As stated earlier Swami Vivekananda could not tolerate the inhuman position of the countrymen for whom he solemnly preached for equality. Rabindra Nath also spoke for the suffering millions of India. He thought that the freedom movements should be strengthened by turning them into mass movements. Netaji Subhas Bose believed that without systematic and comprehensive planning no nation could thrive. So, he organised the Scheme of National Planning with the help of an outstanding scientist like Dr. Meghnad Saha for upliftment of the conditions of the starving millions. He deemed freedom essential to save these wretched people from their conditions of object helplessness. Mahatma Gandhi believed that political freedom would be a mere hoax if the population of India is denied the right to economy freedom. Many other great personages expressed pious wishes on many occasions for the welfare of the people but nothing concrete substantial and tangible could have been done towards social transformation of the magnitude to be put on record since independence. The legacy of past always stood on the way.

Since Independence, India has been emerging from the shackles of feudalism. India being a nation of the changing world cannot and should not keep herself aloof from the influence of the social reconstruction going on the world over.
India has already taken steps to the socialist line of development but the programmes for the same are to be speeded up to face the growing challenge of this remarkable age of science creating problems of multifarious characters resulting out of its impact on the economic, social and political life.

Now we would in a nutshell reproduce here some of the major labour cum social security legislations along with the benefits connected therewith. All these legislations have been separately treated in other pages with more details:

<table>
<thead>
<tr>
<th>Name of the Act</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Industrial Disputes Act, 1947.</td>
<td>After many changes this Act provided for arbitration, conciliation and adjudication machinery for settlement of Industrial disputes. It also stipulated conditions for strikes and lockouts and payment of lay-off and retrenchment compensation.</td>
</tr>
<tr>
<td>2. Coal Mines Labour Welfare Fund Act, 1947.</td>
<td>It provided for the settling up of a fund known as Coal Mines Labour Housing and General Welfare Fund by levying a cess on all coal and coak despatched from collieries. This was followed by Coal Mines Bonus and Provident Fund Scheme Act.</td>
</tr>
<tr>
<td>Name of the Act</td>
<td>Benefits</td>
</tr>
<tr>
<td>---------------------------------</td>
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</tr>
<tr>
<td><strong>3. Minimum Wages Act, 1948</strong></td>
<td>It provided for fixation of minimum rates of wages in 12 Scheduled employments and agriculture in the first instance.</td>
</tr>
<tr>
<td><strong>4. Employees State Insurance Act, 1948</strong></td>
<td>It provided for the compulsory insurance of wage earners against the sickness, maternity and employment injury. The Act covered all factories employing 20 or more persons and run with power and extended to all employees whose remuneration will not exceed Rs. 3,000/- as per latest decision of E.S.I. authorities. The act also provides for payment of sickness, maternity disablement and medical benefits.</td>
</tr>
<tr>
<td><strong>5. Factories Act, 1948</strong></td>
<td>Completely renovated in 1948 after many amendments. In framing this Act, the Government tried to implement as many provisions of the I.L.C. Code of Industrial Hygiene as were practicable under Indian Conditions and the provisions relating to the periodical medical</td>
</tr>
</tbody>
</table>
examination of young persons and submission of plans of factory buildings recommended under the International Labour Conference. It tends to secure modern conditions of work, health and safety and also other welfare activities such as canteen, creches, rest shelter etc.


It provides welfare of Plantation Labour and regulate the conditions of work. Also it provides welfare activities like canteen, creches etc.


It provided for compulsory provident fund for employees in factories and other establishments covering 20 persons or more.

8. The payment of Gratuity to employees under Gratuity Act, 1972.

Provides payment of Gratuity to employees in factories, Mills, Mines, Oil Fields, Plantation etc.
Labour Legislations at a Glance
(After Independence)

<table>
<thead>
<tr>
<th>Protective Regulative Legislation</th>
<th>Social Security</th>
<th>Welfare</th>
</tr>
</thead>
<tbody>
<tr>
<td>(To protect (To regulate relabour standards between employers and improvement employees and to provide methods of working) for settlement of disputes)</td>
<td>(To provide workmen social security under Certain Contingencies of life)</td>
<td>(To promote general Welfare)</td>
</tr>
</tbody>
</table>

Examples:

8. The Payment of Wages Act, 1936.
Some Relevant Remarks

In brief all the measures covered by different Acts have been explained in previous pages only with their salient features as they have developed in India.

But some remarks need to be made in view of rapid changes in social and economic condition of the country.

1. Excepting the Workmen's Compensation Act, 1923 and 1961 Maternity Benefits Act in some of the States, other social security measures have been introduced only during the last three and half decades since independence.

2. Both in terms of number of workers covered and volume of resources of their disposal the position of E.S.I. and P.F. in the field of Social Security is quite prominent. In fact, these two schemes constitute the core of the progress achieved so far. The Workmen's Compensation Act and the Maternity Benefit Acts have growingly losing their importance as a result of the extension of E.S.I. scheme to an increasing number of workers. These would become superfluous when the scheme is expanded to cover all the working population.

3. Apart from the contribution the Central and State Governments make to the medical care, provident fund and pension schemes in respect of their own employees their contribution to other schemes is limited to sharing by the state Government of a small part of the cost of medical care under the E.S.I Scheme.
4. The scope and dimension of the Social Security Provisions are no doubt quite insufficient for our labourers in comparison with what is found in Western World. But tragedy lies in the fact that even this very minimum security for industrial workers is absent in case of the agricultural workers though they constitute a good majority of the total work force of the land. Social Security Measures, applicable in case of the industrial workers, include accident benefits, maternity benefits and old age pension etc. But what is in the lot of the rural workers? Only the Minimum Wage Act. But the workers in fields are unable to get the prescribed minimum in most areas. The minimum wage and other labour laws are not implemented especially in farm sector, and the farm workers face harsh reprisals both from the owners of land as well as the administrations if and when they even try to organise and assert their right. The Minimum Wages laws can be useful only if the wages rates are fixed at the level above the rates established by customs and practice and strictly enforced. But, in actuality wages prescribed under the Minimum wages laws are usually fixed below even the prevailing wage rates. In the absence of organisation and bargaining power, the rural poor are able neither to extract proper regard for their labour through statute or collective bargaining nor prevent welfare programmes being used for the benefits of other than those for whose benefit they are actually meant. If proper and extensive organisation is established for the farm workers the welfare and antipoverty programmes may have to achieve the
desired result.

While placing priority on the rural economy, it will not perhaps be prudent enough not to look into the industrial front where our thrust or progress has earned a bit stability. So a strategy of greater improvement in rural sector needs to go hand in hand with faster growth of industry. It is self-evident that higher investment and faster growth in incomes in agriculture can be sustained only if industrial production increases to meet the rising demand for in-puts and wage goods in particular. So what the stability of the country's economy requires is harmonious development of both industry and agriculture of course with greater weightage and preference for agriculture country being predominantly agrarian. In this case special mention has to be made in the chinese system as detailed in the subsequent pages.
Special And Unique Feature of Chinese type of Social Security (discussed in details elsewhere) in the context of our condition

Though already discussed, the Chinese type of social security still deserves a few words are to be added. The origin or the base of all social security measures lies in the Production Team of the communes. This comprises the neighbouring 30-40 households on the average. According to the Joan Robinson, these households are generally inter-related and they till the lands of their forefathers. The Chinese have thus retained the content but changed the form of traditional joint or extended family system. The ideological education and changed social context have resulted in the retention of the collective advantages of such a system. This is indeed an exemplary feature emerging from the traditional pragmatism of the Chinese people mingled with deep love for the country. With unparalleled patience and perseverance they are accustomed to face any kind of eventuality with smiling face and boundless confidence.
On Social Security Measures  
(Central Government)

Since Independence India has taken to the path of rapid industrialisation and economic growth. Consequently this has resulted in the rise of great number of industries, a large work force and a new industrial society. All these factors have considerable bearing on the growth of labour welfare movement in our country. The ideal of a Welfare State had added new dimension to the labour welfare philosophy.

Social Security is one of the strong pillars on which the structure of a Welfare State rests and it constituted the hard core of Social Policy in most Countries.

