Chapter 7

INSTITUTIONAL ASPECTS OF CALCUTTA'S LABOUR MARKET

7.1 Introduction

Like any other market, labour market operates within a framework of institutions. The term institution has been used in the broad sense of the conventions and practice, may or may not be accompanied with organisational form. There are legal institutions, in the form of acts and related legal and administrative procedures, to resolve various conflicts and to protect the rights of the labour. The trade unions, and through them, usually, the political interventions exert important influences on the functioning of the labour market. The labour being human, its quality and effectiveness as a factor of production depend among other things on the motivation that in turn is related to the work environment including various uncertainties. The social security provisions are designed to mitigate some of these uncertainties. This chapter discusses various institutional aspects influencing the operation of labour market in Calcutta. However, many of the institutional arrangements are not for the city as such but for West Bengal and therefore, the discussion will be with reference to the state, though that applicable to the labour market of the city also. The city specific institutional aspects, there are a few such, would be referred to as and when the context comes. The institutional factors tend to vary between formal and informal labour markets, and in fact formal and informal labour market distinction is based on the institutional arrangements.

The discussion is organised in the following sections. Section 7.2 charts out the comparative structure of institutional framework in formal and informal labour market. Section 7.3 discusses the details institutional aspects of the formal labour market, while section 7.4 takes up that for the informal labour market. The section 7.5 highlights the role of the trade union in labour market and finally, section 7.6 is a concluding section.
7.2 Comparative picture of institutional arrangements in formal and informal markets

In the literature, the institutional structures of the formal and informal labour markets are described in a dichotomous fashion. The legal and institutional framework that exists for the formal sector is well defined whereas informal sector is characterised by absence of a legal and formal provision. In reality the institutional set up is not really dichotomous in nature - every thing legally set in the formal market and there is no legal provision in the informal labour market. In fact there are various laws and provisions applied to the so-called informal labour market. The informal labour market is exposed also to trade union activities, though the degree of effectiveness and compliance with the legal provisions varies from the formal labour market to informal labour market. There seems to be a continuum of labour markets in between the formal and informal labour markets characterised by various degree of legal provisions and trade union activities. Labour is in the concurrent list of the Indian Constitution. According to article 246 of the Constitution of India, both Parliament and state legislatures can enact laws on aspects relating to employment, trade unions, industrial disputes, social security, etc. Generally, State government is the appropriate authority for administering Central laws, too, in most cases.

Second National Labour Commission in its report submitted on June 2002 recommended that “there are certain provisions like maternity benefit, child care, workman’s compensation, medical benefits and other elements of social security and safety which must be applicable to all workers, irrespective of the employment size of that establishment, or the nature of its activity ” (Vol. I, p. 319). The Commission also suggested for a maximum limit of salary ‘above which the protection of the labour laws will not available’. In its report, Commission mention that “all three social partners (entrepreneurs, workers and the State and Central Government) have complained that the laws, as they exist, are unsatisfactory. Peaceful industrial relations are an imperative for the survival and progress of everyone-whether he or she is a worker or entrepreneur, whether he or she is an employer or employee”
At present, Central laws relating to the subject of labour relations are mainly the Industrial Dispute Act 1947, The Trade Unions Act 1926, The Industrial Employment (Standing orders) Act 1946, and Sales Promotion Employees (conditions of service) Act 1976 etc. The Labour Commission recommended that the provisions of all these laws be judiciously consolidated into a single law called the 'Labour Management Relations Law' or the 'Law on Labour Management Relations'. Commission also recommended for the enactment of a special law for small-scale units (reasonable threshold limit will be 19 workers; any establishment with workers above this number can not be regarded as small). The Labour Commission suggested a composite law for small enterprises. This composite law has provision for registration of establishments, securing safety, health and welfare of the workers, hours of work, leave, payment of wages, payment of bonus, compensation in case of lay off, retrenchment and closure, resolution of individual and collective disputes of workers, etc. Commission opined that 'a composite law will not only protect the interests of the workers in these enterprises but will make it easier for the small enterprises to comply with the same'.

The main objective of the Commission was to provide an 'umbrella' to the unorganised sector. Commission recommended that “a special provision may be made to enable workers in the unorganised sector to form trade unions, and get them registered even when an employer-employee relationship does not exist or is difficult to establish, and the provision stipulating 10 percent of membership shall not apply in their case.”

According to the Second Labour Commission, following rights of workers have been recognised as inalienable and must therefore, accrue to every worker under any system of labour laws and labour policy. These are:

1. Right to work of one’s choice
2. Right against discrimination
3. Prohibition of child labour
4. Just and humane conditions of work
5. Right to social security
6. Protection of wages including right to guaranteed wages
7. Right to redress at of grievances
8. Right to organise and form trade unions and right to collective bargaining and
9. Right to participate in management.

Most of these rights mentioned above are literally in papers only. In reality, discrimination is continuing, child labour constitutes a sizeable portion of the labour force, the employers extracted more work and continuously erode workers’ benefits, and the trade unions are becoming more and more submissive to the de-unionisation techniques of the employers.

**Law and institutional arrangement comprising the law**

Constitutionally, both Central Government and State Government can enact labour laws. (Labour is in the concurrent list). The labour law enacted by a state Government will be applicable only within that state. When Central and State Government both enacted labour law in the same matter then Central law is applicable. However, State Government can modify the Central Government law subject to the President’s approval. The labour laws in our country can be divided into following parts:

a) Laws related with trade union rights;
b) Laws related with industrial relation and working condition of the workers;
c) Laws related with working hours, leave rules, different welfare and protective measures for the workers employed in different occupations and types of activity;
d) Laws related with salary & wage, minimum wage, bonus etc.;
e) Social security measures.

There are various types of legislation and institutional arrangements now applicable to the different segments of the labour market. Central government and State Governments enact and implement these laws and regulations. There are some laws and regulations that cover both formal and informal workers simultaneously. The following chart shows different types of laws and regulations related to the labour market and the type of security given by these laws.
<table>
<thead>
<tr>
<th>Name of the law</th>
<th>State/</th>
<th>Sector- Formal/ Informal</th>
<th>Type</th>
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</thead>
<tbody>
<tr>
<td>1. The Workmen’s compensation Act, 1923</td>
<td>State</td>
<td>formal</td>
<td>Social security</td>
</tr>
<tr>
<td>2. The Trade Unions Act, 1926</td>
<td>Central</td>
<td>Formal</td>
<td>provide legal infrastructure</td>
</tr>
<tr>
<td>3. The Payment of Wages Act, 1936</td>
<td>Central</td>
<td>Formal</td>
<td>Wage</td>
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<tr>
<td>4. The Industrial Disputes Act, 1947</td>
<td>Central</td>
<td>Formal</td>
<td>Dispute</td>
</tr>
<tr>
<td>5. The Factories Act, 1948</td>
<td>Central</td>
<td>Formal</td>
<td>Ensure safe and healthy work environment in factories</td>
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<tr>
<td>6. The Minimum wages Act, 1948</td>
<td>Central</td>
<td>Both Formal &amp; Informal</td>
<td>Wage</td>
</tr>
<tr>
<td>7. The Employees’ State Insurance Act, 1948</td>
<td>Central</td>
<td>Both Formal &amp; Informal</td>
<td>Social security</td>
</tr>
<tr>
<td>8. The Plantations Labour Act, 1951</td>
<td>State</td>
<td>Formal</td>
<td>Wage, Welfare</td>
</tr>
<tr>
<td>10. The Working Journalists and Other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955</td>
<td>Central</td>
<td>Formal</td>
<td>Regulate the conditions of service</td>
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<tr>
<td>11. The Maternity Benefit Act, 1961</td>
<td>Central</td>
<td>Both Formal &amp; Informal</td>
<td>Social security</td>
</tr>
<tr>
<td>12. The Payment of Bonus Act, 1965</td>
<td>Central</td>
<td>Formal</td>
<td>Security</td>
</tr>
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<td>13. The West Bengal Payment of Subsistence Allowance Act, 1969</td>
<td>State</td>
<td>Formal</td>
<td>Wage</td>
</tr>
<tr>
<td>14. The Payment of Gratuity Act, 1972</td>
<td>Central</td>
<td>Formal</td>
<td>Social security</td>
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<tr>
<td>15. The West Bengal Workmen’s House Rent Allowance Act, 1974</td>
<td>State</td>
<td>Formal</td>
<td>Wage</td>
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<td>Number</td>
<td>Act Title</td>
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<td>17</td>
<td>The Motor Transport Workers Act, 1961</td>
<td>State</td>
<td>Informal</td>
</tr>
<tr>
<td>18</td>
<td>The West Bengal Shops &amp; Establishments Act, 1963</td>
<td>State</td>
<td>Informal</td>
</tr>
<tr>
<td>19</td>
<td>The Beedi &amp; Cigar Workers (Conditions of Employment) Act, 1966</td>
<td>Central</td>
<td>Informal</td>
</tr>
<tr>
<td>20</td>
<td>The Contract Labour (Regulation &amp; Abolition) Act, 1970</td>
<td>Central</td>
<td>Informal</td>
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<tr>
<td>21</td>
<td>The Equal Remuneration Act, 1976</td>
<td>State</td>
<td>Both Formal &amp; Informal</td>
</tr>
<tr>
<td>22</td>
<td>The Sales Promotion Employees (Condition of Service) Act, 1976</td>
<td>Central</td>
<td>Formal</td>
</tr>
<tr>
<td>23</td>
<td>The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979</td>
<td>State</td>
<td>Informal</td>
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<tr>
<td>26</td>
<td>Mines' Act, 1952</td>
<td>Central</td>
<td>Formal</td>
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<tr>
<td>Act</td>
<td>Level</td>
<td>Form</td>
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<td>27. Coal Mines' Provident Fund Act, 1966</td>
<td>Central</td>
<td>Formal</td>
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<tr>
<td>30. West Bengal Relief Undertaking (special provisions) Act, 1972</td>
<td>State</td>
<td>Informal</td>
<td></td>
</tr>
<tr>
<td>31. Dock Workers' (Regulation of employment) Act, 1948</td>
<td>Central</td>
<td>Formal</td>
<td></td>
</tr>
<tr>
<td>32. The Industrial Employment (standing orders) Act, 1946</td>
<td>Central</td>
<td>Formal</td>
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</tbody>
</table>

7.3 Institutions in the Formal Labour Market

Institutional aspects in the formal labour market consist of legal provisions and trade union, and the administrative conflict resolving mechanisms. The legal provisions shape the contracts in the labour market with respect to terms and conditions of employment including wages, social security payments, working hours and other conditions. The formal labour markets function with the parameters set by the rules and regulations. Both demand and supply are influenced by these arrangements.

7.3.1 Legal Institutions

As labour is a state subject, legal framework related to the labour market is developed and administered by the state governments. Various acts and bodies set under those acts taken together define the legal framework. These include (a) state apparatus related to labour and their functions, (b) acts related to (i) wages, (ii) other terms and conditions, (iii) social security, and (iv) dispute settlements.

These acts and institutions are different for the different sectors of the economy. In the manufacturing sector, for instance, the core act of the legal
framework for the formal labour market is the Factory Act. There are other acts related to wage payment, working hours and other working conditions and social-security payments by the employer, rights to organise trade unions for the labour employed in the firms covered under factory sector. On the other hand civil servants employed in the government come under the purview of a different set of acts. The activity of trade union, the other important institution, is an important factor determining the bargaining power of the labour. It influences not only the terms and conditions of contracts in the formal labour market but also the environment of the labour market. The administrative conflict resolving mechanism is also important as its efficacy determines the transaction costs and flexibility in the formal labour market. The labour related state-government apparatus that operates for the proper implementation of the labour laws and safe guarding the interest of the workers mostly in the formal labour market are described below:

Department of labour (Government of West Bengal)

---Directorate of labour — (administers)

Industrial dispute act, Trade union act

--- Registrar of Trade Unions
- Court of enquiry,
- Labour tribunal court
- Board of consiliation

--- Directorate of factories – administers

--- Factories Act, 1948 and the West Bengal Factories Rules, 1948
--- Payment of Wages Act, 1936 and the west Bengal Payment of Wages Rules, 1965
--- Maternity Benefit Act, 1961 and the West Bengal Maternity Benefit Rules, 1965
Some legal apparatuses and their modus operandi:

The Labour Directorate of the Labour Department administer The Trade Union Act. Under the delegated authority of the Central Government, the Registrar of Trade Unions, West Bengal also functions as ‘Registrar’ in relation to trade unions for which the Central Government is “The appropriate Government.” The fundamental object of the act is to provide a legal infrastructure within which the Trade Unions can operate and pursue their lawful activities.

