INTRODUCTION

Rapid industrialisation of the country has led to a sharp increase in the Labour force in the twentieth century. The expansion of the workforce has taken place more in the unorganised sector. Today a staggering 92.5% of the Indian Labour is employed in this sector (Institute of Applied Manpower Research, 1997). It comprises largely the needy small and marginal farmers, the contract labourers and the agricultural workers. However, precious little seems to have been done to combat the health hazards associated with their workplace. This is primarily because their "unorganised" nature fails to put pressure on Governmental agencies to enforce legislation for their safety and welfare.

The organised sector, considered better off, employs 280 lac employees. Out of these 195 lacs are in the public sector and 85 lacs in private sector. By definition, the organised sector includes all the establishments in the public sector and non agricultural establishments employing 10 or more persons (Institute of Applied Manpower Research, 1997). It is this 'unionised' sector that has forced the State to enact legislation for Health and Safety at the workplace.

Industrial enterprise in India began during the Industrial revolution in 1850. The conditions of the working class during this period were abysmal. Their salaries and working conditions were determined by market forces. There was absolutely no legislation for protection or compensation from occupational diseases and injuries. With the organization of industries, the laws regarding their working became necessary and were enacted from time to time (Trivedi, 1987). Social Security legislations were framed to protect and compensate the worker from Occupational diseases and injuries.

The earliest legislation in the field of Social Security in India was the Fatal Accident Act of 1855 that provided compensation to workers who died as a result of an industrial accident (Government of India, 1966, page 9). However, the law remained merely on paper, as it was left to the heirs of the deceased to prove that the accident occurred due to the personal negligence of the factory owner, which was a Herculean task (Mallick, 1995). The powerful Indian Bourgeoisie had thus ensured by getting this clause inserted, that Social Security for the working class remained a non starter. The easy
The availability of cheap labour and the capital might of the Indian industrialist ensured that it took a long time for the Indian labour force to get organized and fight for their rights. History has shown that legislation and Social Security in industry has come about not due to growth in knowledge or due to a philanthropic attitude of the employers or Government but due to a continuous struggle by the working class (Elling, 1986). The constant pressure from the workers, trade unions and the ILO forced the Indian Government to enact legislations in the realm of Social Security and Labour Welfare. These were the Workmen’s Compensation Act 1923, the ESI Act 1948 and the Factories Act 1948. While the first two dealt with primarily compensation of occupational diseases and injuries, the Factories Act provided for enforcing Safety and Health measures on the factory floor.

The Workmen’s Compensation Act 1923 was based on the principle of employer’s liability to compensate the worker. This legislation provided for compensation of a personal injury from an industrial accident or an occupational disease and also led to the setting up of special machinery to deal with claims of compensation under the Act (Gupta, 1986). The Workmen’s’ Compensation Act became an important means in the system of social security for labour in India till independence. It provided for compensation in case of death, total disability, permanent partial disability and temporary disability. However, this Act was criticized as being inadequate to provide compensation to workers in case of Employment Injury or Occupational Disease as the worker had to undergo protracted litigation against the employer to get his legitimate dues (Labour Investigation Committee, 1946, page 376; Singh, 1986). In the name of collective responsibility and functioning of the state, the employer and the employee; and with the assistance of liberal intellectuals and administrators, a compulsory contributory Health Insurance Scheme for Industrial workers was framed giving birth to the ESI Act 1948 which replaced the Workmen’s Compensation Act in respect of employees covered by the former (Qadeer, 1986).