Social Security system of a country may comprise several programmes as is prevalent in western countries where labour is well balanced and economy quite stable. But in India we are yet far from that favourable condition. Still our Government has from the beginning been committed to a policy of fair deal for the workers. The developments during the years since attainment of freedom bear ample evidence of Government's sincere efforts to honour this solemn commitments. This is the period which has seen the enactment and enforcement of a good number of progressive labour laws relating to conditions of work, health and safety and security of income.
Some of the more important enactments on these vital issues are discussed on the following pages. And as for E.S.I., a more comprehensive social security legislation, has been broadly discussed in different pages.

The Employees Provident Fund Scheme 1952
(E.P.F. Scheme)

Introduction:

The Scheme framed under Section 5 of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952 came into effect from November 1, 1952. From the modest beginning in 1956 with six industries (Textiles, Iron and Steel, Paper, Cement, Cigarettes and Electric Machinery or General Engineering) in 1811 establishments and 1.2 million subscribers, it has spread to 163 industries covering 106322 establishments affording shelter to 113.10 lakhs workers as on September, 1981.

Administration:

The E.P.F. Scheme, framed under the Act, is administered by a tripartite Central Board of Trustees. This Board is constituted by the representatives of employers and employees and persons nominated by the Central and State Governments.
In case of E.P.F. Scheme, the cost of administration is met out of the levy of administrative and inspection charges from the employers.

Contributions:

Both the employers and employees of the Scheduled industries are required to contribute to the fund. The contribution of the employer is 6/4 per cent of the basic wages and dearness allowance including the cash value of food concessions and retaining allowances, if any, for the time being payable to the employees. The employer's contribution shall be equal to the contribution payable by the employees. If they so desire, they may contribute at a higher rate up to 8 per cent. Besides the employer is required to contribute 3 per cent of the total employers and employees contribution to the fund towards the administrative expenditure incurred on the scheme. The Government will pay interest on the P.P. Contribution at a rate to be determined by it.

The total amount of contributions received stood at Rs. 7704.98 crores by September, 1981 as against Rs. 104.59 crores in 1961. The total arrears amounted to Rs. 819.9 crores as in September, 1981. The rate of interest credited to the member's Provident Fund accumulations was 8.50 per cent per annum for 1981-82.
Advances:

The Scheme mainly provides for payment of the following non-refundable advances to meet certain contingencies:

(i) financing of L.I.C. Policies;
(ii) housing building;
(iii) purchasing shares of the Consumer Co-operative Housing Societies;
(iv) during temporary closure of establishments;
(v) illness of members, family members;
(vi) unemployment relief to individual retrenched members.

During 1981 - Such advances totalled ₹1859.6 crores.

Coverage:

This Scheme is applicable to all factories and other establishments falling under the category of notified industry and employing 20 or more workers. The scheme aimed at providing substantial security and timely monetary assistance to industrial employees and their families.

Main Benefits:

A member of the Fund is eligible to receive his own share and the full amount of employer's contribution after retirement or upon completion of 15 years of membership. In case of shorter periods of membership the proportion of employer's contribution payable to the worker varies according to the length
of the period. The Provident Fund is refundable with interest in the event of (i) retirement from service after the attainment of age of 55; (ii) retirement on account of permanent and total incapacity; (iii) death; (iv) retrenchment; (v) migration from India for permanent settlement abroad; (vi) on leaving service for any reason. Payment of accumulation in the fund to a member, has to be made to the members of the deceased family in equal shares, if there is no nominee. But no payment is made to (i) sons who attain majority, (ii) married daughters whose husband are alive, (iii) married daughters of a deceased son whose husbands are alive.

During 1980-81 a sum of ₹ 97.65 crores in respect of 2.63 lakhs claims was paid and in 1977-78 payment of ₹ 85.05 crores in respect of 3.16 lakhs claims was made.

The amount contributed by the employer which is not paid out to the employees goes to the forfeiture account of the fund which is utilized for conferring several benefits upon members of the fund.
Employees' Family Pension Scheme 1971

A new scheme for the benefit of families of industrial and commercial employees was introduced by the Central Government under ordinance No.3 of 1971 which after enactment became the Employees' Family Pension Scheme 1971. It became effective from 18th March 1971. The purpose of this scheme has been to provide family pension and life assurance benefits to the employees covered by the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

It applies compulsorily to all the employees who became members of the Provident Fund. The pension is provided to the workers who are members of the Fund in case of their death while in service.

The Scheme is financed by the employees' share of contribution of 11/6% of the pay deducted from his Provident Fund contribution and with an equal amount deducted from the employers' contribution, with the Central Government Contributing another 11/6% of the pay of the member. The Central Government also meets the administrative cost of the scheme. Thus the fund is made up of 3% of the pay of the subscriber.

Family pension is payable if the member dies while in reckonable service before attaining the age of 60 years and he/she has contributed to the family pension fund for not less than 2 years.
Main Features:

1. If the member of the family pension fund who joined the scheme at the age of 25 or below dies while in service, a lump sum of ₹2000/- is payable as Life Assurance Benefit.

2. When a member had to his credit, at the time of his death, more than seven years' service, for a period of 7 years from the date of death or till the date when the member would have reached the age of 60 had remained alive, which ever is shorter, the Pension is at 50% of the pay last drawn subject to the maximum of twice the pension mentioned in the prescribed table.

3. A member who has attained the age of 60 and who entered the Fund at the age of 25 years or less and contributed to the fund for not less than 2 years, would get a lump sum of ₹4000/- in lieu of family pension. Thereafter he would cease to become a member of Pension Fund. If he is more than 25 years of age at the time of entry there would be a proportional deduction.

4. If a person dies during the waiting period, his family receives only a refund of the contribution with interest.

5. If an employee leaves after completing 2 years or is retrenched payment of a part of the benefit is made.
When Payable:

The family pension is payable to:

(1) the widow or widows up to the date of death or remarriage whichever is earlier;

(2) failing this, to the eldest surviving minor son until he attains the age of 18 years;

(3) failing both these, to the eldest surviving unmarried daughter until she attains the age of 21 years or marriage which ever is earlier.

The family pension is not paid to more than one person at a time. However if there are two or more widows pension is payable to the eldest surviving widow. On the death or remarriage the pension will be given to the minor children. The term eldest being decided by seniority with reference to the date of marriage.

Payment of Gratuity Act 1972:

Till August 1972, there was no Central Act to regulate the payment of gratuity to the industrial workers except the working journalist (condition of service) and Miscellaneous Provisions Act 1955. In 1971 Kerala enacted legislation for the payment of gratuity to workers employed in factories, plantations, shops and establishments. West Bengal followed suit. The proposal for Central Legislation on gratuity was discussed in the Labour Ministers' Conference (August 24-25,
1970) at Delhi and also in Indian Labour Conference at its Session (22, 23rd and, 1971) and it was unanimously decided to have an enactment. Accordingly, the payment of Gratuity Act was passed in 1972. It become effective from the 16th September, 1972.

The Act Applies to:

(a) every factory mine, oil field, plantation Port and railway company;

(b) every shop and establishment within the meaning of any law for the time being in force in relation to shops and establishments in a state in which ten or more persons are employed or were employed on any day of the preceding 12 months;

(c) such other establishments or classes of establishments in which ten or more employers are employed or were employed on any day of the preceding 12 months as the Central Government may, by notification, specify in this behalf.

Under the Act an 'employee' is a person employed on wages not exceeding ₹1000/- per month in any establishment.

The Conditions of Eligibility:

(a) An employee should have put in an uninterrupted service during the 12 months immediately preceding the year
for not less than (i) 190 days if employed below the ground in a mine (ii) 240 days in other case except when he is employed in a seasonal establishment. In that case he would be deemed to be in continuous service, if he has actually worked for less than 75% of the number of days on which the establishment was in operation during the year.

Payment to be made to:

(a) an employee on the termination of his employment after he has rendered continuous service not less than 5 years -
(i) on his superannuation (ii) on his retirement or resignation (iii) on his death or disablement due to accident or disease.

However, completion of 5 years of continuous service for earning gratuity is not necessary if the termination of employment of any employee is due to death or disablement.

In case of death of the employee gratuity will be payable to his nominee or if no nomination is made to his heirs.