The Directorate of Factories under the Department of Labour, Government of West Bengal is responsible for the administration of the following acts and the respective Rules formed there under:


Activities of the directorate of Factories are primarily aimed at establishing a safe and healthy work environment in factories with the elimination of every possible accident, occupational diseases and industrial disasters in and around the factory premises. Ensuring welfare of the workers in factories is also a major concern of the Directorate.

The Chief Inspector of Factories is the administrative head of Directorate and he has assisted by other officers.

For dispute settlement the major act is the Industrial Disputes Act. It defines the nature of the disputes and related phenomena, e.g. closure, lay-off, and lockout, strikes and provides for the legal framework or dispute settlements.
The Authorities under this act are:

- Works Committee
- Conciliation officers
- Board of Conciliation
- Courts of Inquiry
- Labour Courts
- Tribunals
- National Tribunals
- Finality of orders constituting Boards, etc.

The Employees' State Insurance Act is the first social insurance legislation in India after independence. The Scheme under the act started operating in Kanpur and Delhi in 1952 and gradually it is being extended to other parts of the country. This act ultimately replaces the Workmen's Compensation Act, 1923. The following are the main features of social insurance:

1. Setting up of a fund with the contributions of the workers, employers and the State, out of which benefits are paid;
2. No co-relation between contributions paid and benefits enjoyed;
3. The level of benefits to be just sufficient for a bare subsistence or for the maintenance of a minimum standard to discourage idleness and malingering;
4. Compulsory scheme of insurance;
5. Benefits claimed as a matter of right without any humiliating means test; and
6. Active participation of the State in administration.

The scheme is applicable to the factories running with power and employing 10 or more persons and also to the factories running without power and employing 20 or more persons. The present upper ceiling of wages for coverage of an employee under the scheme is Rs. 6500/- per month ('Labour in West Bengal' 2000, p 167).

The scheme is administered through the Directorate of Employees' State Insurance (Medical Benefit) Scheme under the administrative control of the Labour Department. The Director, ESI (who is the head of the organisation) is assisted by Deputy Directors, Assistant Directors, Administrative Medical Officer (A.M.O.), Additional A.M.O.s, Accounts Officers, other officers and staff.

The Minimum Wages Act directed the employers to pay the wages at the rate fixed by the Government to their employees. Since its enactment, West Bengal Government are keen to bring as many employments as possible under the coverage...
of the Minimum Wages Act, 1948. At present, there are 59 employments in the Schedule of employments of which only 15 were in original Act. Out of the 19 employments in the original schedule, 4 employments do not exist in our state (‘Labour in West Bengal’ 2004).

Besides fixation of minimum rates of wages, the State Government also revise such rates from time to time as per provisions of Section 5(1)(b) of the Minimum Wages Act, 1948. Minimum wages in this State have linked dearness allowances.

To enforce the provisions of the Minimum Wages Act 1948, in the scheduled employments in Calcutta and a few urban areas, there are at present 16 posts of Minimum Wages Inspectors. There are 44 Assistant Labour Commissioners posted at the District and Sub-Divisional levels who supervise the work of Inspectors for enforcement of Minimum wages Act, 1948. There are 335 posts of Agricultural Minimum Wages Inspectors. The Block Development Officers have also been empowered to act as Inspectors under the Minimum Wages Act, 1948 within their respective jurisdiction (‘Labour In West Bengal’ 2000, p.59).

The enactment of the Employees' Provident fund and Misc. Provisions Act heralded new vista in the social security arena of India. This act is passed for the benefits of the employees working in factories and other establishments. The object of enactment of the Provident Funds Act is for making some provisions for the future of the employees in factories and other establishments. This enactment was made to provide some relief and benefits of the employees after retirement or to grant some relief and benefits of the dependants of the employees in case of premature death. From the enactment of the Provident Funds Act, the employees will also have the habit of saving something from the present income as a shelter for the unforeseen difficult days in future time. As soon as the Scheme is applicable to an establishment, the liability to contribute does apply and there is no obligation on the part of the Provident Fund department to issue any notice.

This act will have application, when, by and large, the following three conditions are fulfilled:

1. When manufacturing process is carried on in a unit.
2. When an industry is engaged in the manufacture of any products as noted in the schedule.
3. When the industry consists of the specified number of employees as provided in the act.

Three schemes viz., The Employees Provident Fund (EPF) Scheme, 1952, The Employees' Family Pension Scheme, 1971 (F. P. F. Scheme) and The Employees' Deposit Linked Insurance Scheme, 1976 (E. D. L. I. Scheme) framed under the E. P. F. & M. P. Act, 52 ensure sustained financial assistance in the form of withdrawals, family pension with family members of the subscribers and insurance cover with dependents of the subscribers of the organised and unorganised sectors of industries and also to other classes of workers through E.P.F. organisation. E. P. F. organisation (a service organisation) is the largest Provident Fund institution in the world in terms of the number of subscribers and volume of transactions.

These three schemes which are termed as three pillars of Employees' Provident Fund organisation are administered by Central Board of Trustees, a tripartite body consisting of Chairman, Vice-Chairman, 10 Representatives each from employers and employees appointed by the Central Government and 5 Central Government Officials and 15 officials representing the States and Central Provident Fund Commissioner as Ex-officio Member of Board.

_The West Bengal Payment of Subsistence Allowance Act_ ensures payment of subsistence allowance to a workman in case his employer suspended him whether on charges framed against him/her or without any charge. The rate of such payment is 50% of the wages drawn by him/her prior to suspension up to 90 days from the date of suspension and thereafter 75% of the wages.

When the subsistence allowance denied by the employers for any reason whatsoever, this money can be recovered by applying in the prescribed form in 4 copies to the Secretary, Labour Department through the Assistant Labour Commissioners of the respective areas having conciliation jurisdiction.

_The West Bengal Shops & Establishments Act_ was passed with the aim and object of regulating holidays, hours of work, payment of wages, leave etc., of persons employed in shops and different kinds of establishments like commercial establishments, hotels, restaurants, cinemas, theatres etc. The act is in force in as
many as 296 areas. For better and effective administration, the whole of Calcutta area has been divided into five zones with one Supervising Inspector in-charge of each zone.

The 'Directorate of Shops & Establishments' is responsible for enforcement of the various provisions of this Act. The Directorate is headed by a Chief Inspector followed by one ‘Additional Chief Inspector’, one ‘Joint Chief Inspector’, one ‘Deputy Chief Inspector’, thirteen Supervising Inspectors and 71 Inspectors. This team keep vigil on the observance of the various provisions of the act and Rules. Shops and Establishments are regularly inspected for this purpose.

The Sales Promotion Employees (Condition of Service) Act, 1976 regulates the conditions of services of the Sales Promotion Employees in certain establishments. It provides for the quantum of different kinds of leave, issuance of letters of appointment to the employees. The act also entitles Sales Promotion Employees to the benefits provided in the following acts: (i) The Workmen’s Compensation Act, 1923; (ii) The Industrial Disputes Act, 1947; (iii) The Minimum wages Act, 1948; (iv) The Maternity Benefit Act, 1961; (v) The Payment of Bonus Act, 1965; (vi) The Payment of Gratuity Act, 1972.

Government appoints ‘Controlling Authority’ and an ‘Appellate Authority’ for proper implementation of ‘The Payment of Gratuity Act’. This act applied (a) to every factory, mine, oil field, plantation, port and railway company and to (b) shops and establishments in which 10 or more persons are employed. For settlement of any dispute, the employer or employee, as the case may be, may make an application, in prescribed manner, to the Controlling Authority for deciding the dispute. Any party, if unsatisfied by the order from the Controlling Authority, may prefer an appeal to the appropriate Appellate Authority.

All Additional Labour Commissioners, Joint Labour Commissioners, Deputy Labour Commissioners and Assistant Labour Commissioners are the Controlling Authorities for the areas defined under he official Notification. Deputy Secretary, Labour Department, is specified as the Appellate Authority under the act.


7.3.2 Social security arrangements

The need for security is an inherent feature of a mankind. A worker always wants to be certain not only of his next meal but also of his subsistence for the rest of his life and the subsistence of his dependents as well. It is necessary for the society to realize that all workers should be confident of the future. Society through the State tries to protect the workers against risks to which workers are exposed and in this context, different legal provisions have been set up in India after independence.

Up to early twenties of the 20th century, there was no statutory provision for assistance to any wage earner for even common hazards of life. There was no provision for medical care if a worker fell ill or was otherwise disabled. There was also no compensation for the loss of wages during periods of interruption in his income due to unemployment, sickness, disability or maternity. Even in the event of accident in course of and arising out of employment no relief was available. There was only *Fatal Accidents Act, 1855* under which heirs of a worker who died in industrial accidents could claim compensation if it could be established that the accident caused by the personal negligence of the factory owners (Mallick, M. R. p. 6). After first World War, to fulfil the assurance given to ILO, the government of India introduced the *Workmen's Compensation Bill* in the legislative Assembly in 1923 and it was passed in the same year. This was the beginning of the social security legislation in India.

Recently West Bengal Government has introduced a financial assistance scheme for the workers in the state who have lost their jobs by industrial disputes. The State Government (vide Labour Department Resolution No. 506-IR dated 14.05.1998 as amended by Notification No. 1272-IR dated 12.10.1998) introduced a Scheme viz, "Financial Assistance to the Workers in Locked Out Industrial Units (FAWLOI)" w.e.f. 01.04.1998 with a view to providing financial assistance @ Rs.500/- p.m. per worker to the Industrial Workers who were out of employment due to Lockout / Suspension of work / closure continuing for more than one year as on 31.03.1998 subject to the conditions and eligibility criteria as stipulated in the above resolution. This scheme was initially meant for one year but it was further extended for the successive years. The benefit of the scheme is extended (i) to one member of
the family of a deceased beneficiary till the beneficiary would have notionally attained his 58 years of age and also (ii) to the workers of those industrial units where lockout / suspension of work / closure were declared on or after 01.04.1997 and are still continuing, from the immediate next month after the expiry of one year of continuance of such lockout / suspension of work / closure ('Labour In West Bengal' 2002, p. 33).

Table 7.1 shows the performance of this Scheme during 1998-2003. The table shows that the number of beneficiaries increased from 27595 workers in 1998-1999 to 35860 workers in 2000-2003 and the number of units have increased from 190 to 250 during that period. This financial assistance paid to the workers made through different Bank branches all over the State.

Table 7.1: Total expenditure for FAWLOI during the year 1998-1999 to 2002-2003 West Bengal

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<tr>
<td>Number of units</td>
<td>190</td>
<td>219</td>
<td>256</td>
<td>249</td>
<td>250</td>
</tr>
<tr>
<td>Number of workmen benefitted</td>
<td>27595</td>
<td>32941</td>
<td>39809</td>
<td>33580</td>
<td>35860</td>
</tr>
<tr>
<td>Amount paid (crores)</td>
<td>16.45</td>
<td>20.20</td>
<td>25.04</td>
<td>22.25</td>
<td>20.00</td>
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</table>

Source: Government of West Bengal, Department of Labour 'Labour in West Bengal' 2002, p. 33

Government of India recently decided to introduce a new pension scheme for its employees who joined in the Central Government service from 1st October, 2003 and abolishes the ‘Provident Fund scheme 1952’ for them. The important features of this pension scheme are:

a) In this new pension scheme, 10% of the remuneration from the employee’s account (Salary + Dearness Allowance) would be deducted every month by Government.

b) The employer also pay equal amount every month.

c) Government can invest this collected money in the schemes run by the private sector.

d) After completing 60 years, the employee would come out from this new scheme but 40% of the total pension money must invested in a scheme approved by the Insurance Company.
This new pension scheme has followed a scheme introduced in Chile but this scheme was flopped entirely in Chile. The main drawback of this new pension scheme is the dependence on the private sector. It is very difficult to trust the Indian private sector, specially, in case of a pension scheme. Indian private sectors are defaulters in many cases. They do not clear the bank loans, in many cases do not refund the fixed deposit of the people and in many cases do not clear the legal dues of a worker after retirement. Again, the administrative cost of operation of the pension scheme would be much higher in the private sector than the public sector. The important drawback of this scheme is the absence of any opportunity of family pension. If the working employee died and other members in the family are unemployed then whole of the family would be in starvation.

