Book w.e.f. 20.8.96, initially brought in as ordinances on 3.11.95

1. The Building & Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; and
2. The Building & Other Construction Workers' Welfare Cess Act, 1996 .

AIMS AND OBJECTIVES

The above law aims to provide for regulation of employment & conditions of service of the building and other construction workers as also their safety, health and welfare measures in every establishment which employs or employed during the preceding year ten or more workers. The exception made is only in respect of residential houses for own purpose constructed with a cost not exceeding Rs. 10 lakh and such other activities to which the provisions of Factories Act, 1948 and Mines Act, 1952 apply. Some of the other main provisions of the Main Act are given below:

1. Provision for an Advisory Committee at the Central and the State levels with the function to advise the Governments concerned on such matters arising out of the administration of the Act as may be referred to it.
2. Provision for registration of each establishment within a period of sixty days from the commencement of work to ensure that there are no malpractices and to discourage non-compliance of law by circumventing.
3. Provision for registration of building workers as beneficiaries under this Act.
4. Provision for constitution a Building and Other Construction Workers' Welfare Board by every State Government to exercise the powers conferred on, and perform the functions assigned to it, under the Act.
5. Provision for immediate assistance in case of accidents, old age pension, loans for construction of house, premia for group insurance, financial assistance for education, to meet medical expenses, maternity benefits etc.
6. Provision for health and safety measures for the construction workers in conformity with ILO convention No.167 concerning safety and health in construction revising the Safety Provisions (Building) Convention, 1937. For this purpose comprehensive Central Rules i.e. Building and other Construction Workers (Regulation of Service and Conditions of Service) Central Rules, 1998 have been notified by the Central Government.

7. Provision for constitution of safety committees in every establishment employing 500 or more workers with equal representation from workers and employers in addition to appointment of safety officers qualified in the field.

8. Provision for Penalties of fine and imprisonment for violation and contravention of the Act

GOVERNMENT POLICY

Government's policy is to ensure that the intended benefits and advantages reach the construction workers at the earliest and in full measure. The difficulties experienced in implementation of these Act(s) will become more evident once the implementation of various provisions of the Act(s) and Rules by the Central as well as State Governments pick up momentum. Based on the experience gained by way of implementation of the Act(s) and Rules, corrective steps, if any, will be taken to make them more responsive to the welfare needs of the construction workers.

The Building & Other Construction Workers' Welfare Cess Act, 1996 . (28 of 1996)

An Act is provide for the levy and collection of a cess on the cost of construction incurred by employers with a view to augmenting the resources of the Building & Other Construction Workers' Welfare Boards constituted under the Building & Other Construction Workers (Regulation of Employment and Conditions of Service) Act,1996. It extends to the whole of India and come in to force on the 3rd day of November, 1995.

Under the Act 1% cess shall be collected from every employer where the cost of construction is more than Rs. 10 lakhs. The proceeds of the cess so collected shall be paid by the local authority or the State Government collecting the cess to the Board after deducting the cost of collection of such cess not exceeding 1% Of the amount collected.

Further, the Central Government may, by notification in the Official Gazette, exempt any employer or class of employers in a State from the payment of cess payable under this Act where such cess is already levied and payable under any corresponding law in force in that State.

Responsibility for enforcement of the Act primarily lies with the State Governments.

AGRICULTURAL WORKERS

Agricultural workers constitute by far the largest segment in the unorganised sector and their number according to 1991 Census was 74.6 million. In addition, a significant number, 110.7 million, are listed as cultivators (large, medium and small) of whom approximately 50% belong to the category of small and marginal farmers. Many of these small and marginal farmers on account of utterly deficit, small and uneconomic holdings and low yield work on the land of others. Further, a significant number engaged in livestock, forestry, fishing, orchards and allied

activities as well as small and marginal farmers work as agricultural workers in their spare time or in times of difficulty to supplement their meagre incomes.

In spite of the fact that these agricultural workers have such numerical strength, they are extremely vulnerable to exploitation on account of low levels of literacy, lack of awareness, persistent social backwardness and absence of unionisation and other forms of viable organisation. The avenues of stable and durable employment for them have been limited leading to inter-district and inter-state migration in search of better avenues of employment and wages but with a lot of dislocation of family life, dislocation of education of children and numerous other handicaps.