For every completed year of service or part thereof in excess of 6 months, the employer has to pay gratuity to an employee at the rate of 15 days' wages based on the rate of wages last drawn by the concerned employee.

The amount of gratuity payable to an employee is not to exceed 20 months wages.
Payment of gratuity may be forfeited in case -

(i) the service of an employee has been terminated for any act of wilful omission or negligence causing any loss or damage to the property of the employer only to the extent of damage or loss caused to that employer.

(ii) Gratuity may wholly be forfeited if the services of an employee have been terminated for his riotous or disorderly conduct in course of employment and if this wrongful act is involved in normal turpitude.

Recommendations of the State Labour Minister's Conference:

The State Labour Minister's Conference held in July 1980 made certain recommendations regarding gratuity.

(a) If necessary the payment of Gratuity Act might have to be amended to ensure that the power of the Controlling Authority were not curtailed and the Authority retained the power to decide dispute regarding admissibility of a claim or right of a person to claim any amount.

(b) The Act should be made applicable to all establishments including those in rural or informal sector employing 10 or more workers.

(c) In case of exemption the exempted establishment should remain under the jurisdiction of controlling authority.
and the Appellate Authority.

(d) The Coverage of Act be extended to cover employees drawing upto Rs.16,000/- per month or even Rs.2,000/- per month.

(e) Gratuity to be paid at the rate of 15 days wages (instead of 1/4 month) for every year of service.

(f) The Controlling Authority should have the power to recover interest from the employer in case of delayed payment of gratuity amount.


Introduction:

This enactment is meant for extension of social security benefit of the workers employed in coal mines. Apart from the Employees' State Insurance Act 1948 other notable social security measures adopted after independence may be summarised as under:

(a) The Employees' Provident Fund Act 1952.


(c) The Seamens' Provident Fund Act 1966.
All these above legislations were implemented for furtherance of social security benefit in conformity with the noble ideals of Welfare State like ours.

Administration:

For implementation of this measure (i.e. The Coal Mines Provident Fund and Bonus Schemes Act 1948) a tripartite Board of Trustees consisting of representatives of employers, employees and the Central and State Government, is constituted and this Board administers the Provident Fund Scheme.

The Bonus Schemes, on the other hand, are administered by the industrial relations machinery headed by the Labour Commissioner (Central).

Coverage:

The Provident Fund Scheme is applicable to workers earning less than Rs. 300/- per month and employed in Coal Mines of the National Coal Development Corporation and also to all workers employed in other Coal Mines. And the Bonus Schemes are meant for all workers earning less than Rs. 370/- per month and employed in coal mines, other than those of the National Coal Development Corporation.

Sources of Fund:

In case of Provident Fund Schemes the workers are required to contribute at the rate of 8 per cent of the total
emoluments and the employers are also to contribute an equal amount. In addition, the employers pay 24 per cent of the total contributions as administrative charges to the cost of administration of the Scheme.

But as for the attendance bonus payable under Bonus Schemes the entire amount is paid by the employers.

Benefits:

The full amount standing to the credit of a member of Provident Fund scheme is refunded on his retirement at the age of 50 or after completing 15 years of membership. But in case where 15 years have not been completed the worker gets his own share and a certain proportion of employers contribution. As for the advance against the members credit balance, it is generally granted for specific purposes.

And in case of incentive for regular attendance the Bonus Scheme provides for a quarterly payment equal to one third of the basic wages subject to attendance registered for a certain minimum number of days.

Qualifying Conditions:

In order to be qualified for membership of the Provident Fund workers earning less than Rs.300/- per month must put in 48 days of attendance if employed under ground and 60 days of
attendance if employed on the surface during a quarter irrespective of the quantum of his wages.

For acquiring eligibility in getting bonus under the Bonus scheme the employee must have to attend the place of work for a certain minimum number of days in each quarter. And also must not be a participant in any illegal strike or any other labour agitation contrary to the interest of the management.

Progress of the Scheme:

The scheme was first initiated in West Bengal and Bihar and later on extended to M.P., Assam, Orissa, Maharashtra. Separate schemes were prepared for Andra Pradesh, Tamil Nadu and Rajasthan. In 1951-2 it was applied to 997 coal mines and the number of subscribers was 275 lakhs. At the end of 1980 the scheme covered 1050 coal mines and the number of subscribers was 6.84 lakhs. Since then the onward progress is quite commendable.
The Maternity Benefit Act 1961:

The first measure of provincial legislation was the Bombay Maternity Benefit Act of 1929 followed by Central Provinces in 1930. As a result of the recommendation of Royal Commission on Labour Maternity Benefit Act was subsequently passed in many States like:

<table>
<thead>
<tr>
<th>Name of the States</th>
<th>M.B.A. Act passed in</th>
</tr>
</thead>
<tbody>
<tr>
<td>Madras</td>
<td>1934</td>
</tr>
<tr>
<td>U.P.</td>
<td>1938</td>
</tr>
<tr>
<td>Punjab</td>
<td>1943</td>
</tr>
<tr>
<td>Assam</td>
<td>1944</td>
</tr>
<tr>
<td>Bihar</td>
<td>1945</td>
</tr>
<tr>
<td>West Bengal (For Tea States)</td>
<td>1948</td>
</tr>
<tr>
<td>Kerala</td>
<td>1952</td>
</tr>
<tr>
<td>Orissa</td>
<td>1953</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>1953</td>
</tr>
</tbody>
</table>

The Bombay Scheme under certain modifications was extended to Ajmer Marwana in 1932 and Delhi in 1937. In Madras and Andhra the Act has also been passed. Subsequently the Maternity Benefit Act 1961 was passed to provide uniform standards for maternity protection.

M.B. Act applies in the first instance to all factories, mines and plantations except those to which the Employees' State Insurance Act applies. This Act was amended in 1976 (1, May) to extend the benefit to all women workers earning more than Rs.1,000/- in establishments covered by E.S.I. Act.

Administration:

The administration of the Act in respect of women employees working in the factories, mines and non-coal mines is the responsibility of factory inspectors, coal mines welfare commissioner and Director - General of Mines Safety respectively.

The Act aims at reducing the disparities relating maternity provision under various state and Central Acts. The other purposes of the Act are —

(i) to regulate the employment of women employees in certain establishments for certain specific periods before and after child birth;

(ii) to provide for the payment of maternity benefit to women workers at the rate of average daily wage calculated on the basis of wages payable to her for the days on which she has worked during the 3 calendar months immediately preceding the date from which she absented herself on account of maternity;

(iii) to provide for certain benefit in case of miscarriage to premature birth or illness arising out of pregnancy.
(iv) to provide medical bonus (of Rs. 25/-) if no prenatal confinement and postnatal care is provided by the employer free of charge.

Period of Benefit:

As regards the period of benefit with the exception of Punjab, Tamilnadu and the tea estate in West Bengal the rest of the States have prescribed a uniform period of 8 weeks of benefit i.e. 4 weeks preceding and 4 weeks following the delivery. In Tamil Nadu, Andhra Pradesh and Orissa however the period of benefit is 12 weeks in Punjab 84 days and in the tea estate of West Bengal, Assam and Kerala it is 12 weeks.

In the Central Act the maximum period for which a woman gets maternity leave is weeks 6 period to the period of delivery and 6 weeks immediately follows that date.

Benefit:

A woman entitled to maternity benefit is also entitled to a medical bonus of Rs. 25/- if no prenatal confinement and postnatal care has been provided for by the employers free of charge.

In case of miscarriage a woman is entitled to 6 weeks leave with pay from the date of miscarriage. In this case too
she has to give notice together with a certificate of
miscarriage.

Protection and safe guard under the Act:

It is an offence for an employer to knowingly employ
a woman during 6 weeks immediately following the date of her
delivery or miscarriage.

For illness out of pregnancy delivery, premature birth
or miscarriage a woman employee can take extra leave up to a
maximum period of one month after producing certificate from
a doctor in the prescribed form. This leave can be taken at
any time during pregnancy or can be attached to the 6 weeks
prior to or after delivery or miscarriage.

A woman employee can ask for light work for one month
preceding 6 weeks prior to her delivery or during these 6
weeks if for any reason she does not avail of her leave.