7.4 Institutions in Informal Labour Market

As we have mentioned earlier that informal labour consists of various subcategories. First, who are in the ambit of some employer-employee relationship for a substantive period. Second those who are independent workers providing services under very short-term contract, like service and repair workers and jobbers. Third, the self-employed and family workers, who used his/her labour themselves to produce marketable goods and services. The legal institutions that guide the labour contracts are not available for this segment.

There are some legislative measures serve as setting the standards or norms for rights and facilities for an informal labour. This may have some indirect influence on the informal labour market. Second, there are government-launched schemes to provide some social security measures, though their coverage is as we shall see was very limited. The other important institutions are the unions and associations of the informal labour or workers, which owe their strength from the political parties. These unions or associations influence the informal labour markets functions directly. We discuss the legal provisions and social security measures related to informal labour (in Sections 7.4.1 and 7.4.2 respectively) and the nature and role of unions and associations for informal workers in a separate section (Section 7.5).
7.4.1 Legal institutions

The governments, both at Centre and the State; have shown a keen concern for the benefits of the unorganised workers. There are many laws and regulations enacted by the Government for the betterment of the unorganised workers. This section discusses some administrative measures and labour laws undertaken by the West Bengal Government for the unorganised workers and their progress in implementations. This section also discusses the different Labour Laws for the unorganised workers and the extent of actual performances of these laws in West Bengal. But it requires mentioning that these laws and regulations are made for an economy where a well defined employer-employee relationship exists. Today this direct relationship between employer and employees are fast disappearing. Self-employed or own account workers constitute the major part (today over 50 percent workers in India are self-employed) of the informal workers (Jhabvala, Renana; p.2227). Even when they work for an employer, the system of sub-contracting and increasing outsourcing of work distanced the workers from their true employer for whom they actually work. The first set of labour laws (such as Factories Act, Mines Act, Tea Plantation Act, Motor Transport Workers' Act etc.) passed between 1928 and 1960 were mainly for the workers in the industry. These workers worked in a specific workplace and a recognisable employer-employee existed there. During 1960s and 1970s a number of labour laws such as the Interstate Migrant Workers' Act, The Bonded Labour Act etc. came in force to protect the non-industrial workers in the informal labour market. But during the period of liberalisation, globalisation and privatisation (that is, during 1990s) these labour laws became more and more irrelevant and lost their importance. It was mainly due to the fact that more emphasis on economic growth over social security was laid during the period of 1990s. 'Deregulation' in place of 'Regulation' came to accelerate the working of the market economy. With this background we discuss different labour laws and regulations aimed for the unorganised workers in the informal labour market.

Most of the legal institutions are for state and therefore legal institutions, that we discuss in the context of West Bengal's labour market in fact applies for Calcutta labour market also. The major legal institutions are laws governing the minimum wage and terms of employment for unorganised sector workers. There are two
sections in the Labour Directorate of Government of West Bengal, namely, the Enforcement and Law Section and Minimum Wage section that enforces about eleven labour laws most of which are related to the unorganised sector. There are 13 Inspectors posted under direct control and supervision of Deputy Labour Commissioner (E.L. & M.W.) who are in charge of Calcutta Municipal Corporation areas and also the adjacent areas of the Calcutta like area under Dum Dum, South Dum Dum, North Dum Dum, Baranagar and Bidhannagar Municipalities.

A Review of Labour Laws for the Informal Workers

We make a brief discussion about the eleven labour laws having some bearing on the unorganised sector workers. These eleven labour laws are:

(i) The Minimum Wages Act, 1948 (both in respect of agricultural and non-agricultural employments).
(iii) The Payment of Wages Act (in respect of establishments), 1936.
(iv) The West Bengal Shops & Establishments Act, 1963
(viii) The Inter-State Migrant Workmen (Regulation of employment & conditions of service) Act, 1979.
(xi) The Sales Promotion Employees (Condition of Service) Act, 1976.

The Minimum Wage Act, 1948 is a landmark in the history of social legislation in India as it guarantees the payment of minimum rate of wages for workers in scheduled employment who are unorganised and have little bargaining power. The State Government fixes/ revises the rates of minimum wages by Notification method as provided under Sec. 5(1)(b) of the Act after consulting the State Minimum Wages Advisory Board. 56 employments have so far been brought
into the fold of scheduled employment and fixation/revision of minimum wages in respect of 38 employments has been made.

The worker himself or his trade union or his authorised representative has been empowered under law to approach the appropriate Court to recover the wages paid less than the notified minimum wages under section 20 of the Minimum Wages Act, 1948 and also to recover the unpaid wages under section-15 of the payment of Wages Act, 1936. In both the cases the appropriate Court can order for payment of penalty up to 10 times of such unpaid or less-paid wages claimed for.

Table 7.2 shows the progress of administration of minimum wages act during 1990s. It is observed that:

a. The number of inspections conducted by the inspectors (who are the government employees) is declining both in agriculture and other-than agriculture sector over the decade. The inspectors are more concerned with the organised sector and much less aware about the plights of the unorganised workers.

b. The unorganised workers in the non-agricultural sectors are in more vulnerable position. The percentage of infringements detected in total number of inspections is rising over the decade (except 1999)

c. The percentage of infringements detected is comparatively high in non-agricultural sector than agricultural sector.¹

¹ In this context, it is required to mention that the degree of ‘Unionisation’ is comparatively high in the agricultural sector in West Bengal. The presence of a strong left union like "Kisan Sabha" in agricultural sector in West Bengal is the main cause of comparatively low infringement against the workers in agricultural sector regarding minimum wage act. On the other hand, trade union activities in the unorganised sector in the rural area are comparatively very poor.
Table 7.2: Administration of the Minimum Wages Act, 1948 during 1990s' (1990-1999) in West Bengal

<table>
<thead>
<tr>
<th>Year</th>
<th>Agriculture</th>
<th>Other</th>
<th>Agriculture</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>28203</td>
<td>26690</td>
<td>7622</td>
<td>8209</td>
</tr>
<tr>
<td>1991</td>
<td>24456</td>
<td>20886</td>
<td>6386</td>
<td>6666</td>
</tr>
<tr>
<td>1992</td>
<td>18782</td>
<td>18860</td>
<td>4984</td>
<td>6219</td>
</tr>
<tr>
<td>1993</td>
<td>24025</td>
<td>20289</td>
<td>6487</td>
<td>6821</td>
</tr>
<tr>
<td>1994</td>
<td>21223</td>
<td>18894</td>
<td>4778</td>
<td>6491</td>
</tr>
<tr>
<td>1995</td>
<td>18596</td>
<td>19121</td>
<td>5141</td>
<td>6648</td>
</tr>
<tr>
<td>1996</td>
<td>9538</td>
<td>11781</td>
<td>2846</td>
<td>5130</td>
</tr>
<tr>
<td>1997</td>
<td>15982</td>
<td>18626</td>
<td>4310</td>
<td>6419</td>
</tr>
<tr>
<td>1998</td>
<td>11735</td>
<td>14306</td>
<td>3004</td>
<td>4801</td>
</tr>
<tr>
<td>1999</td>
<td>15617</td>
<td>22354</td>
<td>3948</td>
<td>6645</td>
</tr>
</tbody>
</table>


It has been observed that the workers and their unions are entirely dependent on government. The workers often seek intervention of the Government labour officers for realisation of their unpaid dues instead of going to appropriate Courts for recovery with penalty. The workers avoid the Courts because to them, Court is mainly a time-consuming, complicated judicial process. Very few claim cases have been filed before the Authority but many of these cases are pending disposal over a long period. Table 7.3 gives a statement of claim cases under section 20 of the Minimum Wages Act and under section 15 of the Payment of Wages Act.
Table 7.3: Statement of Claim cases under Sec. 20 of the Minimum wages Act, 1948 and Sec. 15 of the Payment of Wages Act, 1936 for the period from 1998-2002 filed by the Inspectors / West Bengal

<table>
<thead>
<tr>
<th>Particulars / Year</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. No. of claim cases pending at the beginning of the year</td>
<td>58</td>
<td>58</td>
<td>58</td>
<td>71</td>
<td>65</td>
</tr>
<tr>
<td>2. No. of claim cases filed during the year</td>
<td>–</td>
<td>1</td>
<td>14</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>3. No. of claim cases disposed of during the year</td>
<td>–</td>
<td>1</td>
<td>1</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>4. No. of claim cases pending at the end of the year</td>
<td>58</td>
<td>58</td>
<td>71</td>
<td>65</td>
<td>66</td>
</tr>
<tr>
<td>5. No. of claim applications settled by labour Directorate</td>
<td>112</td>
<td>110</td>
<td>121</td>
<td>207</td>
<td>171</td>
</tr>
<tr>
<td>6. Amount of money realised and paid to the workers (Rs)</td>
<td>527502</td>
<td>651950</td>
<td>505992</td>
<td>2202185</td>
<td>347840</td>
</tr>
</tbody>
</table>

Source: Govt. of West Bengal, Department of Labour, 2003, *Labour in West Bengal 2003*, p. 46

*The Motor Transport Workers’ Act, 1961* was enforced in the state in 1963. Every employer of a motor transport undertaking to which this act applies shall have the undertaking registered under this act. Initially, this act was applicable to establishments employing five or more workers. In the year 1984, the State Government through a notification made the act applicable to a Motor Transport undertaking employing less than five workers. A very important amendment was made by the addition of a new section (Section 20A), which enjoins issue of appointment letters to the Motor Transport Workers. But till now workers in different transport services do not have any appointment letter issued from their employers. This act specifically mentioned that ‘no adult motor transport worker shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week’ (Malik. P. L, 1974, p. 876). But in reality, a private bus or mini bus worker in Calcutta works not less than 14 hours a day on a daily wage rate basis.

The ‘Khalasi’ and Lorry drivers work 20 to 30 days continuously. They have no specific wage structure. In some places, there is commissioned based wage or daily wage. There is no ‘leave with pay’ or any medical benefits. The workers are
deprived from the benefits given in the ‘Motor Transport Works Act, 1961’. This is mainly due to the problem of scale economies. The owner owns two or three lorries only. So the owner can easily deprive his workers from provident fund or gratuity even when they work 30 or 40 years continuously.

One important point must require mention. If the eight hours of work in private buses or mini buses have been strictly maintained as per rules, then this transport system will not viable. The peak hours in the mass transport (like Private Bus, Mini-Bus etc.) in Calcutta is from 9 a.m. to 11 a.m. in morning and 17 p.m. to 20 p.m. in evening. Number of drivers and conductors will be double if we strictly follow the rules and regulations. Continuous losses will shut down the private transport system. State Government runs bus services in the city. Every year, to run this ‘state Transport System’ in Calcutta, West Bengal Government pays a subsidy of million of rupees from its exchequer.

In West Bengal, during 1990s, the number of the registered tertiary units increased but the sector failed to generate sufficient employment. The total number of shops and establishments registered in West Bengal shows a rising trend (On 31.12.1994 the total number was 534637 and on 31.12.1999 the total number was 593791); but the number of employees in shops and establishments were stagnant (On 31.12.1994 the total number of employees were 612301 and on 31.12.1999 the total number was 600367). It is possible that own account enterprises are rising in number where requirement of hired workers is least.

The West Bengal Shops and Establishments Act 1963 was passed with the aim and objective of regulating hours of work, payment of wages, holidays and leave etc. of persons employed in shops and in various kinds of establishments like hotels, cinema halls, theatres, restaurants, etc.

The Act is in force in many as 296 areas. The whole Calcutta area has been divided into five zones for better and effective administration with one Supervising Inspector as in-charge of each zone. The Inspector acts as a referee to determine the cases of non-payment / less payment of wages of employees.

The infringements against the employees are rising and the most irony of the fact is that the number of pending cases is also staggering over the years. This shows the hapless situation of the employees who are the most sufferer of the system.
The activities and achievements of this Directorate in the State during the last decade have mentioned in Table 7.4

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No. Of inspection conducted</td>
<td>172234</td>
<td>123620</td>
<td>164094</td>
<td>146195</td>
<td>131576</td>
<td>130202</td>
</tr>
<tr>
<td>No. Of infringements detected</td>
<td>49215</td>
<td>25371</td>
<td>49549</td>
<td>50951</td>
<td>49158</td>
<td>42017</td>
</tr>
<tr>
<td>No. of prosecution cases launched</td>
<td>(28.57)</td>
<td>(30.19)</td>
<td>(34.85)</td>
<td>(37.36)</td>
<td>(37.36)</td>
<td>(32.27)</td>
</tr>
<tr>
<td>No. of court cases brought forward from previous year</td>
<td>18247</td>
<td>21897</td>
<td>22407</td>
<td>23151</td>
<td>27580</td>
<td>31830</td>
</tr>
<tr>
<td>No. of court cases disposed of during the year</td>
<td>1387</td>
<td>3064</td>
<td>2765</td>
<td>3753</td>
<td>3662</td>
<td>18302</td>
</tr>
<tr>
<td>No. of court cases pending at the end of the year</td>
<td>21897</td>
<td>22407</td>
<td>23151</td>
<td>27580</td>
<td>31830</td>
<td>25857</td>
</tr>
</tbody>
</table>

Source: Government of West Bengal, Department of Labour: 'Labour in West Bengal' 1994-1999

Note: Figure in parentheses shows the percentage.