Several measures have been taken to protect the interests of the working class and uplift the condition of agricultural workers. The very first legislation, the Minimum Wages Act, 1948 was applied to the agricultural sector also. Subsequently, the Plantation Labour Act, 1951 was enacted to provide certain basic facilities to plantation workers. Many other existing labour laws are applicable or have direct bearing on agricultural labour. The problems of agricultural labourers have been sought to be tackled through Multi-dimensional course of action viz., improvement of infrastructural facilities, diversification to non-farm activities, skill improvement programmes, financial assistance to promote self-employment, optimising the use of land resources etc., through a variety of rural development, employment generation and poverty alleviation programmes. All these efforts have not been able to adequately protect the interests of agricultural workers. This is partly on account of lack of bargaining power. Keeping in view this broad perspective, the Ministry of Labour is contemplating to bring a comprehensive legislation to safe guard the interests of agricultural workers.

The proposed legislation would provide for regulation of the service conditions of agricultural workers and provides for certain welfare measures which include financial assistance in case of death and injury, payment of group insurance premia, health, maternity benefits, old age pension, housing assistance and educational assistance to the children of agricultural workers. Special provision/welfare schemes for women workers prohibiting their employment after sunset, rest shelter with employment of 20 and above female agricultural workers for use of children under the age of six, ensuring payment of equal wages to men and women for same and similar nature of work as required under Equal Remuneration Act, maternity benefits etc. are also provided in the proposed legislation. To meet the expenditure for various welfare measures there is *provision for constitution of an Agricultural Workers' Welfare Fund at the district level to be financed by employers' contribution and contribution by the workers.* The proposal is at the stage of consideration at various levels in the Government. *However, Government's endeavour is to finalise the proposal at the earliest.*

For the benefit of the Agriculture workers Government has launched Krishi Shramik Samajik Suraksha Yojana from 1.7.2001 to provide social security to the agriculture workers.

Empowerment for the Differently Abled

The degree of evolvement of a society is gauged by the manner in which it cares for those on its fringes or those placed at any kind of disadvantage vis-vis the rest of society at large due to force of circumstances such as birth, age or disability. A truly compassionate society makes allowances for such infirmities in a non-intrusive, participative and sensitive manner, ensuring equal opportunities to all by providing a level playing field.

As per the 11th Plan Persons with Disabilities could be as high as 5 - 6% of India's total population. We need to make our society and systems inclusive for this substantial portion of our population, enabling them to lead a dignified, independent life while recognising them as valuable human resource to our country. All this is possible through an integrated approach, to include legislation, policies and concessions by the government, coupled with active participation by organisations, employers and, in fact, every citizen.

Milestones

Schemes and Initiatives

Inclusiveness

Milestones

The Government of India has been proactive in terms of empowering the differently abled. Several schemes and acts have been framed to ensure that they have plenty of opportunities to become self reliant.

Some major milestones in ensuring that Persons With Disabilities are assured a life of dignity and self sufficiency are the enactment of (UNCRPD) by India in 2007. The Government is presently in the process of making comprehensive amendments to the to make it more inclusive and in keeping with international conventions.

Some highlights are:-

- Inclusion of new disabilities such as autism and enlarging the scope of existing disabilities.
- Setting up of a National Fund for Persons with Disabilities.
- Ensuring an inclusive environment in education, on roads and in built environment.
- Restructuring of the Central and State coordinating Committees as Advisory Boards with enhanced roles and responsibilities; creation of committees at district levels.
- Emphasis on means to prevent disabilities.
- Affirmative action, including reservation of dwelling units and shops for Persons with Disabilities.
- Introduction of Disability Pension and Insurance Scheme.