A woman resuming duties after delivery is to be given
2 nursing breaks in a day in addition to her regular rest
intervals to nurse the child until her baby is 15 months
old.

A employer can not reduce the salary on account of light
work assigned to her or for breaks taken to nurse her child.
A woman worker can not be discharged or dismissed on ground of absence arising out of pregnancy, miscarriage delivery or premature birth nor her service conditions be altered to her disadvantage during this period.

If a woman entitled to maternity benefit died before receiving her dues the employer has to pay the person nominated by her in the notice or to her legal representative in case there is no nominee. If she dies during the 6 weeks before delivery maternity benefit is payable only for the days up to and including the day of her death. If she dies during delivery or during the following 6 weeks leaving behind a child the employer has to pay maternity benefit for the entire 6 weeks but if the child also dies during this period, then for the days upto and including the day of death of the child.

However a woman may be deprived of maternity benefit if

(a) after going on maternity leave she works at any other establishment during the period she is supposed to be on leave,
(b) during the period of her pregnancy she is dismissed for any gross misconduct.

Defects of this Act:

(1) Non-enforcement to an adequate extent. Many women do not get this benefit even they are entitled to.

(2) Paucity of woman doctors. Many woman do not take medical certificate from male doctor a condition for entitlement of this benefit.
(3) Employers show preference for employment of unmarried girls, widows, women who past child bearing age. In some cases the girls are discharged just after their marriage.

(4) Evasion is widely prevalent owing to loopholes in the law or other causes.

(5) No provision except in Madras and West Bengal preventing an employer from dismissing a woman worker on the first sign of pregnancy.

Recommendation of the National Commission on Labour:

(a) The undertaking establishments covered by workmen’s Compensation Act should contribute a certain percentage of the wage bill to the Central Fund. This fund should be controlled by the E.S.I. Corporation which should arrange for periodic cash payment and medical care to the injured workers.

(b) A similar Central Fund should be created under the Maternity Benefit Act 1961.

(c) Workers earning less than Rs.4/- per day should be exempted from making any contributions under E.S.I. Scheme.

(d) The E.P.F. Act should be extended to establishments employing between 10 and 20 workers and the rate of contribution in these establishments should be raised to 8% and where
the rate is 8% should be raised to 10%.

(e) In cases where the rate is raised to 10% a portion of contribution should be converted to a pension.

According to the Commission "the aim should be to work gradually towards a comprehensive Social Security plan by pooling all the social security collections into a single fund from which different agencies can draw upon for disbursing benefits according to needs."

Social Security/Social Welfare Measures initiated and conducted by West Bengal Government

The West Bengal Government has been trying with limited means and meagre resources to follow a consistent policy of active support to the genuine struggle of the working class against exploitation. It seems to have striven hard to maintain industrial peace and harmony against heavy odds and mounting difficulties. But due to economic uncertainty caused by a good number of industrial establishment being closed down or locked up the financial position of working class in certain sectors has deteriorated. And the effect of instability in the industrial situation on the workers has been compounded by growing impact of inflation and apprehension generated by introduction of market economy leaving aside the mixed one hither-
-to been pursued. Inspite of this, it is heartening to note that the working class in general has so far maintained its positive role in the face of adverse forces.

The subject of industrial relation is a major concern of the State policy. The West Bengal Government is putting all possible endeavours to ameliorate the conditions of the labour and promote industrial peace and harmony through various progressive legislations of which more important ones are given in the following pages in brief.

West Bengal's economic position, in this connection needs to be properly appreciated keeping in view her progress, her retardation, her inadvancement in some aspects, her stagnation in other, her conditions favourable to stepping onward and constraints thwarting the efforts for achieving welfare of the masses.

The constitutional status of the State, to tell the truth, is not much above the status of Municipal Corporation in some advanced countries. Economically she has to depend entirely on the Centre's decision and politically she is reduced to a position where she is at the mercy of the centre. That is why renowned economist Mr. Bhobotosh Dutta has remarked, "It is now time to re-examine the provisions of the constitution with a view to ensuring a more flexible devolution of finances to the States from the Centre". Rightly said our Chief Minister Mr. Jyoti Basu, "We are clearly aware that under the
present position no fundamental changes can be brought about. And so we have a minimum programme for the people of West Bengal. Burdened by serious problem of unemployment gradually assuming menacing figure of over fifty lacs unemployed West Bengal with faith in her future has embarked upon different beneficial measures summarised in subsequent pages.

Social Security

The Government of West Bengal approves the following Social Security

The age limit eligibility for old age pension should, in no case, be over 60 years and the case of females it should be less than that of males. The criteria regarding destitution and domicile are sometimes too strict and they should be more realistic. The quantum of pension should be periodically revised keeping in view the cost of living index. The Central government should take major initiative to promote reforms and enlarge old age pension scheme and provide a due measure of financial support to the States for securing their implementation.
<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Item</th>
<th>No. of beneficiaries</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Old age pension for destitute person over 60 years of age.</td>
<td>30,540</td>
<td>2.19</td>
</tr>
<tr>
<td>2.</td>
<td>Widow Pension</td>
<td>7605</td>
<td>0.57</td>
</tr>
<tr>
<td>3.</td>
<td>Disability Pension</td>
<td>3895</td>
<td>0.29</td>
</tr>
<tr>
<td>4.</td>
<td>Agricultural labourer's pension</td>
<td>26,908</td>
<td>0.08</td>
</tr>
</tbody>
</table>

In each case the amount of pension per month per person is ₹60/-. There is a proposal for enhancement of the monthly amount of pension.

The Sub-committee welcomes the initiative taken by the Central Government and some of the State Governments in formulating insurance scheme for the economically weaker section of the society and particularly agricultural labour. The Sub-committee however recommends that it should be ensured that all eligible persons are covered under the scheme and the claims etc. are settled with special care and speed.
Land Reform

The Sub-Committee would like to show the extreme importance of early distribution of Government surplus land and also all available surplus land under the ceiling laws to landless persons. This vital and burning issue has been reviewed in separate pages.

The Plantations Labour Act 1951

The Labour Commissioner is the Chief Inspector for the purpose of enforcement of the Plantation Labour Act, 1951. 5 Assistant Labour Commissioners have been designed as Inspectors of plantations who are posted in 5 regions: Darjeeling, Siliguri, Jalpaiguri, Aliporeduar and Mal Bazar.

The principal functions of the inspecting staff are aimed at ensuring that same basic amenities and welfare measures such as medicine facilities Creches, adequate drinking water, housing accommodation etc. are made available to plantation workers. The inspectors look after certain other provisions of the Act relating to hours and limitations of employment, leave with wages, overtime etc. The main thrust of the inspectors activity is however directed at making the employees comply as much as possible with the provisions relating to construction of houses, supply of adequate wholesome drinking water, their repair, medical facilities maintenance
of Creches etc. From 1986 particular emphasis is being given on improvement in the supply of adequate wholesome drinking water.

In the year 1987 it was found that water supply position was greatly inadequate in 22 gardens in the Dooars and Terai regions. During 1988 the position has noticeably improved. Out of 22 gardens 10 gardens have arranged to make improvement on their water supply arrangements.

The names of the rest of gardens were brought to the notice of appropriate authority for improvement of water supply position.

Inspections:

During 1988 169 inspections were made by the inspectors. No written complaints however from the workers were received during this period.

Employment:

Although there are 276 gardens which are shown on record to exist in the state, actually 272 gardens worked in 1987. On the basis of returns filed by 195 gardens for 1987 the number of male workers were 93,346 female workers 94,291 and child workers 13,097.
Canteen:

According to information furnished by the gardens 116 gardens run canteen with only snacks to garden workers.

Creches:

181 plantation provide 436 creches and all the creches are mobile.

Housing accommodations for workers:

In 1987 1038 new houses were constructed and 38 old housed adopted as against the years' total requirement of 3860 houses. But this project could not get improved due to withdrawal of financial grants granted under the subsidised Housing Scheme by Central Government.