The Beedi and Cigar Workers’ (Conditions of Employment) Act 1966 lays down certain conditions of service for the Beedi workers in industrial premises. These relate to working hours, wages for over-time work, interval for rest, weekly day of rest, annual leave with wages, rates of wages for the leave period etc. The Act also provides some welfare measures regarding cleanliness, ventilation, sanitation, washing facilities, first aid, creche, canteen etc. The Act also provides for supply of log books to home workers for recording supply of raw materials, quantum of beedi rolled and wages paid etc. weekly day of rest, annual leave of the wages, rates of wages for the leave period etc. State Government has appointed Minimum Wages Inspectors to ensure implementation of the rate of minimum wages among the workers.

The largest part of the Beedi industry is in the informal sector. Nearly half million people have directly related with Beedi industry in West Bengal. The
employers have resorted the old form of putting-out system only to deprive the workers from getting these social benefits. The employers have been transforming the industry into a domestic one. They supply the raw materials to the home of a worker (where the worker is, in most cases, a woman) and pay only wages on piece rate basis, i.e. on per thousand pieces. No social benefits prescribed in the Labour Law have been given to the workers. Moreover, Agents have engaged for carrying on the manufacturing process. The unbearable poverty and joblessness have forced the workers to accept this piece rate wage only.

_The Beedi Workers' Welfare Fund Rules, 1978_ issued identity cards to beedi workers, including home workers, for enabling them to get various welfare benefits. During the period 1990-95, the progress was unsatisfactory. In 1990, the total number of identity cards issued by the officers of the Labour Directorate was 16599 and in 1995, only 25887 identity cards have issued. In the year 2000, there was a spectacular jump. In 2000, the number of identity cards issued was 103857.

The total number of identity card holders in 1990 was 80415; in 1995, it was 184799 and in 2000, it was 431831 (including home workers who constitute the bulk / Table 7.5). For deriving the benefits of the welfare schemes, possession of an Identity Card is mandatory.

The following Welfare Schemes are available to the Beedi workers

1) Static-cum-mobile Dispensaries
2) Scheme for reservation of beds in T.B. Hospitals
3) Scheme for Domiciliary Treatment of T.B.
4) Scheme for treatment of Beedi workers suffering from Cancer.
5) Treatment of workers suffering from mental diseases.
6) The Scheme of Leprosy Relief for Beedi workers.
7) Grant of Financial Assistance to Beedi workers for purchase of Spectacles.
8) Maternity benefit Scheme for female Beedi workers.
9) Group Insurance Scheme for Beedi workers.
10) Scheme for re-imbursement of expenditure as a financial assistance suffering from Heart diseases, for Kidney transplantation etc.
11) Scheme for payment of monetary compensation for sterilisation to the Beedi Workers.

Table 7.5: Number of identity cards issued during each year by licensing officers of the Labour Directorate / West Bengal

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of identity cards issued during each year</td>
<td>16599</td>
<td>12459</td>
<td>17048</td>
<td>18845</td>
<td>30145</td>
<td>25887</td>
<td>103857</td>
</tr>
</tbody>
</table>

Source: Government of West Bengal, Department of Labour: 'Labour in West Bengal' 1990-2000

The Contract Labour (Regulation and Abolition) Act, 1970 is an act to regulate the employment of contract labour in every establishment and to provide for the abolition in certain circumstances and for matters connected therewith.

The Contract Labour Act, 1970 applies to every establishment in which 10 or more workmen are employed or were employed on any day of the preceding 12 months as Contract Labour and to every Contractor who employs or employed on any day of the preceding 12 months, 10 or more workmen. This act is not applicable to establishments in which work only of an intermittent or casual nature, is performed. Under section 7 of the act, every principal employer of an establishment to which this act applied, is required to get his establishment registered under the act. At the time of inspection, the inspectors examine registration certificates and licenses, payment of wages with wage slips, employment cards and other relevant registers under the act and rules framed hereunder including welfare facilities specified in the act. Table 7.6 shows the progress in implementations of regulatory provisions of the act in West Bengal. It is observed that in average, out of every three inspections, one case detected as an infringement against the worker.
Table 7.6 Activities for the subsequent years under the Contract Labour Act, 1970 West Bengal

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of inspections</td>
<td>2785</td>
<td>2917</td>
<td>2342</td>
<td>1663</td>
<td>1853</td>
<td>1253</td>
<td>1105</td>
<td>2293</td>
<td>2891</td>
<td>3622</td>
</tr>
<tr>
<td>No. of infringements detected</td>
<td>1362</td>
<td>898</td>
<td>735</td>
<td>632</td>
<td>468</td>
<td>618</td>
<td>324</td>
<td>699</td>
<td>815</td>
<td>1261</td>
</tr>
<tr>
<td></td>
<td>(48.9)</td>
<td>(30.8)</td>
<td>(31.4)</td>
<td>(38.0)</td>
<td>(25.3)</td>
<td>(49.3)</td>
<td>(29.3)</td>
<td>(30.5)</td>
<td>(28.2)</td>
<td>(34.8)</td>
</tr>
</tbody>
</table>

Source: Government of West Bengal, Department of Labour: 'Labour in West Bengal' 1990-1999
Note: Figure in parenthesis shows the percentage

'The Equal Remuneration Act, 1976' makes it obligatory for the employers to pay equal remuneration to men and women workers for work of same or similar nature. It also envisages that no employer shall, at the time of recruitment, promotion or transfer, make any discrimination against women. The Equal Remuneration Act (ERA) of 1976 provides for “payment of equal remuneration to men and women and for prevention of discrimination on grounds of sex, against women in the matter of employment and other incidental matters connected therewith” (Appendix 7.5).

However for the unorganised sector, all these laws have a limited application. The workers do not get even minimum benefits of these laws. The vast unorganised sector has never been touched by the very sophisticated labour laws of the country, and the fact is that this sector has always operated under a 'free' and brutal economy of low wages, feudal bondage and unrestricted hours of work. It is true that it is very difficult to detect and establish similarity in jobs and wages (individually), especially in industries such as garments, packaging or pharmaceuticals, where women are employed in large numbers in varied and odd jobs. The problem has compounded by the fact that part of the work, especially in which women are involved, is given on contract. In industries such as Beedi, the contract system has become very prevalent. Here, women buy tobacco and leaves from the Mahajan and roll beedis. Then, they sell their produce to the 'employer' and the employer pays them only piece-rated wage. The job has often done at homes or in an informal setting. In garment industries, women workers also employed on piece rate basis. They are mainly engaged in stitching and sewing buttons on the
agreement. There is no maternity leave or medical leave or any other minimum social benefits. These workers do not believe in existence of such laws and “Equal Remuneration Act” never reaches to them. The organizational movement also failed to eliminate this discrimination in wage rate. Here is an example. On 21st March 1994, Kodalia Beedi Workers’ Union (affiliated to C.I.T.U.) called a general meeting, where two hundred beedi workers including more than 150 female workers were present. In that general meeting, the representatives demanded wage rate Rs.28 per 1000 beedis for a female worker and Rs.35 per 1000 beedis for a male worker (Shramik Andolon, May Day Special Issue 1994, p.241). The ‘All India Committee for Beedi Workers’ Union’ has persistently demanded ‘same wage for same work’ and no male-female discrimination.

The State Government under this act, has appointed ‘Minimum Wages Inspectors’ to act as Inspectors. This act makes equal remuneration obligatory; though in reality, the discrimination prevails everywhere in the labour market. In different areas, there is severe gender discrimination. Men and women get different wages for the same job in the unorganised sector. The wage rate for a male worker is much higher than the wage rate for a female worker. In construction industry, a female helper gets Rs.40 to Rs.50 per day whereas a male helper, for the same job, gets Rs.80 to Rs.100 daily.

There are many privately run English medium Nursery and Primary schools in the city. The teachers are mainly women teachers. These teachers are qualified and mainly Graduate. But the monthly remuneration is very poor (Ranging between Rs.700 to Rs.800 only), whereas, Government of West Bengal pays her primary teachers not less than Rs.4000 per month initially.

Within West Bengal, a regional discrimination in the minimum wage rate has observed. In different districts, there are different minimum wage rate for the same job. This regional discrimination in wage rate arises mainly due to the weakness of the trade union organization. Beedi workers in Calcutta, 24-Parganas or in Murshidabad are more unionised and the trade unions are more active in these districts. Again, Purulia is most poverty-induced district in West Bengal. Poverty and underdevelopment are two another causes for this regional discrimination in wage rate in the unorganised sector. It requires to mention that the regional
discrimination in the minimum wage rate in different industries is reducing over the
decade. The percentage increase in the minimum wage rate in underdeveloped
districts is greater than the percentage increase in the minimum wage rate in
Calcutta and 24 Parganas.

There is a discrepancy in the minimum wage-rate of an unskilled worker in
an unorganised industry with an unskilled worker in organised employment. Wage
rate of an unskilled worker in the organised sector (regulated by industry wise
tripartite agreements) is much higher than the wage rate (mainly governed by
notifications under Minimum Wages Act) of an unskilled worker in the unorganised
industry. It is mainly due to the presence of trade union and the strength of their
bargaining power. (Table 7.7).

Table 7.7: Minimum monthly wages (Basic+D.A.): Calcutta and 24 Parganas Districts

<table>
<thead>
<tr>
<th>Unorganised industry</th>
<th>Category of Workers</th>
<th>Year</th>
<th>Year</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>1990</td>
<td>1994</td>
<td>2000</td>
</tr>
<tr>
<td>Oil mills</td>
<td>unskilled</td>
<td>876.90</td>
<td>1318.50</td>
<td>2160.00</td>
</tr>
<tr>
<td>Tanneries &amp; Leather manufactories</td>
<td>-do-</td>
<td>788.00</td>
<td>1186.00</td>
<td>2096.00</td>
</tr>
<tr>
<td>Hosiery</td>
<td>-do-</td>
<td>595.89</td>
<td>990.76</td>
<td>2196.00</td>
</tr>
<tr>
<td>Printing Press</td>
<td>-do-</td>
<td>528.40</td>
<td>769.60</td>
<td>1240.60</td>
</tr>
<tr>
<td>Iron Foundry</td>
<td>-do-</td>
<td>894.00</td>
<td>1300.00</td>
<td>2109.00</td>
</tr>
<tr>
<td>Glass</td>
<td>-do-</td>
<td>771.00</td>
<td>1173.00</td>
<td>1958.00</td>
</tr>
<tr>
<td>Saw mill</td>
<td>-do-</td>
<td>804.00</td>
<td>1206.00</td>
<td>1991.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organised Industry</th>
<th>Category of Workers</th>
<th>Year</th>
<th>Year</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>1990</td>
<td>1994</td>
<td>2000</td>
</tr>
<tr>
<td>Jute industry</td>
<td>-do-</td>
<td>1480.50</td>
<td>2286.20</td>
<td>3898.85</td>
</tr>
<tr>
<td>Cotton Textile industry</td>
<td>-do-</td>
<td>1233.35</td>
<td>1768.95</td>
<td>3076.75</td>
</tr>
<tr>
<td>Engineering industry</td>
<td>* do-</td>
<td>1522.10</td>
<td>2333.80</td>
<td>3997.30</td>
</tr>
</tbody>
</table>

* (units employing 50 to 249 workmen)

Source: Government of West Bengal, Department of Labour: 'Labour in West Bengal' 1990, 1994 & 2000

The Inter-State Migrant Workmen (Regulation of Employment and
Conditions of Service) Act, 1979, a Central Act came into force from 12.6.1979 and
is applicable to every establishment in which five or more inter-state migrant workmen are employed or were employed through a contractor on any day of the preceding twelve months. The State rules were framed in 1981. The act provides for displacement allowance, journey allowance for journeys from and to their homes, residential accommodation, medical facilities etc. for the inter-state migrant workmen. The act also provides for registration of principal Employers and licensing of contractors.