Schemes and Initiatives

From providing aids and appliances, scholarships, awards and monetary benefits to reservations in government jobs and incentives for private employers to promote employment of such persons, the government's approach has been multifaceted. The endeavour is to ensure overcoming the restrictions imposed by their condition and allowing them to lead a normal, self-reliant life. Some schemes for empowerment of Persons with Disabilities and concessions offered by the government are:-

- Assistance to Disabled Persons for Purchase / Fitting of Aids and Appliances (ADIP Scheme)- External website that opens in a new window
- Deendayal Disabled Rehabilitation Scheme to promote Voluntary Action for Persons with Disabilities- External website that opens in a new window
- Scheme of National Awards for Empowerment of Persons with Disabilities- External website that opens in a new window
- Scheme of National Scholarships for Persons with Disabilities- External website that opens in a new window
- Scheme of Integrated Education for the Disabled Children
- Scheme for providing Employment to Persons with Disabilities in the Private Sector - Incentives to the Employers- External website that opens in a new window
- Conveyance Allowance- External website that opens in a new window
- Income Tax Concessions- External website that opens in a new window
- Reservation of Jobs & Other Facilities For Disabled Persons- External website that opens in a new window
- Financial Assistance to Person with Disabilities- External website that opens in a new window
- Equal Insurance Benefits- External website that opens in a new window

Inclusiveness

Ensuring public spaces, facilities and systems are easily accessible to Persons with Disabilities is another area of focus. Accessibility norms being followed by the government websites are endeavouring towards inclusiveness of Persons with Disabilities. A person with visual disability can now access the Government portals using assistive technologies such as screen readers and magnifiers. The Central Public Works Department (CPWD) has issued comprehensive guidelines for 'Barrier Free Built Environment- External website that opens in a new window' to make buildings and facilities friendly for use by Persons with Disabilities.

The Union Minister for Social Justice and Empowerment, Shri Mukul Wasnik, announced the institution of three National Awards- External website that opens in a new window from this year for Websites having the best accessibility features for persons with disabilities. One Award each will be given in the category of Websites belonging to Central and State governments, Public Sector Undertakings, and the Private Sector, respectively.

As citizens, we also need to be sensitive towards the needs of the differently abled persons, provide them the opportunity to live with dignity by removing all barriers - physical and perceptual - that inhibit them.

KPO vs BPO

The dividing line between KPO and BPO is still very faded; some experts say that KPO is not different from BPO. It is only a kind of BPO. Says Karnik, "Broadly, KPO is a subset of BPO. It just occupies the higher end of the BPO spectrum."

In fact, KPO owes its existence to BPO. It is its natural progression. After reaping the benefits of outsourcing low-end processes to India, foreign companies are now trying their hands at outsourcing high-end processes to the country.

"KPO is the next step in the outsourcing pyramid. For instance, in a financial service BPO, data entry of invoices has been around for some time. But given the value-for-money Indian BPOs have shown, international companies are thinking, why not broaden the scope to include financial analysis?"

As in the words of Pavan Bagai, vice president EXL Service –

"Imagine unsorted data going through a black box and coming out as useful information. In KPOs the black box is your mind. There is no pre-defined process to reach a conclusion."

In BPOs there is a pre-defined way to solve a problem. BPOs will normally include transaction processing, setting up a bank account, selling an insurance policy, technical support, voice and email-based support.

The myth that Indian companies can only provide "software coolies" is soon changing to the reality of Indian companies being capable of almost anything, even rocket science!

India has a large pool of knowledge workers in various sectors ranging from Pharmacy, Medicine, Law, Biotechnology, Education & Training, Engineering, Analytics, Design & Animation, Research & Development, Paralegal Content and even Intelligence services that can be put to use in a KPO.

Low-end outsourcing services have an expected Cumulative Annual Growth Rate (CAGR) of 26% by 2010. In contrast, the global KPO market is poised for an expected CAGR of 46% by 2010. The following figure demonstrates the expected growth in the BPO and KPO markets over the next seven years.

It's very evident from the above discussion that the KPOs are the next big thing about to happen in India.

But the way to becoming a strong KPO power is not very smooth. As KPO delivers high value to organizations by providing domain-based processes and business expertise rather than just process expertise.

These processes demand advanced analytical and specialized skill of knowledge workers that have domain experience to their credit. Therefore outsourcing of knowledge processes face more challenges than BPO (Business Process Outsourcing).

Some of the challenges involved in KPO will be maintaining higher quality standards, investment in KPO infrastructure, the lack of talent pool, requirement of higher level of control, confidentiality and enhanced risk management.