Registration of Gardens:

So far 211 gardens have been registered under the P.L. (Amendment) Act 1981 and the amount realised by way of registration was Rs. 288275/-. 5 gardens were registered in 1988 the amount realised by the way of registration being Rs. 5850/-.
Prosecution:

During 1988, 70 prosecution cases were launched against 61 estates for non-compliance of the provisions of the Act and the Rules. A sum of Rs.14,200/- was realised as fine during the year 1988. The position both in respect of number of prosecutions and quantum of fine realised improved in 1988 against those in 1987 in which there were 36 prosecution cases against 28 Tea Estates and a sum of Rs.10,400/- was realised as fine.

The West Bengal Shops And Establishment Act, 1963:

The Act is administered by West Bengal Shops and Establishment Directorate. The Labour Commissioner is the Ex-Officio Chief Inspector under the Act. Besides, there are one Additional Chief Inspector, one Deputy Chief Inspector, 13, supervising Inspectors and 71 inspectors. At present 58 Inspectors are in position. These officers undertake frequent inspection of Shops and Establishments with a view to enforcing the provisions of the Act and the Rules framed thereunder. Group Inspections are often undertaken under the supervision of the Addl. Chief Inspector, Dy. Chief Inspector and the Supervising Inspectors. In case of non-payment and delay in payment of wages to the employees engaged in Shops and Establishment authorities appointed Under Section 14(2)
of the Act, i.e., Referees are empowered to issue directions to the defaulting employers shop-keepers for payment of the dues to the aggrieved employees with adequate compensation as deemed fit and proper by them. Under the Labour Department Memo No. 615-G.E. dated 12.3.85 the Additional Chief Inspector and Dy. Chief Inspector have also been appointed Referees in addition to 13 supervising inspectors already appointed referees under the Act. The activities of this directorate in respect of enforcement of the West Bengal Shops and Establishment Act 1963 and the Minimum Wages Act, 1948 so far they relate to implementation of minimum wages in shops are summarised accordingly to the need and requirements. As per Labour Department Notification No. 1150-G.E. of 2.5.86 the Inspectors, Shops and Establishments within the area of Calcutta Municipal Corporation, South 24-Parganas District and Baranagar Municipality have been entrusted with enforcement of Minimum Wages Act 48 inspecting persons employed in shops. Due to various injunctions issued by various Courts the implementation of minimum wages in shops has been practically stalled from the middle of 1988. Still within 6 months of 1988, 764 inspections were made and 296 infringements were detected. 71 cases including 12 claim cases have been instituted. The Courts disposed of 37 cases which resulted in realisation of Rs. 22,725 as fine as against Rs. 3010/- in 1987. 22 claim cases against 10 in 1987 have been disposed of by the Authorities under M.W. Act 48 with the realisation of Rs. 36,963/- in favour of aggrieved employees.
Statistics:

Total number of shops and establishments registered under the Act as on 31.12.88 - 429,909
The number of employers engaged - 5,23,935

Excluded under Court directive from coverage of W.B. Shops and Establishments Act 1963.

Nationalised Banks and Government undertaking

1988 1987

Number of inspectors conducted 77,698 55,486
Infringement detected 34,814 25,429
Number of prosecution cases launched in different Courts 11,290 11,109
Amount of fine realised on account of Conviction cases 7,987 5,335
Amount realised 8,83,718 6,99,866

Number of pay cases received during 1988. 353 213
Number of cases disposed of 68
And Amount realised Rs.69,565.16
Number of aggrieved employees 39
As per Government Notification 592 I.R. of 14.3.85 -

The Establishments were directed to be closed in 2nd and 4th Saturdays and to have full hours on other Saturdays on the line of State Government Establishments which remains closed on the 2nd and 4th Saturdays of every month. But at present offices remain closed for both Saturday and Sunday.

The District breakage of the Registered Shops and Establishments as on 31.12.88.

<table>
<thead>
<tr>
<th>Names of the Districts</th>
<th>Total number of regtd. Shops and Establishments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Howrah</td>
<td>38072</td>
</tr>
<tr>
<td>24-Parganas</td>
<td>33257</td>
</tr>
<tr>
<td>Midnapore</td>
<td>16551</td>
</tr>
<tr>
<td>Bankura</td>
<td>3507</td>
</tr>
<tr>
<td>Purulia</td>
<td>3509</td>
</tr>
<tr>
<td>Burdwan</td>
<td>38,197</td>
</tr>
<tr>
<td>Birbhum</td>
<td>8183</td>
</tr>
<tr>
<td>Hooghly</td>
<td>38,836</td>
</tr>
<tr>
<td>Nadia</td>
<td>15,807</td>
</tr>
<tr>
<td>Murshidabad</td>
<td>13,460</td>
</tr>
<tr>
<td>Jalpaiguri</td>
<td>9429</td>
</tr>
<tr>
<td>Malda</td>
<td>3835</td>
</tr>
<tr>
<td>West Dinajpur</td>
<td>6157</td>
</tr>
<tr>
<td>Cooch Behar</td>
<td>5896</td>
</tr>
<tr>
<td>Darjeeling</td>
<td>9193</td>
</tr>
<tr>
<td>Calcutta</td>
<td>1,86,020</td>
</tr>
</tbody>
</table>

\[ \text{Total} = 429,909 \]
Minimum Wages Act 1948:

For safeguarding the interest of the weaker sections of the workers who are generally unorganised and vulnerable to exploitation, the Minimum Wages Act 1948 was enacted by the Central Government and came into the force from March 1948. The act aims at preventing exploitation of workers in scheduled employments by fixing the minimum rate of wages, power of work, payment of overtime wages and imposition of penalties for offences.

In this State, minimum rates of wages are fixed/revised by Notification method as provided under Section 5(1)(b) of the Minimum Wages Act 1948 for drawing up of the proposal for fixation/revision a family budget enquiry is undertaken. The norms laid down in the 15th Indian Labour Conference are adopted with slight modification in calculating the expenditure on food, clothing and item of a family consisting of 3 consumption units. In this state, minimum wages consist of basic rate and variable dearness allowance linked with C.P.I. number. But D.A. is the most cases adjusted on the basis of \( \frac{1}{2} \) yearly average of C.P.I. number, at certain rate, normally @ 1/- per point of rise/fall per month above the fixation point. But no downwards adjustment is permissible below the fixation point. In view of the provision of variable D.A., no revision of the minimum wages (Basic rate) at a shorter interval is considered necessary. 56 employments have so far been brought in the fold of scheduled employments and fixation/revision of minimum wages in
respect of 37 employments have been made. Fixation of minimum wages for remaining 18 employments is in progress. Besides, the State Government intends to bring 2 employments in the fold of Scheduled employments.

(a) Number of the employment in the original schedule of the Act in respect of which the State Govt. is the appropriate Government (out of 19 employments in the original schedule 4 employments do not exist in the State).

(b) Number of employments subsequently added to the Schedule.

(c) Out of 56 employments fixation/revision of minimum wages have been made.

(d) Number of employment added to the schedule but minimum wages not yet fixed.

(e) Number of employments which the Government intends to add to the Schedule.
Out of 19 employments, notification fixing/fixing and revising minimum wages have been issued to 15 employments.

To enforce the provisions of Minimum Wages Act 48 of the scheduled employments in Calcutta and a few urban areas there are at present 16 posts of Minimum Wages Inspectors belonging to the West Bengal Subordinate Labour Service.

The Government has also created 335 posts of agriculture Minimum wages inspectors for posting in the Blocks. Till the end of 1988, 308 posts were filled up.