Under the ESI Act the Government, the employer and the employee were all made to contribute towards a Scheme called the ESI scheme which aimed to provide comprehensive health care, occupational health services and compensation for occupational accidents/ diseases to the workers (ESI Corporation, 1983). The Scheme is run by an autonomous body called the ESI Corporation which has representatives of the Government, Industrialists and the Workers. It has been hailed as a watershed legislation that intends to
provide much needed Social Security to the working class on the lines followed in countries much more advanced economically (ESI Corporation, 1998; Bose, undated, page 1029). This Scheme is known for not only being the first measure of social insurance in the country but also as the first major social security programme in the whole of South East Asia covering 25% of the work force in the country (Cohen, 1953, page 93; Bhatnagar, 1985). It therefore, occupies an important position in the labour code of the country, particularly in the field of Industrial Welfare (Choudhri, 1966; page 135-136). We have chosen the ESI Scheme as the subject of our Thesis as it appears to be the one that directly addresses the workers medical care and compensation issues.

When the ESIS was conceptualized, it was assured that it would take care of all Occupational Health issues related to industrialization. Besides, the Scheme has also taken over the task of providing General Health services to the workers. The scope of the latter has since been widened to include retired workers and families. This is unlike the Western countries, where the General Health Services to workers and their families are rendered by the Health service system of the country and the Occupational Health Services concentrate purely on issues of Occupational Health and Safety (Elling, 1986).

The inclusion of both General Health Services and Occupational Health Services in the ambit of ESIS in India has raised multiple questions. Has the broadening of the ESI scheme, to include General Health allowed it to remain focused on Occupational Health? Has the ESIS made efforts to prevent it from becoming merely a General Health Service for the working class? Is ESIS capable of providing adequate diagnosis, treatment and compensation for occupational diseases and injuries? Can the ESIS take care of Occupational Health as a distinct entity? Do the three players involved in running the ESI Scheme (Government, Industrialists and Workers) wield equal influence and the effect of this power equation on the functioning of the Scheme? Our Thesis is an attempt to answer the above crucial questions.

The ESIS is a complex organizational entity having multiple components. It has ESI Hospitals, Dispensaries and a medical administrative setup which is responsible for providing General and Occupational Health Services. These ESI medical institutions are interacting with ESI Regional and Local Offices and Medical Boards that are responsible
for determining compensation for occupational Diseases and Injuries. Besides, the ESI complexity is subject to pulls and pressures from the three players responsible for running it. The contradictory nature of interests of these players can lead to conflicts that will influence the working of the ESI System. The ESI System also has linkages with the judiciary, the District Health Service System and the Factory Inspectorate. Thus, the ESI scheme can be visualize as a System that consists of a large number of Subsystems that are interacting with each other and the larger System. To study such a System a holistic approach called Systems Analysis has been adopted. The Systems Approach is a technique for the application of a scientific approach to complex problems (Ramo, 1970). It concentrates on the analysis and design of the whole as distinct from the components or the parts. This approach emphasizes the integrative mode of thinking. Its fundamental principle is that when viewed structurally, a problem or a set of problems may indeed be divisible into sub problems; but that same problem or problem set is necessarily an indivisible whole when viewed functionally, because its essence as a system is lost when it is broken down into parts (Ratcliffe, 1988).

This Study has looked at the ESI Scheme in its entirety in Faridabad, taking into account the facets and the variables that are critical for the understanding of Occupational Health including the social and the technological aspects. To study the latter it was necessary to locate it in relation to other activities. It is evident therefore that the larger milieu is changing fast and influencing the trends in the evolution of ESI services. To find out these trends and to match the reality with peoples’ perceptions this Study attempts to make an assessment of conflicts, their resolution and the level of balance at which the ESI System is operating. We are raising two issues. Firstly, given the scope of the ESI Scheme and its strengths, can certain inputs and alterations help in improving the System? Secondly, can larger structural constraints be identified, changes wherein could help in improving detection of occupational diseases and injuries, its diagnosis, treatment and compensation.