Comparing these challenges with the Indian IT and ITES service providers, it is not surprising that India has been ranked the most preferred KPO destination owing to the country's large talent pool, quality IT training, friendly government policies and low labor costs.

WHY DO WE NEED SOCIAL SECURITY

Social Security protects not just the subscriber but also his/her entire family by giving benefit packages in financial security and health care. Social Security schemes are designed to guarantee at least long-term sustenance to families when the earning member retires, dies or suffers a disability. Thus the main strength of the Social Security system is that it acts as a facilitator - it helps people to plan their own future through insurance and assistance. The success of Social Security schemes however requires the active support and involvement of employees and employers.

As a worker/employee, you are a source of Social Security protection for yourself and your family. As an employer you are responsible for providing adequate social security coverage to all your workers.

Background information on Social Security

India has always had a Joint Family system that took care of the social security needs of all the members provided it had access/ownership of material assets like land. In keeping with its cultural traditions, family members and relatives have always discharged a sense of shared responsibility towards one another. To the extent that the family has resources to draw upon, this is often the best relief for the special needs and care required by the aged and those in poor health.

However with increasing migration, urbanization and demographic changes there has been a decrease in large family units. This is where the formal system of social security gains importance. However, information and awareness are the vital factors in widening the coverage of Social Security schemes.

Social Security Benefits in India are Need-based i.e. the component of social assistance is more important in the publicly-managed schemes-

In the Indian context, Social Security is a comprehensive approach designed to prevent deprivation, assure the individual of a basic minimum income for himself and his dependents and to protect the individual from any uncertainties. The State bears the primary responsibility for developing appropriate system for providing protection and assistance to its workforce. Social Security is increasingly viewed as an integral part of the development process. It helps to create a more positive attitude to the challenge of globalization and the consequent structural and technological changes.

WORKFORCE IN INDIA

The dimensions and complexities of the problem in India can be better appreciated by taking into consideration the extent of the labour force in the organized and unorganized sectors. The latest NSSO survey of 1999-2000 has brought out the vast dichotomy between these two sectors into sharp focus. While as per the 1991 census, the total workforce was about 314 million and the organized sector accounted for only 27 million out of this workforce, the NSSO's survey of 1999-2000 has estimated that the workforce may have increased to about 397 million out of which only 28 million were in the organized sector. Thus, it can be concluded from these findings that there has been a growth of only about one million in the organized sector in comparison the growth of about 55 million in the unorganized sector.

Organized and Unorganized Sectors

The organized sector includes primarily those establishments which are covered by the Factories Act, 1948, the Shops and Commercial Establishments Acts of State Governments, the Industrial Employment Standing Orders Act, 1946 etc. This sector already has a structure through which social security benefits are extended to workers covered under these legislations.

The unorganized sector on the other hand, is characterized by the lack of labour law coverage, seasonal and temporary nature of occupations, high labour mobility, dispersed functioning of operations, casualization of labour, lack of organizational support, low bargaining power, etc. all of which make it vulnerable to socio-economic hardships. The nature of work in the unorganized sector varies between regions and also between the rural areas and the urban areas, which may include the remote rural areas as well as sometimes the most inhospitable urban concentrations. In the rural areas it comprises of landless agricultural labourers, small and marginal farmers, share croppers, persons engaged in animal husbandry, fishing, horticulture, bee-keeping, toddy tapping, forest workers, rural artisans, etc. where as in the urban areas, it comprises mainly of manual labourers in construction, carpentry, trade, transport, communication etc. and also includes street vendors, hawkers, head load workers, cobblers, tin smiths, garment makers, etc.