There are 44 Assistant Labour Commissioners, posted at the district and sub-divisional Head Quarters who interalia supervise the work of these inspectors, for enforcement of minimum wages and some other Labour Legislations. Forums including Tripartite Bodies have been constituted in the State at various levels. These forums are being activated - both at the state and distinct levels to ensure that these meet frequently to review the enforcement and matters connected thereto :

Employments which the Government intends to add to the Schedule of M.W.Act, 1948.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of the employment</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Fountain and Ball point Pens Industry.</td>
<td>The Labour Department Notification intention under Notification No.177-MM dt.1.6.87 to the Schedule of M.W.Act.</td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td>The Labour Deptt. notified intention under Notification No.219-IW dt.15.7.87 to add to the schedule of M.W.Act.</td>
</tr>
</tbody>
</table>
One of the reasons for tardy implementations of minimum wages in scheduled employments is the number of Court cases pending before the High Court at Calcutta on fixation/reversion of minimum wages in almost all the scheduled employments. Besides, these Civil Rules, there are Criminal revision cases filed in the High Court by the employers against the cases filed by the Inspectors in various Courts. Particular mention of High Court cases may be made in respect of Agriculture, Printing Press, shops and Public Motor Transport. In 1982 an association of land owners obtained stay order against the notification fixing minimum wages in Agriculture. The notification fixing minimum wages in shops was quashed by a single bench of the High Court at Calcutta on the ground of nonappearance of the State Advocate. Government went on appeal and the same was admitted by the Division Bench and delay in filing the appeal was condoned. The original petitions went to the Supreme Court against the order of Division Bench and the case is now pending before the Highest Court of the Country. All High Court cases pending in other scheduled employments are being perused for early decisions.

In Agriculture Advisory Committee on Minimum Wage under Sri Gurudas Dasgupta M.P. the West Bengal Government agrees with and supports the recommendations of this consultation committee.
### Minimum Wage in Agriculture Sector

#### Performance in 1987

<table>
<thead>
<tr>
<th>Sl No.</th>
<th>Particulars</th>
<th>Agriculture</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>No. of inspections conducted</td>
<td>35,283</td>
</tr>
<tr>
<td>2.</td>
<td>No. of infringement detected</td>
<td>11,205</td>
</tr>
<tr>
<td>3.</td>
<td>No. of infringement let off</td>
<td>9,476</td>
</tr>
<tr>
<td>4.</td>
<td>No. of Court Cases launched</td>
<td>705</td>
</tr>
<tr>
<td>5.</td>
<td>No. of infringement under process at the end of the year.</td>
<td>10,422</td>
</tr>
<tr>
<td>6.</td>
<td>No. of Court cases B/7 from the previous year.</td>
<td>9,742</td>
</tr>
<tr>
<td>7.</td>
<td>No. of cases disposed of —</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Convictions</td>
<td>... 4,182</td>
</tr>
<tr>
<td></td>
<td>(b) Acquittal</td>
<td>... 67</td>
</tr>
<tr>
<td>8.</td>
<td>Amount of fines imposed by Court</td>
<td>... ₹31,847.00</td>
</tr>
<tr>
<td>9.</td>
<td>No. of court cases pending at the end of the year.</td>
<td>... 11,942</td>
</tr>
<tr>
<td>10.</td>
<td>No. of claim cases B/7 from the previous period.</td>
<td>... 11</td>
</tr>
<tr>
<td>11.</td>
<td>No. of claim cases filed during the year.</td>
<td>... 4</td>
</tr>
<tr>
<td>12.</td>
<td>No. of claim cases disposed by the courts.</td>
<td>... 13</td>
</tr>
<tr>
<td>13.</td>
<td>Amount of claim decreed</td>
<td>... ₹2,26,00</td>
</tr>
<tr>
<td>14.</td>
<td>No. of claim pending at the end of the year.</td>
<td>... 10,433</td>
</tr>
</tbody>
</table>
Administration of Minimum Wages Act 1948
for the year 1988 (W.B.Government)

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Particular</th>
<th>Agriculture</th>
<th>Other than Agriculture</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>No. of inspections conducted</td>
<td>25,868</td>
<td>22,067</td>
</tr>
<tr>
<td>2.</td>
<td>No. of infringements detected</td>
<td>7,646</td>
<td>7,874</td>
</tr>
<tr>
<td>3.</td>
<td>No. of infringement Act off after compliance</td>
<td>4,597</td>
<td>3,466</td>
</tr>
<tr>
<td>4.</td>
<td>No. of Court cases launched</td>
<td>486</td>
<td>1,036</td>
</tr>
<tr>
<td>5.</td>
<td>No. of infringements under process</td>
<td>2,563</td>
<td>3,372</td>
</tr>
<tr>
<td>6.</td>
<td>No. of Court Cases B/7 from previous year</td>
<td>1,194</td>
<td>1,994</td>
</tr>
<tr>
<td>7.</td>
<td>No. of cases disposed of:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Conviction</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) Acquittal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Amount of fine imposed by the Court.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs.31,065.00</td>
<td>182,020.00</td>
</tr>
<tr>
<td>9.</td>
<td>No. of claim cases B/7 from the previous year</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>11</td>
<td>10</td>
</tr>
<tr>
<td>10.</td>
<td>No. of court cases pending at the end of the year</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,252</td>
<td>2,042</td>
</tr>
<tr>
<td>11.</td>
<td>No. of claim cases filed at the end of the year</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,252</td>
<td>2,042</td>
</tr>
<tr>
<td>12.</td>
<td>Amount of claim decreed.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs.639.50</td>
<td>Rs.920.00</td>
</tr>
<tr>
<td>13.</td>
<td>No. of cases pending at the end of the year</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>38</td>
<td>23</td>
</tr>
</tbody>
</table>
Agricultural Workers

Summary of Recommendation and views thereon of the Government of West Bengal

<table>
<thead>
<tr>
<th>Recommendations</th>
<th>Views</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Minimum Wages in agriculture should be revised every two years on a rise of 50 points of the consumer price index.</td>
<td>The Government of West Bengal agrees to this.</td>
</tr>
<tr>
<td>2. The Minimum Wages in agriculture should be linked to the consumer price index number. The adjustment of wages on the basis of the cost of living element should not be at confused with wage revision required under Section 4 of Minimum Wages Act, 1948.</td>
<td>-do-</td>
</tr>
<tr>
<td>3. The Minimum Wages should be fixed on a rational basis taking into account factors like poverty line requirements of nutrition, shelter, clothing fuel, light, medical and education expenditure etc. The minimum wages should also be fixed on a realistic assumption of the consumption units in a family and number of workers in a family.</td>
<td>-do-</td>
</tr>
</tbody>
</table>
Recommendations

The State Governments should take steps to strengthen the enforcement machinery.

Views

The Government of West Bengal has already (1974-76) appointed 300 Agricultural Minimum Wages Inspectors to cover each and every C.D. Block and 30 Assistant Labour Commissioners to supervise the implementation of the Minimum Wages Act. Each Inspector has got a Peon-cum-process service. It is felt that there should be a post of clerk-cum-typist in each C.D. Block. The posts can be created and filled up provided the Government share the cost.

It was earlier agreed by the Government of India that Scooter/Motor Cycles would be provided to each Agricultural Minimum Wages Inspector. The Government of India should place necessary fund for this purpose.
Recommendations

The Centrally sponsored scheme for posting of Inspectors for enforcement of Minimum Wages in agricultural is at present operating only in 4 States. It should be extended to other States as well.

Views

The Government of West Bengal supported this proposal.
"Children, I think, all over India should have the first claim on us because they represent the India of tomorrow" - Jawaharlal Nehru. Children are the assets of the nation. So child labour is a great social ill and a national waste. Therefore employment of children is an inhuman uncivilized practice. It is sheer exploitation. It stunts the growth of the children, corrupts their moral and ultimately drives them to delinquency. No progressive State can afford to neglect its children. The Geneva Declaration of the rights of the child of 1924 said, "The Child must be given the means requisite for its normal development materially morally and spiritually.

The United Nation Declaration of the Rights of the Child of 1959 affirms that "the child of all circumstances should be among the first to receive protection and relief". The Declaration further said, "the child shall be protected against all forms of neglect, cruelty and exploitation". The child for all fairness should not be admitted to employment before an appropriate minimum age (with no prejudice to his health and education).

Declaration of Human Rights, in U.N. General Assembly 1948 States, "Motherhood and childhood are entitled to special care and attention."
Poverty no doubt, is the driving force behind child-labour. This is also what the 1992 World Labour Report substantiates. When family survival is at stake, anyone - however young and vulnerable - has to lend a hand.

Many children will also be working because they can not or will not go to school. Schooling may be unavailable or too expensive, but it also be so inadequate that parents do not consider it worthwhile. However now a days many working children go to school. Generally they spend the morning by selling vegetables, and the afternoon in the class room.

In urban area children are more likely to be working away from their parents, often as domestic servants. But at the same time the city children have a wide choice of other occupations, working in small factories, or on the streets selling various articles of domestic use and utility.