In the modern era of ‘globalisation’ where ‘labour reforms’ are a buzzword the ESI Scheme assumes importance as it signifies the democratic concerns of a welfare State. The entrepreneur today, is trying his best to force the Government to acknowledge that the reasons for the present ‘industrial sickness’ in the country are labour laws that supposedly
'protect workers interests'. The Indian Merchants Chamber has gone to the extent of asking the question, "Why the industry should be playing the role of a welfare State?" (The Times of India, Mumbai, 24/1/01). They are putting pressure on the Government to change the Contract Labour Act permitting hiring of employees on contract basis and to empower corporates to retrench employees without prior Government sanctions. However, all Trade Unions, cutting across party and ideological lines, have opposed the above recommendations dubbing them 'anti worker' (The Times of India, Mumbai, 01/3/01). This is because they feel the present shift to 'liberalisation' is pushing Systems to ignore the value of 'human capital'. It is important to appreciate the well known fact that for productivity a satisfied labour force is an asset. Under the present circumstances, where the structure of the industry is changing and hiring of contractual labour is increasing, it is important to protect, develop and expand the existing social security schemes especially for workers in the unorganised sector. Our Study of the working of the ESI Scheme thus assumes contemporary relevance as it helps assess how much the organised sector has succeeded in protecting the health of workers. Consequently, it also becomes the first step in developing ideas about how the scope of the services can be expanded to workers in the unorganized sector.

The present Study has been divided into eight Chapters. Chapter I is a compilation of literature on Social Security for the Working Class. We attempt to trace the evolution of Labour Laws pertaining to Occupational Safety and Health in the country and seek to identify forces responsible for them. A Synopsis on the current state of Occupational Disease and Injuries in the country and its reporting pattern has also been presented. Important Studies pertaining to Social Security and working of the ESI in India are also analysed. The concept of Systems Approach has been highlighted and justification for using this approach in our Study has been presented. Finally, we have raised key Research Questions that helped us in conceptualizing this Study.

The Second Chapter spells out the Methodology used for our Study. We begin with spelling out our Analytical Framework and go on to conceptualise the ESI Scheme in Faridabad District as a System. The linkages, components and indicators of this System are identified and Objectives of our Study framed. The Design of the Study is finally built based on our conceptualization.
Chapters III-VII comprise of data compiled during the field work. Chapter III concentrates on the working of the ESI Health Service System in Faridabad. Here, we focus on the capability of the ESI Health System to detect, diagnose and treat Occupational Diseases and Injuries. The next Chapter outlines the working of the Factory Inspectorate in the District. In this Chapter we concentrate on the ability of the Factory Inspectorate and the certifying Surgeon to prevent and detect Occupational Diseases and Injuries. We also analyse the extent of coordination between the ESI compensation systems and the Factory Inspectorate.

Chapter V is devoted to the ESI Compensation System. We analyse the efficiency of the ESI System in compensating workers suffering from occupational diseases and injuries. Data on the level of coordination between the ESI Health System and the compensation system is presented here.

Chapter VI deals with the working of the Employees Insurance Courts and the ability of the Legal Adjudication System to render speedy justice to the aggrieved workers. Attempt is also made to present data on the level of sensitization of the executive and legal machinery to the problems of the working class.

Chapter VII presents the findings of our User Survey conducted on a sample of 200 workers, to find out their perceptions about the working of the ESI Health Service System and the ability of the ESI System to compensate them for occupational diseases and injuries. Data is also presented on the workers perceptions regarding Safety and Health conditions at the workplace.

The last Chapter analyses the reasons and the forces that influence the ability of the ESI System to detect, treat and compensate occupational diseases and injuries and the politics of priority. We attempt to offer suggestions at two levels. First, short term recommendations, which assume that the constraints of the existing ESI System will continue to exist. These solutions essentially call upon the ESIS to remove existing bottlenecks without going in for major changes. Second, long term measures that call for a
thorough overhaul of the existing system to ensure lasting equity and justice for the labouring class.
REFERENCES


The Times of India, Mumbai, 24/1/01, pp 15.

The Times of India, Mumbai, 01/3/01, pp 4, col 1.