SOCIAL SECURITY LAWS

The principal social security laws enacted in India are the following:

- (i) *The Employees' State Insurance Act, 1948 (ESI Act)* which covers factories and establishments with 10 or more employees and provides for comprehensive medical care to the employees and their families as well as cash benefits during sickness and maternity, and monthly payments in case of death or disablement.
- ii) *The Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (EPF & MP Act)* which applies to specific scheduled factories and establishments employing 20 or more employees and ensures terminal benefits to provident fund, superannuation pension, and family pension in case of death during service. Separate laws exist for similar benefits for the workers in the coal mines and tea plantations.
- (iii) *The Workmen's Compensation Act, 1923 (WC Act)*, which requires payment of compensation to the workman or his family in cases of employment related injuries resulting in death or disability.
- (iv) *The Maternity Benefit Act, 1961 (M.B. Act)*, which provides for 12 weeks wages during maternity as well as paid leave in certain other related contingencies.
- (v) *The Payment of Gratuity Act, 1972 (P.G. Act)*, which provides 15 days wages for each year of service to employees who have worked for five years or more in establishments having a minimum of 10 workers.

Separate Provident fund legislation exists for workers employed in Coal Mines and Tea Plantations in the State of Assam and for seamen.

NEW INITIATIVES –

- The various Central Acts on Social Security are being examined in the light of the recommendations of the 2nd National Commission on Labour. Relevant amendments are proposed in the EPF and MP Act as also the ESI Act. The consultation process is on with reference to the amendment suggestions received in case of the *Maternity Benefit Act and the Workmen's Compensation Act*.
- Innovative measures are proposed in the running of the Social Security Schemes of EPFO and ESIC. This includes flexible benefit schemes tailored to the specific requirements of different segments of the population.

PRESENT INITIATIVES IN WORKING OF EPFO & ESIC

The profiles of the Employees' Provident Fund Organization and the Employees' State Insurance Corporation are being changed towards greater accessibility and client satisfaction.

The EPFO extends to the entire country covering over 393824 establishments. At present, over 3.9 crore EPF Members and their families get benefits under the social security schemes administered by the EPFO. The total corpus of the EPF Scheme 1952, EDLI Scheme, 1976 and Employees Pension Scheme 1995 together amounts to about Rs.1,39,000 crores. Over the years, the volume of service rendered to subscribers as well as investments made, etc. by EPFO have grown manifold. With a view to provide better services to subscribers and employers, the organization has launched the Project RE-INVENTING EPF, INDIA since June, 2001. The prime objectives of this Project are to provide the subscribers better and efficient services, to help the employers by reducing the cost of compliance and to benefit the organization to register geometric growth in all fields. An important part of this Project is the allotment of the UNIQUE IDENTIFICATION NUMBER-the SOCIAL SECURITY NUMBER to the EPF subscribers, issuing of BUSINESS NUMBERS to the employers and Business Process Re-engineering.

The strategy for implementation has been evolved and the allotment of the Social Security Number has begun with the entire activity being carried out in smaller phases for effective data collection. The criteria considered for the allotment of SSN include the centralized control of Uniqueness, ensuring the least manual intervention during allotment and near 100% Uniqueness accuracy levels. The Social Security Number in a nutshell is a big effort towards solving the problem of providing social protection to migrant labour and to make the data base of EPFO adaptable to the present trend of high job mobility among workers.

The Employees State Insurance Scheme provides need based social security benefits to insured workers in the organized sector. As in the case of the EPFO, the ESIC has also taken up the daunting task of tailoring different benefit schemes for the needs of different worker groups. The scheme, which was first introduced at two centers in 1952 with an initial coverage of 1.20 lakh workers, today covers 71.59 lakh workers in about 678 centers in the country. It benefits about 310.54 lakh beneficiaries including the family workers of the insured persons, across the country. The scheme is being gradually to cover new centers and steps are being taken for creation of requisite infrastructure for providing medical care to a larger number of insured persons and their families. While the cash benefits under the scheme are administered through a network of about 850 local offices and pay offices, medical care is provided through 141 ESI Hospitals, 43 ESI Annexes, 1451 ESI Dispensaries and 2789 Clinics of Insurance Medical Practitioners. The total number of medical officers under the Scheme is about 10,480.