But the cardinal point not to be ignored is 'the costs of child labour can be high - particularly to the children's health. The soft bones of young children can be deformed by long hours of work and their eyesight damaged by sustained concentration. And if they are already malnourished, tired working children are more vulnerable to infectious disease and prone to accidents when working in dangerous machinery.

As far country what is indeed more shocking is that 60% of the child labour is below the age of 10. 47% of them have
to work everyday from 6-10 hours; 40% of the child workers employed earn between Rs.21 - 40 per month; 60% of the country's child labour force mostly belonging to 6-12 age group are illiterate and do not have the facility of the three Rs. Economic crisis no doubt has greatly added to the complexity of the problem. It is dire poverty that forces parents in numerous families to send their children to work instead of going to school. According to INTUC Secretary Lala Bahadur Singh, of the total child population in India about 90% is in rural areas and confined to rural work with parents or relatives or to the landlords. In urban areas although employment of the youngsters is widespread, most of the children are in jobs in unorganised and domestic sectors. One important reason for employment of child labour is for its cheapness both in agricultural and urban sectors. The provisions of labour legislation are generally not applicable to self-employed workers and do not keep any standard governing their conditions of work, nor they get wage to any accepted standard.

According to Mr. Justice P.N. Bhagawati child labour is seen as an essential family strategy for survival, a harsh reality of a necessary evil. He further added that not being a necessary concomitant of poverty child labour also indirectly is a factor which perpetuates poverty. It is something strange that the governments are not keen enough to take any bold and positive step to eradicate child labour and make primary education compulsory though Article No.24 of the Constitution specifically
directs that 'no child below the age of 14 shall be employed to work in any factory or mine or engaged in any other arduous employment.' Even trade unions were not pressing for an end to child labour. They seem little concerned with issues of those innocent victims.

Figures of child labour in India have been shown to have varied from 44 million to 17.6 million as given by different authorities. The Census Report of 1981 computes it at 13.59 million, 5.55 per cent of the total labour force of the country.

The Child Labour (Prohibition and Regulation) Act 1986 has sought to identify processes and industries which are hazardous in order to ban them and in order to regulate the conditions of work of children in areas where child labour was legally sanctioned. In this sense it is hardly different from the Employment of Children Act 1938. The child labour is against the law of the land and at the same time the children who are part of the labour force in the country just can not take recourse to a law that does not cover them!

However it is heartening to state that concerned organisations and activists joined hands in Bombay in 1992 to launch a movement that promises a better life for these unfortunate children. The campaign against child labour (C A C L ) is supposed to function as a pressure group to remind state and the Central Government of their duty towards these children. The campaign has the support of such eminent personalities like justice P.W. Bhagwati and the Dean of Tata Institute of Social
Both Mr. Bhagwati and Dr. Desai said Article 45 of the Constitution which guarantees free and compulsory education for children till the age of 14 should be enforced strongly. The Government has not yet ratified the U.N. Convention on the Rights of the Child (1990) which 115 other nations have done so. We want the Government to consider this as early as possible.

Dr. Desai said even laws like the Minimum Wages Act, Migrant Labours Act, Contract Labour (Abolish and Prevention) Act have not helped much to eliminate child labour and keep it in check. 'In fact the Government which itself is the largest employers of Contract Labour has not honoured its own legislation regarding labour practices particularly child labour. The C A C L has observed that the child labour does not benefit the child's family nor it has helped change the family's socio-economic conditions.

Total abolition of child labour is not possible inspite of a number of legislation for its abolition or prevention. Besides legal enactments seem in any case worthless because of the penalties for those who violate them. The maximum penalty for flouting most of the child labour laws is a month's jail or a fine of Rs. 50/- so more determined and concerted efforts are required with active cooperation and undaunted zeal of all concerned. The issue is quite a vital one because on its early and equitable solution depends the very future of the nation.
Of course one reassuring development lies in the fact that I.L.O. itself has taken up the scheme for elimination of child labour placing topmost priority on this momentous issue.

**I.L.O.'s activities regarding Child Welfare**

I.L.O. from its very inception has been endeavouring for the benefit of the working people specially belonging to industrial and agricultural sectors. So many regulations and recommendations have been formulated in this direction. But I.L.O. also is not indifferent in the field of child welfare.

So far 11 projects have been identified in India for industries in which there is extensive use of child labour. Four have already been initiated. Plans are being prepared for children's benefit.

The government intends to start a child labour action and support project (CLASSP) for effective utilization of resources. The I.L.O. has submitted this programme to the Labour Ministry basically to extend support and assistance in the execution of projects related to the welfare of child labour.
The main provisions of the various State Acts, regulating the employment of children and young persons are found in the following statements:

Provision relating to Hours of work etc.

<table>
<thead>
<tr>
<th>States</th>
<th>Minimum age of employment</th>
<th>Employment of young persons permitted during</th>
<th>Hours of work</th>
<th>Rest intervals for young persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maharashtra</td>
<td>12</td>
<td>6 AM/7 PM</td>
<td>6 per day</td>
<td>½ hour after 3 hours continuous work.</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>12</td>
<td>7 AM/9 PM</td>
<td>7 per day</td>
<td>One hour after + 36 per week 4 hours work</td>
</tr>
<tr>
<td>Punjab</td>
<td>12</td>
<td>8 AM/7 PM</td>
<td>7 per day</td>
<td>½ hour after 3½ hours continuous work. + 42 per week</td>
</tr>
<tr>
<td>West Bengal</td>
<td>-</td>
<td>-</td>
<td>7 per week</td>
<td>1 hour after + 20 per week 4 hours work</td>
</tr>
<tr>
<td>Bihar</td>
<td>12</td>
<td>7 AM/7 PM</td>
<td>Children 5 per day + 30 per after 4 week.</td>
<td>One hour.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Young persons 7 per day + 42 per week.</td>
<td></td>
</tr>
</tbody>
</table>

Persons below the age of 14 under the Punjab Act, 17 under W.B. Act and between 14 & 18 under the Bihar Act are deemed to be young persons.

Some salient observations and possible solutions.

The I.L.O. Report on the protection of children and young workers rightly emphasized - the problem of prohibition of child labour is inextricably mixed up with the problem of the maintenance of Child and the provision of a living wage for all employed persons adequate to maintain the family at an adequate standard.
Position of women with special reference to working women.

So runs the proverb "from the cradle to grave a woman is dependent on a male; in childhood on her father, in youth of her husband, in old age on her son." Despite talk of women's liberty and equality between male and female these words ring true even to day. Large numbers of Indian Women continue to live under the shadow of their men suffering untold miseries in a society that discriminates against them.

A woman's role in Indian Society is rather a mystery and full of contradictions while enormous numbers of them are illiterate some hold very important positions. While most suffer discrimination a chosen few are on the helm of pomp and glory. As a matter of fact the plain truth tells that after nearly 45 years of attaining political freedom emancipation of women from the shackles of prejudice and superstition is yet a distant dream. But for the betterment of society it cannot be otherwise. In any society the woman's role is vital enough to be given due importance and viewed sympathetically. Any discrimination showed to them by the employers is one of the worst forms of social irresponsibility. But unfortunately the employers' attitude in many cases is still hostile and unsympathetic though the scenario has changed. Now under changed perspective caused by the impact of socio-economic transformation and its consequent interaction women need to serve at home as well as in outer world. And employers with a positive outlook should always consider this aspect as a social need.
and not weakness. In Germany the maternity leave is not restricted to 90 days alone, but working mothers of infants are allowed paid-leave until such time as the child starts going to school. This is done only when values and importance of a proper home environment are duly acknowledged. And no company in our country too can really suffer on this ground, because for replacement there is always a ready availability of educated manpower. It is only the healthy will that is in constraint.

It may not be out of place to add that most of male dominated industries are sick. They badly need the healing touch of genuine integrated planning and programming which women are best suitable for. Many of the complex labour problems could be sorted out right on the shop floor itself by comparatively more understanding mellowed with love and sympathy expected from cool tempered women executives than the short tempered male counterpart. It is really a matter of profound regret that still now women, who constitute 50 per cent of the population are the nation's "most wasted asset." But properly utilised their ingrained good qualities would accelerate socio-economic development not in small measure and this is quite evident from the example of developed countries.