**The West Bengal Workmen’s House Rent Allowance Act, 1974 (State Legislation)** now applies to an industrial establishment in West Bengal where 20 or more workmen are employed. Originally, it applied to Industrial Establishments that employed 50 or more workmen. It has been provided in the act that once applied, the provisions of this act shall continue to apply to the establishments even if the number of workmen falls below the required minimum.

This act provides for entitlement of house rent allowance @ 5% of the wages or Rs.15/- whichever is higher to a workman. Even temporary, casual or badli workmen rendering services for less than 6 days in a month are entitled to pro-rata house rent allowance.

**The Child Labour (Prohibition and Regulation) Act 1986** prohibits employment of children in some hazardous and dangerous occupations and seeks to regulate conditions of work of children in other employments. The punishment for engaging children in hazardous occupations and processes is deterrent. The State Rules under the act was framed in 1995. The West Bengal Government constituted the State Child Labour Advisory Board in 1996.

The problem of child labour is a complex one and the Government of West Bengal has taken some other measures to mitigate the rigours of the problem. These measures are mentioned below:

1) In 1995 an understanding was reached among the employers and the trade union in tea plantation that no child labour below the age of 14 year would be engaged as labour. This was subsequently formalised by a tripartite agreement on 7th November, 1997.

2) The Government of West Bengal has amended the West Bengal Service (Duties, Rights and Obligation of the Government Employees) Rules, 1980 in which
it has been laid down that no government employee shall employ any child whose age does not exceed 14 years to work as domestic help or otherwise. ("Labour in West Bengal" 1999, p. 71).

7.4.2 Social security arrangements

During the period of globalisation organised workers are greatly affected by closure and lockout in the industries, retrenchment of the workers, voluntary retirement etc. and they are turning to be an unorganised worker very often. Permanent nature of the organised jobs is disappearing very firstly. Uncertainty and job lose even engulfs the public sector workers also. In this pretext we can review the different social security measures adopted by the Government for the unorganised workers. Informal workers in many cases are denied social security benefits worth the name. For instance, “The Equal Remuneration Act, 1976” makes it obligatory for the employers to pay equal remuneration to men and women workers for work of same or similar nature. It also envisages that no employer shall, at the time of recruitment, promotion or transfer, make any discrimination against women. But in many cases women workers receive lower wage rate than her male counter part for the same job (In Beedi industry, in Brick-field industry, in construction industry, etc. the discrimination is very prominent).

West Bengal Government has introduced (on 19th February, 2001) “State Assisted Scheme Of Provident Fund For Unorganised Workers” (SASPFUW), in the state with a view to providing some social security and welfare measures to the workers in the unorganised sector. This scheme is applicable throughout the State of West Bengal for both wage employed and self-employed workers in the unorganised sector. Any wage labourer and self employed workers (he/she should be between 18 and 55 years of age) whose average family monthly income does not exceed rupees three thousand five hundred only, are included in this scheme².

²A family includes the beneficiary, beneficiary's wife / husband, totally dependent daughter, dependent minor son and dependent parents. The other necessary criteria required to fulfil are:
   a. He / She should be employed in the listed employments / self-employed in the listed employments / occupations.
   b. His / Her major source of family income should be from the listed employment / occupations.
   c. He / She should not be covered under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952.
The modality of the scheme

Each beneficiary worker will contribute a sum of Rs. Twenty only per month into the account under the scheme and the State Government will contribute an equal amount into the account. The total contribution along with interest will be paid to the beneficiary on attaining 55 years of age. In the event of the death of the beneficiary before attaining 55 year of age, the total amount including interest will be paid to his / her nominee soon after the death. State Government will give interest on the deposit yearly according to the rate determined by State Government.

The Beneficiaries

The State Labour Department, in the circular no.1 of this scheme, has identified 13 unorganised employments and 8 self-employed occupations whose workers are included in this scheme initially. These 13 unorganised employments are:

1. Tailoring industries (having less than 20 workers).
2. Shops (having less than 20 workers) and Establishments (having less than 20 workers).
3. Bakery (having less than 20 workers).
4. Linesman engaged in supply of Bakery Products.
5. Handloom.
7. Construction (having less than 20 workers).
8. Lac industry (having less than 20 workers).
9. Stone crushing (having less than 20 workers).
10. I. C. D. S., IPP-VIII & CUDP-III.
11. Automobile repairing Garages (having less than 20 workers).

**Unorganised self-employed occupations:**

1. Cycle-Rickshaw and Van Puller / Paddler.
2. Head-load workers and workers engaged in loading & unloading.
3. Railway Hawkers.
4. Street Hawkers including newspaper Hawker.
5. Auto-Rickshaw Operator.
6. Mason & other workers engaged in Masonry work.


**Performance of The Scheme**

The scheme entails a simple security package where a subscriber has to contribute Rs. twenty only a month, with an equal contribution from the State. But it took nearly a year to fix the modalities. It took the state government nearly a year to fix the modalities of the account-cum-pass books and place them under the Regional Labour Officers. Over 23,000 workers have applied initially but their applications are lying with the Government since February 2001. As a result, State Government has lost at least Rs.1.56 crores in subscriber contribution. The reason behind this initial delay was apparently the reluctance of the Government to grant more than 50 paise per form, to the collecting agents, for taking monthly deposit and allied book keeping. Finally, United Bank of India has agreed to handle the transactions.

This scheme has mobilised the surplus amount from the poorer section of the society (Table 7.8). This scheme also generated employment (4459 collecting agents have been engaged for collection of subscription from the beneficiaries).

The progress in Calcutta District is far below than its neighbouring districts like Hooghly, Howrah, Nadia, North 24 Parganas and South 24 Parganas. The number of collecting Agents is also lower in Calcutta district than its surrounding districts. The possible reasons are may be: i) the type of employments and self-employed occupations covered under this scheme are not in good numbers in...
Calcutta District. ii) The average family income of the majority workers in these occupations from all sources are more than Rs.3500/- per month. iii) The workers are not sufficiently aware about this Scheme.

Table 7.8: Cumulative Progress Report on “SASPFUW” in Different Districts of West Bengal up to March, 2003

<table>
<thead>
<tr>
<th>District</th>
<th>No. of collecting agents engaged</th>
<th>No. of bank accounts opened</th>
<th>No. of applications received</th>
<th>No. of beneficiaries enrolled</th>
<th>No. of beneficiaries collected</th>
<th>Total amount (Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bankura</td>
<td>229</td>
<td>28</td>
<td>21603</td>
<td>346</td>
<td>2352340</td>
<td></td>
</tr>
<tr>
<td>Birbhum</td>
<td>151</td>
<td>25</td>
<td>18741</td>
<td>13079</td>
<td>1054180</td>
<td></td>
</tr>
<tr>
<td>Burdwan</td>
<td>432</td>
<td>45</td>
<td>44814</td>
<td>37851</td>
<td>4330740</td>
<td></td>
</tr>
<tr>
<td>Coochbehar</td>
<td>170</td>
<td>17</td>
<td>6978</td>
<td>6079</td>
<td>577200</td>
<td></td>
</tr>
<tr>
<td>Dak Dinajpur</td>
<td>67</td>
<td>10</td>
<td>5132</td>
<td>4748</td>
<td>578680</td>
<td></td>
</tr>
<tr>
<td>Darjeeling</td>
<td>175</td>
<td>27</td>
<td>7859</td>
<td>7820</td>
<td>546480</td>
<td></td>
</tr>
<tr>
<td>Hoogly</td>
<td>284</td>
<td>36</td>
<td>25965</td>
<td>20408</td>
<td>1950860</td>
<td></td>
</tr>
<tr>
<td>Howrah</td>
<td>309</td>
<td>17</td>
<td>37339</td>
<td>36010</td>
<td>4567080</td>
<td></td>
</tr>
<tr>
<td>Jalpaiguri</td>
<td>208</td>
<td>35</td>
<td>13175</td>
<td>12042</td>
<td>1031000</td>
<td></td>
</tr>
<tr>
<td>Kolkata</td>
<td>53</td>
<td>15</td>
<td>8863</td>
<td>6622</td>
<td>726940</td>
<td></td>
</tr>
<tr>
<td>Malda</td>
<td>92</td>
<td>16</td>
<td>14465</td>
<td>8979</td>
<td>1314840</td>
<td></td>
</tr>
<tr>
<td>Pash.Midnapur</td>
<td>301</td>
<td>36</td>
<td>16732</td>
<td>16226</td>
<td>1724440</td>
<td></td>
</tr>
<tr>
<td>Purb.Midnapur</td>
<td>249</td>
<td>29</td>
<td>48726</td>
<td>46412</td>
<td>6404860</td>
<td></td>
</tr>
<tr>
<td>Murshidabad</td>
<td>312</td>
<td>32</td>
<td>21657</td>
<td>17767</td>
<td>1821420</td>
<td></td>
</tr>
<tr>
<td>Nadia</td>
<td>286</td>
<td>44</td>
<td>59306</td>
<td>46271</td>
<td>4110240</td>
<td></td>
</tr>
<tr>
<td>North 24-Pgs.</td>
<td>546</td>
<td>52</td>
<td>96106</td>
<td>83279</td>
<td>11099160</td>
<td></td>
</tr>
<tr>
<td>South 24-Pgs.</td>
<td>357</td>
<td>35</td>
<td>48556</td>
<td>42475</td>
<td>6563320</td>
<td></td>
</tr>
<tr>
<td>Purulia</td>
<td>98</td>
<td>15</td>
<td>2925</td>
<td>2682</td>
<td>377280</td>
<td></td>
</tr>
<tr>
<td>Uttar Dinajpur</td>
<td>140</td>
<td>13</td>
<td>3714</td>
<td>3141</td>
<td>230200</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>4459</td>
<td>527</td>
<td>502656</td>
<td>431237</td>
<td>51561260</td>
<td></td>
</tr>
</tbody>
</table>

Source: Government of West Bengal, Department of Labour: ‘Labour in West Bengal’ 2002 p. 43

West Bengal government recently introduced (September, 2004) a welfare scheme for the construction workers in the state. If any registered construction worker dies in accident at the time of work, his family will get rupees thirty thousand as compensation. If he dies from any disease during the working period, the amount of compensation is rupees ten thousand only. There is also medical
benefit for the workers and his/her family members. After sixty years of age they will get pension. The construction workers register their names in the register of ‘state construction workers’ welfare board’ by paying rupees twenty only.

The most important feature of this scheme is that state government has no expenditure of its own. State government imposes one percent cess on the construction cost (rupees ten lakhs or more) of building, road, bridge etc. and collect the money from the building contractors. The collected money will consume for welfare of the construction workers. this cess will be collected (on the estimated cost submitted by the contractor) from the construction contractors by Municipal Corporation, Municipality or Panchayat at the time of sanctioning the building plan or construction plan.

It is important to note that mobility of employment in the unorganised sector is comparatively high. The unorganised workers often change their nature of occupational activities, working place, even residential area also. The working period is not continuous. The construction workers in Calcutta mainly come from distant districts like Murshidabad, Sunderban area of South 24 Parganas and even from Bihar or Uttar Pradesh. They often go to their native place for three or four months during the period of harvesting. It is very difficult for them paying Rs. 20/- every month regularly up to 55 years of their age. Again, if they lose their job then the question of paying their premium will arise. It is possible that after some years they change their occupation or working place and even their place of residence. Then, what happens? It is an important question. Even in the organised sector, thousand millions of rupees of the workers are lying unclaimed in the office of Provident Fund Commissioner. This staggering amount of money which is purely the worker’s wage finally goes to the Government. The majority of the unorganised workers are illiterate or below primary level. Therefore the success of this scheme is really very difficult.

7.5 Trade union in the labour market

The Liberalisation, Privatisation and Globalisation that started during early 1990s and accelerated throughout the last decade has changed the core of collective bargaining by labour in India. The inflow of new technology reduces the proportion
of permanent unionised category of workers in the industry that directly hits the bargaining power of the workers in the organised sector. Previously economic issues of wages, allowance and other benefits form the core of collective agreements; but today, the main agenda is to fix the amount of compensation for the retrenched workers or to decide the total number of workers who take voluntary retirement from the organisation.