There have been a number of new developments in the ESIS during the past five years. Each year, it is extended to new areas to cover additional employees. The new employees covered varied from 30,500 in 1998, 89030 in 2000 to 46430 till Jan., 2003. Low paid workers in receipt of daily wages up to Rs. 40/- have been exempted from payment of their share of contribution. Earlier this limit was Rs. 25/-. This measure has benefited about six lakh insured workers across the country. In order to provide relief to insured persons suffering from chronic and long term diseases, the list of diseases for which Sickness Benefit is available for an extended period up to two years at an enhanced rate of 70% of daily wages, was enlarged by adding four new diseases, keeping in view the international classification of disease profiles and the quantum of malignancies of some diseases which had come to light over the last few years. The contributory conditions for this benefit were also reduced from 183 days to 156 days in the two-year period preceding the diagnosis.

The ESIC has made plans to commission Model hospitals in each State. Thirteen States/ UTs have so far agreed, in principle, to hand over one hospital each to the ESIC for setting up of Model hospital. Two Hospitals have been earmarked for being developed for superspeciality medical care in cardiology, i.e., Rohini at Delhi and Chinchwad in Maharashtra.

In order to improve the standard of medical care in the States, the amount reimbursable to the State Governments for running the medical care scheme has been increased to 87.5 % of Rs. 700 per capita with effect from 1.4.2003. The ESIC has formulated action plans for improving medical services under the ESI scheme with focus on modernization of hospitals by upgrading their emergency and diagnostic facilities, development of departments as per disease profiles, waste management, provision of intensive care services, revamping of grievance handling services, continuing education programme, computerization and upgradation of laboratories etc. The action plans have been in operation since 1998. The ESIC has also taken certain new initiatives to promote and popularize Indian Systems of Medicines (ISM) along with Yoga and have drawn up programmes for establishing these facilities in ESI hospitals and dispensaries in a phased manner.

SOCIAL SECURITY TO THE WORKERS IN THE ORGANIZED SECTOR

Social Security to the workers in the Organized Sector is provided through five Central Acts, namely, the *ESI Act*, the *EPF & MP Act*, the *Workmens' Compensation Act*, the *Maternity Benefit Act*, and the *Payment of Gratuity Act*. In addition, there are a large number of welfare funds for certain specified segments of workers such as beedi workers, cine workers, construction workers etc.

SOCIAL SECURITY COVERAGE IN INDIA

Most social security systems in developed countries are linked to wage employment. In India our situation is entirely different from that obtaining in developed countries. The key differences are:

- i) We do not have an existing universal social security system
- ii) We do not face the problem of exit rate from the workplace being higher than the replacement rate. Rather on the contrary lack of employment opportunities is the key concern,
- iii) 92% of the workforce is in the informal sector which is largely unrecorded and the system of pay roll deduction is difficult to apply.

Even today 1/8th of the world's older people live in India. The overwhelming majority of these depend on transfers from their children. Addressing social security concerns with particular reference to retirement income for workers within the coverage gap has been exercising policy makers across the world. In India the coverage gap i.e. workers who do not have access to any formal scheme for old-age income provisioning constitute about 92% of the estimated workforce of 400 million people. Hence the global debate and evaluation of options for closing the coverage gap is of special significance to India. The gradual breakdown of the family system has only underscored the urgency to evolve an appropriate policy that would help current participants in the labour force to build up a minimum retirement income for themselves.

4. The coverage gap in India is broadly categorized under the following groups:

- a) Agricultural sector = 180 million.
- b) Contract, services, construction = 60 million.
- c) Trade, Commerce, transport, storage
& Communications = 100 million.
- d) Others = 30 million.

Total = 370 million

HOWEVER ONE IMPORTANT FACTOR TO BE KEPT IN MIND ON THE COVERAGE ISSUE IS THAT THIS CLASSIFICATION DOES NOT INCLUDE THE VARIOUS SOCIAL SECURITY SCHEMES RUN BY OTHER MINISTRIES FOR DIFFERENT TARGET GROUPS. WE HAVE ALSO NOT INCLUDED INDIRECT FUNDING THROUGH SUBSIDIES, PDS, SOCIAL ASSISTANCE PROGRAMMES, FOOD-FOR-WORK PROGRAMMES, TAX CONCESSIONS ETC.

EXTENSION OF COVERAGE

Currently, social security policy makers and administrators are engaged in a wide-ranging debate to redress the problems in providing social security in the country. This

debate has thrown up various arguments on the efficacy of publicly managed social security schemes as opposed to privately managed schemes. There is no standard model that can be adopted on this issue. In the Indian context the privately managed schemes can at best be considered as supplementary schemes after the mandatory schemes managed publicly. It is only the publicly managed scheme, which will extend to all the sectors of the workforce. The challenge of closing the coverage gap in social security provisions has to be developed at two levels. The first level involves the re-engineering of the institutional arrangements to increase efficiency. The second level is to create an appropriate legislative and administrative framework for significant increase in the social security coverage especially in the unorganized sector.

In India currently only about 35 million out of a workforce of 400 million have access to formal social security in the form of old-age income protection. This includes private sector workers, civil servants, military personnel and employees of State Public Sector Undertakings. *Out of these 35 million, 26 million workers are members of the Employees' Provident Fund Organization.* As such the current publicly managed system in India is more or less entirely anchored by the Employees' Provident Fund Organisation. *It may be noted that in the last 50 years, the Employees' Provident Fund Organisation has been in existence,* there has been no instance of any scam or a situation where the Fund has been exposed to speculation and risk. Another important contribution of EPF is now proposed to extend to the critical life benefit of providing shelter. The Shramik Awas Yojana aims at providing a cost effective Housing Scheme specific for EPF numbers. This involves cooperation between organizations such as HUDCO, Housing Agencies, State Governments, Employers and EPF Members with the EPFO playing the role of facilitator. The investments are directed into the prescribed securities and portfolios as per the pattern laid down by the Finance Ministry.

EPFO Programs At A Glance

Program name	Program Type	Financing	Coverage
Employees Provident Fund (EPF)	<input type="checkbox"/> Mandatory	<input type="checkbox"/> Employer: 1.67-3.67% <input type="checkbox"/> Employee: 10-12% <input type="checkbox"/> Government: None	<input type="checkbox"/> Firms with + 20 employees
Employees Pension Scheme (EPS)	<input type="checkbox"/> Mandatory	<input type="checkbox"/> Employer: 8.33% <input type="checkbox"/> Employee: None <input type="checkbox"/> Government: 1.16%	<input type="checkbox"/> Firms with + 20 employees

Employees Deposit Linked Insurance Scheme (EDLI)	<input type="checkbox"/> Mandatory	<input type="checkbox"/> Employer: 0.5% <input type="checkbox"/> Employees: None <input type="checkbox"/> Government: None	<input type="checkbox"/> Firms with + 20 employees
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ESI Contribution Rates

- Employees- 1.75% of wages
- Employers- 4.75% of wages
- State Govts.-1/8th share of expenditure

A few examples of other retirement programs giving social security

(Information on extent of coverage of the labour force under these programs is not available)

Program Name	Program Type	Financing	Coverage
Civil Service Pension Scheme	Mandatory	State or Central Government	Civil servants at state and central government level
Government Provident Fund	Mandatory	Employee contributions	Civil servants at state and central government level
Special Provident Funds	Mandatory	Employer and employee contributions	Applies to Workers in particular sectors: Coal, Mines, Tea Plantation, Jammu and Kashmir Seamen, etc.
Public Provident Fund	Voluntary	Contributions	All individuals are eligible to apply
VRS plans	Voluntary	Contributions	Employees as decided by

			respective establishments
Personal Pension	Voluntary	Purchase of annuity type products	All individuals
State level social assistance	Government sponsored social assistance	State Government	Varies by State and type of Scheme
National Old Age Pension Scheme	Government sponsored social assistance	Central Government	Poor persons above age 65

NEW INITIATIVE IN SOCIAL SECURITY

Varishtha Pension Bima Yojana (VPBY): This scheme proposed in

the 2003-04 budget by the Ministry of Finance is to be administered by the Life Insurance Corporation of India (LIC). Its main features are summarized below:

Under VPBY, any citizen above 55 years of age, could pay a lump-sum, and get a monthly pensions are pegged at Rs. 250 and Rs. 2000 per month respectively.

These amounts are not indexed to inflation. There is a guaranteed return of 9Percent per annum for this scheme.

- The difference between the actual yield earned by the LIC under this scheme and the 9 percent will be made up by the Central Government.