The big industries are downsizing their units and reorganised their work and production. They have reduced their dependence on core labour for avoiding unfavourable industrial relations. They adopt outsourcing or subcontracting of ancillary activities to other small sized units. Three immediate impacts are observed: (a) The focus of the industrial relation shifts from the large industry to the small enterprise, (b) These small enterprises are mainly informal in nature and run by non-permanent force of workers. The collective bargaining of the workers is minimum and (c) Though a strong political trade union exists in both these two areas—formal and informal and a symbiotic relation exists between these two sectors; the terms and conditions of work, salary and other economic benefits in these two different units widely differ. There is a vast difference between these two categories of workers although the skill and quality of work does not differ very much.

The increasing competition arises from liberalization has had deleterious effects on two areas concerning labour, viz. employment and union power. This has been primarily the consequence of a shift in the management policies during 1990s. Some of these new policies are: (a) reduce the permanent workforce; (b) organize the bulk of the production through ancillary units; (c) employing more casual, contract or other forms of unprotected labour; (d) shift production facilities to the backward areas where labour is cheap and not unionized; and (e) bypass the registered union and sign agreements with individual labour or a small group of workers. Casual and feminization of wage labour cut down the fixed costs and also gives the management the much needed flexibility and control over the production process (Davala, 1994, p.406). These new strategies have created an atmosphere of job insecurity among the workers and severely curtailed their trade union rights. The employers are more aggressive in closing down their operations in major industrial centers with a lockout.
The period of globalization (1991-2001) shows the predominance of employers’ atrocities on the workers. The last decade of the last century reveals the predominance of lockouts as against strikes in the loss of man-days. The incidence of lockouts and loss of man-days due to the lockouts is appreciably high during 1990s although the incidence of strikes continued to be negligible in West Bengal. It is also important to mention that the period from 1996 to 2001 (when the policy of liberalization was in full swing) witnessed a total offensive by the capitalist classes and lockouts accounted more than 95% of man-days lost (Table 7.9).

Table 7.9: Strikes and Lockout* In West Bengal, 1991-2001

<table>
<thead>
<tr>
<th>Year</th>
<th>Strike</th>
<th>Lockout</th>
<th>Total</th>
<th>Strike</th>
<th>Lockout</th>
<th>Total</th>
<th>Strike</th>
<th>Lockout</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>21</td>
<td>192</td>
<td>213</td>
<td>3050</td>
<td>144421</td>
<td>147471</td>
<td>79</td>
<td>19966</td>
<td>20045</td>
</tr>
<tr>
<td>1992</td>
<td>29</td>
<td>214</td>
<td>243</td>
<td>184780</td>
<td>137490</td>
<td>322270</td>
<td>9300</td>
<td>20340</td>
<td>29640</td>
</tr>
<tr>
<td>1993</td>
<td>23</td>
<td>187</td>
<td>210</td>
<td>27690</td>
<td>144570</td>
<td>172260</td>
<td>320</td>
<td>19180</td>
<td>19500</td>
</tr>
<tr>
<td>1994</td>
<td>15</td>
<td>127</td>
<td>142</td>
<td>5550</td>
<td>94500</td>
<td>100050</td>
<td>140</td>
<td>12730</td>
<td>12870</td>
</tr>
<tr>
<td>1995</td>
<td>33</td>
<td>136</td>
<td>169</td>
<td>234400</td>
<td>74140</td>
<td>308540</td>
<td>1250</td>
<td>5250</td>
<td>6500</td>
</tr>
<tr>
<td>1996</td>
<td>17</td>
<td>144</td>
<td>161</td>
<td>23550</td>
<td>104620</td>
<td>128170</td>
<td>1670</td>
<td>10470</td>
<td>12140</td>
</tr>
<tr>
<td>1997</td>
<td>29</td>
<td>161</td>
<td>190</td>
<td>8270</td>
<td>89200</td>
<td>97470</td>
<td>620</td>
<td>7640</td>
<td>8260</td>
</tr>
<tr>
<td>1998</td>
<td>25</td>
<td>213</td>
<td>238</td>
<td>2730</td>
<td>104980</td>
<td>107710</td>
<td>220</td>
<td>11350</td>
<td>11570</td>
</tr>
<tr>
<td>1999</td>
<td>34</td>
<td>264</td>
<td>298</td>
<td>330250</td>
<td>142720</td>
<td>472970</td>
<td>3900</td>
<td>17770</td>
<td>21670</td>
</tr>
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<td>2000</td>
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<td>286</td>
<td>313</td>
<td>204480</td>
<td>167380</td>
<td>368860</td>
<td>3110</td>
<td>15270</td>
<td>18380</td>
</tr>
</tbody>
</table>

Source: Government of West Bengal, Department of Labour. ‘Labour In West Bengal’ 1990 - 2001

Globalization and liberalization have reduced the strength of the trade union considerably in the organized sector. The inflow of new technology brings a new dimension in the recruitment strategy. The newly created jobs are more likely to be in the managerial and supervisory category or at the bottom end, i.e. unskilled casual, contract workers. In effect, the proportion of permanent unionized category of workers shrinks considerably. The new technology enables the management to have a greater control over the labour process. For instance, an automated process-plant can run by just officers and supervisors with the assistance of casual workers. So, even if the unionized category of workers adopts restrictive practice or goes on strike, the production will be affected very little. It severely erodes the union power in the organized sector. Again, to reopen a closed unit, management always adopts a
labour retrenchment policy with the consent of existing trade unions. For the sake of viability of a sick unit, the first remedial measure comes from the management is labour reduction. The important point is that the organized labour movement has ignored its social commitment since long. It has been very self-centered in its economic struggle. The labour movement has not encompassed the social, political and cultural aspects of the worker’s live. On the other hand, the employers have gone far ahead and with all the modes and techniques at their command, controlled labour and are in a commanding position from where they can continuously erode workers’ benefits. The onslaught against the workers has taken a new form. The organised industrialists are now depriving the workers from getting their provident funds, ESI, gratuities and other financial and social benefits after retirement. These industrialists are not contributing their share; even they do not deposit the worker’s contributions for provident funds deducted from the salary of their employees. Even State owned units are also in the list of defaulters (Table 7.10).

**Table 7.10: The total amount of ESI dues against Contributions lying outstanding for recovery through Certified Officers (upto 30.9.1994) / West Bengal**

<table>
<thead>
<tr>
<th>Establishment</th>
<th>Number of Units in default</th>
<th>Amount default (in Lacs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private</td>
<td>3592</td>
<td>5435.51</td>
</tr>
<tr>
<td>Government</td>
<td>86</td>
<td>1457.40</td>
</tr>
<tr>
<td>Total:</td>
<td>3678</td>
<td>6892.91</td>
</tr>
</tbody>
</table>

Source: Government of West Bengal, Department of Labour: 'Labour In West Bengal' 1994, p. 186

In the industrial sector, jute industry and textile industry are the two main defaulters. Table 7.11 shows the number of defaulter units (Units who are in default of Rs. one lakh and above up to period ending 31st march, 2000) and total amount of defaults in these two major industries in West Bengal. The trade union accepts this situation only because that something is better than nothing. Any military action taken by the union will ultimately close the unit. The mill-owner is always on a better seat during a bargaining situation.
Table 7.11: Employees' State Insurance / West Bengal

<table>
<thead>
<tr>
<th></th>
<th>Number of defaulting units</th>
<th>Amount of defaults (Rs. in Lakhs)</th>
<th>Per unit amount of default (Rs. in Lakhs)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Central Public sector</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jute Mills</td>
<td>06</td>
<td>1655.85</td>
<td>275.98</td>
</tr>
<tr>
<td>Textiles Mills</td>
<td>12</td>
<td>580.29</td>
<td>48.36</td>
</tr>
<tr>
<td><strong>State Public Sector</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jute Mills</td>
<td>01</td>
<td>36.16</td>
<td>36.16</td>
</tr>
<tr>
<td>Textiles Mills</td>
<td>02</td>
<td>15.30</td>
<td>7.65</td>
</tr>
<tr>
<td><strong>Private units</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jute Mills</td>
<td>56</td>
<td>6986.42</td>
<td>124.76</td>
</tr>
<tr>
<td>Textiles Mills</td>
<td>16</td>
<td>155.59</td>
<td>9.72</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jute Mills</td>
<td>63</td>
<td>8678.43</td>
<td>137.75</td>
</tr>
<tr>
<td>Textiles Mills</td>
<td>30</td>
<td>751.18</td>
<td>25.04</td>
</tr>
</tbody>
</table>

Source: Government of West Bengal, Department of Labour: 'Labour in West Bengal' 2000

The industrial relations scenario in different states in India also presents glaring contradictions. Unionisations in most of the states are different in their characteristics and activities.

In West Bengal, politically affiliated trade unions, particularly those subscribing to the leftist ideology, are widespread. In Maharashtra, which is the hub of economic activity and widely acclaimed as the commercial capital of the country, enterprise level unions, which are independent and unaffiliated to any Central federation or political party, have a major presence. In Maharashtra, the growing sickness in Textile mills and opportunities to reap a bonanza through real estate business in sick and closed mills opened a new vista for a formidable link between the real estate underworld mafia and trade unions. In Karnataka, particularly Bangalore, which has been christened the Silicon Valley of India, many firms in the new, non-traditional, high-technology industries are ‘union-free’. In some parts of Gujarat, ‘footpath unionism’ is growing. Some brief less lawyers, among others, mobilise signatures of seven disgruntled employees, register a union and pursue their individual grievances on the lines of contingent litigation; the leaders of such
unions will have a sizeable share in the compensation that such workers might get. (C. S. Venkata Ratnam, 2000).

In the debate on the new economic policies, ‘exit’ rather than ‘rationalization’ has taken a central place (Rao, 1993). Easy closure is also an important feature. Exit policy means freedom for industrialists to close their units, as they desire, without the permission of Government. There are occasions when the cost of revival is less than the cost of paying retrenchment compensation. The training scheme under the National Renewal Fund has been of no use to the retrenched workers.

The onslaughts against the workers often forced the trade unions to fight legal battle in the Court. Trade union often moves to Court against the oppression made against their workers. Here is an example.

Kelvin Jute Company Limited, which owns a jute mill (Titagarh, North 24 Parganas district, West Bengal) employing about 3000 workers, became sick in 1985. After 10 years the Board for Industrial and Financial Reconstruction (BIFR) held that the company was not viable and recommended its winding up. The appeal referred to the Appellate Authority for Industrial and Financial Reconstruction (AAIFR) was dismissed in 1997. The Bengal Chatkal Mazdoor union (largest trade union in the jute industry in West Bengal) and six other trade unions had filed a writ petition that year challenging the orders of BIFR and AAIFR.

On 9 June 1997, Calcutta High Court had stayed the orders of the BIFR and the AAIFR and directed that the Jute mill should run under the supervision of a Special Officer assisted by a committee of management. During the last six years the Kelvin Jute mill had been running profitably under the supervision of the Special Officer. The company had also framed a scheme for repayment of the dues to the creditors. (‘The Statesman’, p. 9 / A daily English Newspaper, Kolkata / 29.11.2003).

Multiplicity of Trade Unions

Multiplicity of trade unions is often a major problem in many organisations and in many industries. The multiplicity of trade union in the industry also weakens the organised strength of the workers. Numerous trade unions (registered) in a single
organisation baffle the workers. Workers are misguided and they have used against their own interest. The workers have failed to judge the situation properly. In many cases, the trade unions move in opposite direction. Take an example. Jute industry is the largest organised industry in West Bengal. More than 200,000 people are working in this industry. There are 20 registered trade unions in jute industry. Out of these 20 registered trade unions, 15 trade unions on 5.1.2002 have signed a tripartite agreement with the management. But the other 5 organisations have opposed this agreement and organised the workers against this tripartite agreement. These 5 trade unions finally called an indefinite strike in the jute industry from 18.8.2003. This sharp division between the trade union organisations create an opportunity to the mill owners; and the mill owners now completely deviate from their commitment made in the tripartite agreement and paying wages less than agreed wage rate, employing apprentice workers at below minimum wage rate and curtail the other agreed benefits given to the workers.

Rivalry between the trade unions within the industry creates a threat to the survival of the industry. Here is an example.

On 30th July 2003, some contractual labourers in Calcutta Port thwarted unloading operations in an Indonesian ship. They had held up cargo unloading for over 24 hours demanding work or compensation. This incident seriously affected the cargo operation in Calcutta port. The Company management told that “we will have to think twice before bringing in another vessel to the city.” Matters took an ugly turn on the next day (31.7.03) afternoon when mechanical unloading was about to begin. The labourers refused to let pay-loaders and other equipment near the vessel docked at the Calcutta Dock System and clashed with police and other workers. The ‘Port Sramik Janata Panchayat’ organisation was involved in this labour unrest. The two largest political trade union organisations (C. I. T. U. and I. N. T. U. C.) in Calcutta Port have condemned the incident but they have no control over the situation. According to the political sources, this incident was the result of a business rivalry between two stevedore companies in which one hired the services of the ‘Janata Panchayat’ to disturb the other. This incident clearly points out to the weakness of the trade union system in an industry. The ‘Port Sramik Janata Panchayat’ is a small breakaway fraction but they can easily stop the work when
there exists an agreement of 'no labour unrest' between the Port Authority and the registered Trade Unions. This agreement of 'no labour unrest' was signed mainly to revive the ailing port dock system.

Second National Labour Commission in its report (2002) favoured for a negotiating agent in the industry. This "negotiating agent should be settled for recognition on the basis of the check off system, with 66% entitling the union to be accepted as the single negotiating agent, and if no union has 66% support, then unions that have the support of more than 25% should be given proportionate representation on the college". Commission also recommended that "check off system in an establishment employing 300 or more workers must be made compulsory for members of all registered trade unions".

To overcome the problem of multiplicity of trade unions, West Bengal legislature has also enacted a piece of legislation "The Trade Unions (West Bengal Amendments) Act, 1983" amending the Principal Act in its application in West Bengal with the assent of the President of India, which provides for recognition of trade unions in an industrial establishment or a class of industries by secret ballot. The West Bengal Trade Unions Rules, 1998 framed under the said amended Act provides for the procedure to be followed for declaring bargaining agents in an industrial establishment or a class of industries.

Another major problem in trade union movement is outside leadership. The elected office-bearers of a trade union mainly come from the outside of the concerned industry. This leadership is not well acquainted with the internal problems of the industry and the feeling of the workers does not reflected properly through them. To curb this problem, the Principal Act to the Trade Union Act, 1926 has been further amended by the Union Government vide "The Trade Unions (Amendment) Act 2001". This trade union act 2001 imposes some restrictions on the registration of trade Unions. The main amendments amongst others are:

a. No union shall be registered unless at least ten per-cent (minimum seven) or one-hundred workmen, whichever is less, engaged or employed in an industrial establishment or industry are the members;
b. No member of Council of Ministers or a person holding an office of profit in the union or a State shall be the member of the executive committee or other office-bearers of a registered trade union;

c. One-half of the total number of office bearers of a registered trade union in an unorganised sector which the appropriate Government may by Notification in the official Gazette, specify and all the office-bearers of a registered trade union in other sectors except one-third of the total number of office bearers or five, whichever is less must be the persons actually engaged or employed in the establishment or industry with which it is connected.

The existence of a trade union also indicates the existence of an organised industrial unit. The absolute number of registered trade unions will fall when industries are closed down. During the period of liberalisation (particularly from mid nineties), the number of trade unions registered along-with their membership in West Bengal shows a sharp rise, particularly in the year 1999 and 2000 and then shows a declining trend. Table 7.12 shows the extent of unionisation of the workers in West Bengal during 1990s:

**Table 7.12: Number of Trade Unions registered along with their membership strength/ West Bengal**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Trade unions registered</th>
<th>Total membership</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>216</td>
<td>19058</td>
</tr>
<tr>
<td>1996</td>
<td>274</td>
<td>38557</td>
</tr>
<tr>
<td>1997</td>
<td>300</td>
<td>21717</td>
</tr>
<tr>
<td>1998</td>
<td>265</td>
<td>17822</td>
</tr>
<tr>
<td>1999</td>
<td>388</td>
<td>33538</td>
</tr>
<tr>
<td>2000</td>
<td>352</td>
<td>29897</td>
</tr>
<tr>
<td>2001</td>
<td>256</td>
<td>66942</td>
</tr>
<tr>
<td>2002</td>
<td>205</td>
<td>17074</td>
</tr>
</tbody>
</table>

Source: Government of West Bengal, Department of Labour: 'Labour in West Bengal' 2002, p. 49

If we look at the total number of live registered trade unions in each year, we find a continuous fall in the absolute numbers during mid 19990's. Table 7.13 shows the year wise figure of the number of live registered Trade Unions in West Bengal from 1995.
Comparing Tables 7.12 and 7.13 it observed that during mid 1990s’ (1995-2000) the total number of live registered trade unions decreased but every year a good number of new trade unions have registered themselves (In 1995 this number was 216 and in 2000, this number was 352). It is possible when State Labour Department cancel the registration of Trade Unions and cancelled number of trade unions is much more than the newly registered trade unions. The registration of a trade union is cancelled when it fails to submit its annual returns consecutively for five years or more assuming their non-existence [Provision of Section 10(b) of the Trade Unions Act, 1926]. This indicates roughly the nature of multiplicity of trade union exists in the labour market.

Supreme Court of India gives a historical judgement (August 6, 2003) on the ‘right to strike’ of the government employees. In its judgement, Supreme Court says, “Government Employees have got neither fundamental right nor there is any statutory provision to strike. Government Servants cannot claim that they can take society at ransom by resorting to strike in a democratic welfare State where different statutory provisions for redress of grievances are provided. Strike as a weapon is mostly misused resulting in chaos and total mal-administration.” (‘The Calcutta Law Journal’ 2003 Vol.II / 5th and 20th October 2003).

Trade union activities and the informal labour market

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3 Recently Tamil Nadu Government terminated the service of all government employees who resorted to strike for their demands. This order was challenged before the Madras High Court by filling writ petitions.
Though usual conceptualisation of informal sector make us to believe that it is free of organised movements and resistance, Calcutta had seen organised movement by informal workers as early as in 1930s. In the year 1930, 'Ford Company' first marketed its lorry in the Indian market at rupees fifteen hundred only. The then British Administration prepared many motor roads in Calcutta for smooth functioning of the Ford lorry in the city. Despite this effort, volume of the sales was not satisfactory because in Calcutta, carrying goods on bullock or buffalo drawn carts was much cheaper than that by a lorry.

The British Administration had imposed some regulatory laws to control the movement of the bullock / buffalo carts in city's main roads to promote the sales of 'Ford Lorry' in the city. 'Garowans' (Cart drivers) have penalized by cash or jail or both if there was any violation of the law. This created a great resentment among the cart drivers in Calcutta. This law enacted from April 1, 1930. Immediately a militant union formed under the then left leadership. These 'organised' Garowans blocked all the important city roads by their bullocks and buffaloes. Vehicle movement in the city road brought to a standstill. This blockade continued till April 4 and the Government ultimately forced to accept their demands (Chandra, 1992, p.9).

To discuss the trade union activities in the informal labour market it may be noted first the heterogeneous nature of informal labour market as discussed earlier. Trade unions are usually formed by two segments of the informal labour: (i) those informal workers who are under employer-employee relation and (ii) those who are self-employed in a particular type of activities (The family workers, though part of informal labour market are outside the scope of informal trade union activities).

The nature and motivation of the trade union activities for these two segments are different. An understanding of the nature of trade union activities in the informal labour market appears to be added importance in view of the inherent constraints for the informal labour in the informal sector to be organized. These constraints are (a) units in the informal sector, where informal labour works are very small in terms of number of workers; (b) the units are often scattered over space, (c) sometimes family workers and hired workers are used side by side. Again, the units are not homogeneous. The heterogeneity comes from like, (a) the nature of job: Some units are engaged in manufacturing and others are in service. (b) the nature of
Some units are self-employed and some units have employer-employee relationship. The nature of demand of a hawker and the nature of demand of a head-loader is not same though both are self-employed persons in the informal labour market. (c) the nature of the market: Some units are located in the city and enjoy a good patronage of a strong market where as some units are in rural areas where market is weak and very limited.

We discuss below first in general terms the nature and motivation of trade-union activities in the informal labour market and its contrast with trade union activities in the formal labour market. Then we discuss the developments in the trade union activities in the informal labour market in Calcutta in the recent past, with examples from illustration of specific instances.

In the context of trade union activity in the formal / organized sector, it is easily possible to identify the capitalist owner/management as the opponent in a bargaining situation. In contrast, in the informal/unorganized sector, in many cases there is no identifiable capitalist owner. Therefore, the trade union activity cannot be looked at simply as organizing the workers as a front put against the capitalist owners. The basic motivation of a trade union activity in formal and informal sector is the same, i.e. to improve the welfare of the working people, but the modus operandi for the two cannot be the same. In the formal sector, there is a vertical division between trade union and the capitalist owner class; in the industry, the existence of the two has clearly identified. Both of them know their demands and nature of agenda. But for the unorganized sector, it is not true. Again, in the informal service sector units, the nature of work is completely different. Generally, the demand of the output of a sweat meat shop or in the Hotel or Restaurant, depends on the customer’s demand, which is usually unevenly distributed over the time-span in a day. It is very difficult to standardize the eight hours duty without adversely affecting the economic viability of the unit.

In the unorganized sector, one of the main issues is ‘minimum wage’. There is a different minimum wage for different occupations in the same region or in different regions. Again, minimum wage in a same occupation in a district is different for different units.
The organized sector has an edge over others in terms of striking ability. But in the unorganized sector, the main weapon, strike, has minimum effect. Since the unorganized workers have a little say in the society, they are always defensive in bargaining. Owing to the continuous threat of job loss, the workers are forced to accept all the illegal orders and tortures. Employer always refuses to give any appointment letter. Female workers accept lower wage than that of the male counterparts for the same work. There is a ‘Central Law’ for uniform wage rate for female workers. But it is still in paper. Normally, an agreement between workers’ union and the employers regarding wage hike or for other economic benefits is valid for three years. After that period, the agreement will review further. But in practice, years keep rolling but no new agreement comes to daylight.

In many units, the employer by adopting unfair means deprives the workers from the benefit of provident fund or gratuities. In the ‘Cold Storage’, the head loaders work for nearly seven months. There is a ‘Sardar’ (recruiting chief) who brings these head loaders in job market and collets their wages from the employer. The Cold Storage owner does not accept these head loaders as his own employees. In this way, the owner shows the number of employed workers far below from the actual number and avoid the payment of gratuities or provident funds to these head loaders. In most cases, the Sardar or Thikadar is a kin or a nearest person to the employer.

Again, in the Transport Industry we see the problem of Scale-Economies. The owner owns two or three trucks only. Therefore, he can easily deprive the Drivers and other workers from paying provident fund or gratuity even when these workers work 20 to 30 years continuously. Here the workers do not enjoy the benefits given in the 1961 Motor Transport Works Act.

The Central Government has decided to adhere to the International Labour Organization (ILO) convention of limiting the maximum weight permitted for carrying by each adult worker to 56 kg. But in reality, every mazdoor (worker) loads and unloads gunny bags weighing 80 kg. to 100 kg. The food grains are packed in jute bags of capacity 100 kg. In most of the units, there are no minimum safety and health standards in the workplace. Workers are unaware of dangers. Even if they are
aware of occupational risks, they may accept dangerous jobs because they have no other option.

In the city’s informal labour market, trade unionism is comparatively strong. In some activities, particularly in the transport service, in the automobile repairing Garages, in the tailoring industries, in shops and establishments, in case of street hawkers; the degree of unionisation is comparatively high.

The trade union activities in the transport system in the informal sector have some unique characteristics. The trade union function in a private bus organisation is different with the function of an auto rickshaw operators’ union.

The workers in the private buses have registered union under trade union wing of different political parties. Here the employer – employee relationship is clearly defined. The trade union, after negotiating with the transport owners (the transport owners are also organised), fixes the wage rate of the Driver, Conductor and the Helper. Trade union also negotiates on the daily working hour, commission rate on sold tickets, number of holidays in a year and even the total number of trips of the bus made in a day. Workers in this private bus transport system get puja bonus or festival bonus. Trade union negotiates with the employer organisation regarding the amount of bonus every year. In this private bus transport system, the owners are also organised. They have formed their own association and this association negotiates with worker’s union on behalf of the transport owners (a case of bilateral monopoly in the informal labour market). In each bus route (consider 30A bus route from Sinthi to Esplanade), there is at least one worker’s union under the local political leadership and one association (known as 30A bus operators’ association) of the bus owners. This local union is centrally affiliated with the trade union wing of a political party but bus operators’ organisation have no central affiliation or political affiliation. The worker’s union collect monthly membership subscription from member workers (The amount is very small; varies from rupees 3 to rupees 5 per month). The union also provides protection to its members against administrative / police harassment.

The Auto-Rickshaw operators’ union in the transport system is an union of self-employed persons. The driver-owners form their union. The unions are registered and also affiliated to the trade union wing of a political party. In Calcutta,
state government (state transport department) decides the number of auto rickshaws that run on a particular route and this route of the auto rickshaw also fixed by the government. Government issues permit to the people (they are mainly unemployed youth) to run the Auto-Rickshaw on the city.

The Auto-Rickshaw operators' union negotiates with the Government regarding the auto fare and government fixes the fare rate per km. of the auto-rickshaw. State government also fixes the maximum number of passengers. Sometimes, union demands more fare per km. to the state Government when there is a rise in the operating cost like hike in the price of the fuel, rise in the price of the necessary auto-parts etc. Here the union (a self-employed union) and the state government form the two sides. Union also negotiates with the police administration of the city.

The functional character of a street hawkers' union is quite different with the union in auto-rickshaw operators. The street hawkers' union is also an union of self-employed workers. Different political organisations under different political parties control the 'Hawkers' Union' in Calcutta. The important pavements of the city have encroached by the hawkers in Calcutta. The street hawkers in Calcutta supply different products ranging from lunch dishes for office Babus to pain relieving oil for arthritis patients. Like the auto-rickshaw union, the state government also forms the other side during the period of negotiation with the hawkers' union but the relation is not same.

Union mainly allocates the space on a pavement / street side to its members and protect the property right. The Hawkers are encroachers of the public road place. Any time, local police or Calcutta Corporation authority can evict these Hawkers from their business place. Increasing unemployment forces a Hawker to occupy city pavement illegally. Here trade union gives his members the right to run business smoothly on a road pavement and also gives protection against any administrative harassment; either from police authority or from state government. Unlike other informal markets, there is a strong barrier to entry on a pavement. None can encroach a space on a pavement without getting consent from the union. Since all the trade unions have affiliated with different political parties, organizing hawkers ultimately proves beneficial to the political parties. These marginal
businessmen are committed and act as a strong contingent for a political party. State also allows them to run their business on the pavement mainly for their political affiliation and strong political patronage.

In this context, we mention the trade union of the Rickshaw pullers in the city. Here trade union fixes the total number of Rickshaw pullers in a locality and the fair of a Rickshaw also. Higher number of Rickshaw pullers reduces the fair and total earnings of a Rickshaw puller. So it is important to control the number of operating rickshaws in a particular place or in a locality. The rickshaw pullers also get protection from their union against the harassment from administration.

Again, in some informal activities, the employers are organised; have a strong organisation whereas workers are unorganised. As a result the employers easily exploit the workers and earn huge profits from the industry. In Calcutta and its adjacent areas there are many jewellery units where skilled artisans make gold and other ornaments and these artisans are mainly self employed or hired workers. This trade is run by old putting out system. The raw materials are supplied by the jewellery dealers who control the industry. Jewellery occupies an important place in the export items of our country. Today, state government has taken keen interest in setting 'jewellery park' (Manikanchan Park in Calcutta) where more than hundred jewellery units operate under a single umbrella. Recently Central Government has included the jewellery workers in 'Employees Provident Fund Scheme' and state government also taken necessary steps to implement the Central Government order. This step from the government creates a stir in the industry. Jewellery outlets across the state was closed on 26.5.05 because the 'Swarna Shilpa Bachao Committee' (an organisation representing some 11,000 dealers in gold, silver and gemstones) called an 'one-day strike' against the Regional Provident Fund Commissioner's decision to bring artisans in the trade under the ambit of the Employees Provident Fund Act. The organisation clearly stated that the artisans who work to make ornaments sold by outlets are not their employees but are self employed individuals. Therefore, it is absurd to ask jewellery business owners to pay provident fund to artisans. The organisation is ready to increase the wage rate but not to pay their provident fund dues. The artisans in this trade are scattered and not unionised. These artisans are entirely dependent on the gold dealers for the supply of raw materials, gold.

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nature of dependency makes them hapless. These artisans mainly get piece rate wages and they are deprived from getting any kind of social security benefit from the gold dealers.

Today, in many informal activities in West Bengal, the workers have organised themselves under different political union. The informal workers have formed trade union of their own. The following list shows some of the union names and concerned activities.

1. West Bengal Hosiery Workers’ Union;
2. West Bengal Bakery Workers’ and Linesmen Union;
3. West Bengal Shops and Establishment Employees Samity;
4. West Bengal Railway Hawkers’ Union;
5. West Bengal Rickshaw Pullers and Van Drivers’ Union;
6. West Bengal Mutia-Mazdoor Union;
7. West Bengal Tali and Brickfield Labour Workers’ Union;
8. West Bengal Tailors’ Union;
9. Railway Contractors’ Labour Union;
10. West Bengal casual Forest Workers’ Union;
11. West Bengal Rice Mill Workers’ Union;
12. West Bengal Auto Rickshaw Operators’ Union;
13. Janapath (Truck, Lorry, Tempo) Paribahan Mazdoor Union;
14. All Bengal Municipal Workers’ Federation;
15. West Bengal Copy Writers’ Association;
16. West Bengal Security Workers’ Union;
17. West Bengal Regulated Market;
18. Street Hawkers’ Union; and so on.

These unions are registered under “The Trade Unions Act, 1926”. Any seven or more members of a trade union, by subscribing their names to the rules of trade union and by otherwise complying with the provisions of this act with respect to registration, apply for registration of the ‘Trade Union’ under this Act.

A statement of the following particulars, namely:

a) the names, occupations and addresses of members making the application;
b) the name of the Trade union and the address of its head office; and
c) the titles, names, ages, addresses and occupations of the officers of the Trade Union

shall be accompanied with every application for registration of a Trade Union.

After registration, the registrar gives a registration number to the concerned union. The union are affiliated to the central trade union. The central trade union gives an affiliation number to the registered union.

7.6 Conclusions

After fifty years of independence, the Indian intellectuals have started to think about the social security measures for the unorganised workers. It is probably for the fact that million of workers in the organised sector have compelled to join in the unorganised sector in the era of “New Economic Policy”. The industrialists are now refusing to pay the due benefits to the organised workers. They think that the present social security coverage for the workers in the organised sector is more expensive. As a result, informal activities within the organised units are rising. In West Bengal, particularly in the Jute Industry where nearly twenty million people are dependent on the industry; thousand millions of rupees are due as Gratuities, Provident Funds and E.S.I. The mill owners frequently defy tripartite agreement and force the workers to accept lower wages. There is a continuous curtailment of the existing social benefits earned by the organised workers.

The conditions of the unorganised workers are also miserable. They have no organisation; they are scattered. Organising the unorganised workers is a mammoth task, especially when the organised bastions are crumbling. In the unorganised sector, when a trade union makes a demand, then the employer always try to close down his unit and it is a real threat to existence of the workers. The units are scattered in different parts of the state and the workers are very small in number. Therefore their bargaining power is absolutely zero. Again, the size of the units is very small. A threat to strike or any other form of agitation from the workers would danger the very existence of the units. In this situation the Government and the society should be more responsible and sensitive to their issues.
A7.1 A Case Study on Jari Industry in West Bengal

This appendix gives a case study on informal sector labour market and its functioning. The findings are very common and observed not only in West Bengal but also everywhere in India.

This study is on the Jari workers in Howrah district of West Bengal. Howrah is on the west of river Ganga and it takes only 15 minutes reach by Ferry service from Calcutta.

The total number of Jari workers in the Howrah district is more than lakhs. These Jari workers are not merely a worker, they are artists; they create different designs on the Sari and bring new innovation in the design.

The Industry

The Jari industry purely depends on private capital. The total annual turnover of the industry is more than hundred million rupees.

Here work starts at 7 a.m. morning and continues 11 p.m. night. Daily wage rate varies from Twenty Rs. to Thirty-five Rs. only. A skilled and experienced worker gets some more. During the period of apprenticeship, there is no money wage. After a rigorous training period of two years nearly, the worker gets a wage, which is far below the standard minimum wage rate.

The hierarchy of this industry is typical. On the top of the industry, there is a small group of businessmen. They are from Calcutta. In the middle tier, there are "Ostagars" who are mainly local residents and in the lower rung, there are common workers. This small group of businessmen controls the whole industry.

There is a putting-out system in this industry. Ostagar collects the business orders from the businessmen of Calcutta. Ostagar comes with different designs and the businessman selects the design and place the necessary order. And then, the ordinary Jari workers work accordingly.

The total cost of production of a jari Sari is nearly rupees four thousand only (the price of the piece of cloth is nearly rupees fifteen hundred only and the cost of Jari work on the Sari is nearly rupees two thousand five hundred only). The market price of a Jari Sari varies from rupees eight thousand to rupees ten thousand only.

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Ostagar makes a profit of rupees five hundred only and the rest amount goes to the pocket of the businessman.

It is surprising that in West Bengal, there is no market for this product. There is no demand for this type of Sari in West Bengal. But there is a large domestic market outside West Bengal. Apart from this domestic market, this Jari Sari is exported to Dubai, Iraq, Iran, and Saudi Arabia etc.

After 98 years of 'Hay Market Tragedy', Jari workers were organized in 1984 for a better working condition and launched a movement demanding eight hours work. This movement was organized spontaneously and the irony was that no political trade union or authorized labour organization came to lead this movement. Fifteen thousand workers marched directly with the movement and the industry was closed for two months. Due to this movement, the working hour came down to ten hours daily. Wage rate also increased. But due to the absence of any authorized or strong political trade union, all of these benefits were drastically reduced within few months. At present, these Jari workers are totally unorganised within an unorganised sector.

A7.2:

CLOSURE: The Industrial Dispute Acts 1947 does not define the term 'closure' clearly. But Maharasthra and Andhra Pradesh Government have defined 'closure' in their respective 'industrial dispute' law. According to their law, 'closure' means closing down the workplace partially or completely by the employer or work stoppage by the employer or the employer refuses to continue the work with the existing workers. The right of an employer to carry on any business conferred by Article 19(i)(g) of the Constitution of India is not absolute. The State has get a right to regulate any business and may impose conditions in the interest of the general public, but it does not mean that the State can compel an employer to carry on his business, because several employees may be thrown out of employment if it is closed. The question whether an employer could or could not close down the business permanently or temporarily falls outside the purview of the Industrial Disputes Act, 1947, which assumes the continued existence of an industry. It is not open to the High Court to canvass the grounds that promoted an owner to

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discontinue his business. The ground may be actual loss or apprehended loss. It may be disinclination to run the risk of running the business. The question whether a closure of a factory is an illegal lockout or an unfair labour practice adopted by the employer is within the jurisdiction of an industrial tribunal.

"A person may decide to carry on business and close his shop. This does not necessarily mean that the workers are automatically thrown out of employment. The question of compensation, to the employees, discharged as a result of closure, must be considered to be industrial dispute within the Act." [Bennett Coleman & Co. Ltd. vs. Their Employees, 1955-II 'Labour Law Journal' p. 258]. The existence of the institution/industry has completely abolished when a 'closure' is declared there.

LAY-OFF: Lay-off means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials of the accumulation of stocks or the breakdown of machinery or for any other reason to give employment to a workman whose name is borne on the master rolls of his industrial establishment and who has not been retrenched. Explanation: Every workman whose name is borne on the master rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day.

When workers get full salary but due to inability of the employer do not have any work then this situation is not lay-off. There exists a relation between the employer and the employees at the time of lay-off.
LOCKOUT: Lockout means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him. Suspension of work due to any temporary reasons (lack of raw materials or coal) does not called lockout. Lockout is an employers’ instrument. It is the result of an industrial dispute. Employer creates pressure on the workers by using lockout. Employer uses the lockout as a threat to the workers. At the time of lockout the institution / industry does not closed down; only work has been suspended. In the public utility services, the employer must give a six weeks notice before declaring lockout.

A7.3

The ‘Equal Remuneration Act’ (1976) has its roots in Article 39 (clause d) of the Constitution, which enunciates the principles of equal pay for equal work, and Article 14 of the Constitution, which guarantees equality of all before the law (Vaidya, 1993). The 1976 Act was amended in 1987, thereby widening its scope and span. The prohibition against discrimination was extended beyond the entry point into matters such as promotion, training and equal opportunities for growth in profession. Theoretically, the law covers all the industries and sectors (public and private; organised and unorganised, local and multinational, etc.) and covers permanent, temporary as well as casual workers (the self employed are not covered).