It is really a matter of regret that in terms of employment too, women in the State were being neglected. Almost half
of the registered unemployed in this State were women but only 10 per cent of them were provided with job.

In-deed current research demonstrates that women workers have been losing employment because of rationalisation and modernisation. Women's empowerment according to reputed sociologist, above can remedy this injustice. What would be useful as per their view is a 30 per cent reservation of employment and of seats for women in panchayats and on municipal bodies as also on all Government Committees and Commissions instead of men being sole custodian of women's destiny and fortune.

Another relevant point needs to be mentioned. Under compulsive circumstances greatly influenced by rising cost of living and soaring consumerism the women are required to work in office, mill and factory. And even the husbands encourage employment of their wives. But despite earning her money apart from doing domestic job a woman has practically no economic independence. This is a typical profile of middle class working wife. But unless the husband shares domestic chores and the wife participates in domestic decision making as equal partner the women will continue to have a raw deal. Rightly stated, the women still suffer the rigours of triple toil (work, wedlock and child bearing). But a happy family would require mutual appreciation and respect.
If we want really and effectively to fight problems like population explotion, corruption, poverty women must participate. They must be motivated to realise that bearing children is not their only responsibility.

Although planning has been going on in India for the last four decades it has not evoked much interest among women. People anywhere are the best judges of what they require. In the opinion of Mrs. Mrinal Gore a leader and an active participant in women welfare activities women problems need to be considered separately in planning process as well as in other sectors such as industry and agriculture.

No doubt a good number of laws of which most important and comprehensive being the enactment of E.S.I. Scheme (discussed elaborately elsewhere) have been in force since independence to improve the rights and status of women though many discriminations and inequalities are yet to be removed in basically feudal cum male dominated society like ours. But the truth is that legislation alone cannot bring about a social change or transformation.

More urgent is the creation of machinery for proper implementation of the laws.

Women's struggle is for justice and autonomy, indeed for survival. If the leaders in the Government contribute to
the success of the movement, this will be the world's greatest state aided social revolution.

Of all the provinces West Bengal even burdened by so many problems and constraints is still by far the more progressive. And series of movements and people upsurge exerted no less influence on the mode and method of living of her people both men and women. And as such it is quite pertinent expectation that women of West Bengal will play a leading role towards advancement of women's emancipation.

In this we must remember, 'a democratic solution to a problem means more democracy in a social, economic and political sense, with a commitment to equality specially in case of women advancement.'
Social Security and Bhupal Tragedy

In December 1984 sudden leakage of gas in Bhupal caused death for over 2500 persons. And thousands of persons were disabled and till now they are forced to lead a life of destitution. Many experts are of opinion that the tragedy occurred in Bhupal was of unprecedented nature, causing death and destruction of immense character. The aftermath of this terrible accident will have to be borne for few decades. The specialists also opined that overall expense on this account will be not less than 460 crore dollars. Apart from this much more amount will be needed for proper rehabilitation of the affected persons.

There are strong evidence of utter negligence and wanton violation of existing labour legislation on the part of this multinational concern. The Company which is responsible for so terrible loss of life and property is reported to have remained still unhurt though adequate safety and security measures were not adopted by them.

And even though a decade is going to pass after that tragedy satisfactory settlement of compensation dues to the affected persons is yet to be made, mostly due to sad indifference of government as well as multinationals.

Also the socio economic character of the bulk of victims is such that they do not exist in any official records. At present most of the victims have become pessimistic about their chances of resuming what they consider a normal life inspite of
all possible attempts.

This unhappy event amply demonstrates that there are so many shortcomings in our not-so-sufficient social security measures. So the country so badly needs an integrating and comprehensive social security scheme embracing workers of both industry and agriculture if necessary making suitable amendments in the existing labour laws and adding more to it if and when found necessary.

This type of unfortunate event may occur in West Bengal as well. And such the State Government should be alert and be armed with more stringent legal defence for the welfare of the victims. And in this background let us see how far E.S.I. may be of much aid and relief to the workers of various type and different ranks.
After Independence if we have to take up the matter of Social Security the first thing we need to mention is E.S.I.

The proposed Health Insurance of Prof. B.P. Adar kar Commission presented in 1944 could materialise in 1948 as the Employee's State Insurance (ESI) Act. It was amended in 1951 and implemented with effect from 24.2.52. The provisions of the Act were thoroughly amended in 1966 and again in 1967. The provision of the E.S.I. Act (Amendment) came into force from 19.6.1967 and again from September 1975 with further amendment.

The E.S.I. Act, 1948 has been a pioneering measure in the field of Social Insurance in the country. It has been recognised as "the foundation for comprehensive and potentially nationwide social Insurance programme." This is the first attempt, so said the country's social thinkers, in the South East Asia - introducing a compulsory and integrated system of Social Insurance providing cash benefit in case of sickness, maternity and employment injury, payment in the form of pension to the dependents of the worker who may die of employment injury and medical benefit to the worker. Later the Act was expanded to cover the family members of the worker also. It introduced the contributory principle to cover these contingencies by providing protection against sickness, replacing lumpsum payment by pension in case of dependent's benefit and placing the liability for claim on a statutory organisation. Because of vastness of the country
Lack of and preparatory work such as Building, equipment and personnel the scheme could not be implemented at a time through out the country.

But a plan for its phased extension and development was drawn up. And then the scheme was first introduced at Kanpur Delhi now extends all over the country.

Scope and Cover:

The Act applied to whole of India. It applies to all non-seasonal factories run with power and employment 10 or more persons and also to those factories where 20 or more persons are working and power is not used in the process of production. Prior to 1.9.75 this Act was applicable in those factories only which were run by power and employees 2000 more workers not seasonal.

Now shops, cinema houses transports hotels etc. and other establishments also come under the scope of the Act. Since the amendment of September, 1975.

Benefits Covered:

1. Sickness benefits.
2. Maternity benefit.
3. Disablement benefit.
4. Dependant's benefit.
5. Medical benefit.
6. Funeral benefit.
We have seen through papers and other informations that fairplay and justice could not be shown in case of Bhupal disaster. The social security measures meant for the welfare of the industrial workers are not adequate nor also the existing ones could so far not be implemented in an orderly and satisfactory manner. The single and solitary social security measure of country-wide application after independence, as pointed out earlier, is E.S.I. or Employee's State Insurance which though is run in a way it should not have been. This Act is quite comprehensive in many fields. And as such it needs elaborate treatment in an extended sense. But here we will confine ourselves with more salient points and features of the Act put into practice in West Bengal along with other notable sides.
E. S. I. (Contd)

The Central Government has enhanced the slab for E.S.I. benefit upto the salary for ₹3,000/-. This latest fixation is hailed by the labouring class as a whole. But this changed situation has not been accepted with open heart by the clerks and other senior staff belonging to supervisory or officer category. Their main objection to E.S.I. medical scheme lies in the bare fact that supply of medicine or the treatment as a whole is far from satisfactory. This is confirmed through discussion with Marcentile Federation or other labour or trade union organisations.

The recent circular of the Central Government directs the factory owners or employers in Mercantile firms or business organisations to include in E.S.I. list all the employees drawing salary for ₹3,000/- or less. The previous slab was only for ₹1,600/- or less. Under the new regulations the employees will be under statutory obligation to contribute 1½% of their salary instead of 2½% previously fixed. On the part of the employers it has been made compulsory for them to contribute 4% instead of 5% percent of the employees' salary. By this circular many more employees will be placed under present arrangement.

In view of this new amendment apart from the labourers many more hands including clerks and officers will be able to enjoy the advantages of E.S.I. Scheme. Almost their member will be doubled. But one major hurdle to this social security scheme
is that persons put under new slab will have no choice in selecting hospital or doctors as per their preference. Still this enhancement of slab is hailed from many quarters. When this E.S.I. Scheme was first introduced the slab was only upto 500. In 1975 it was extended upto 1000 and in 1985 it was increased upto 1600. So judged from inflationary trend in money market the increase of slab upto 3000 is quite justified. And this was made after amendment of rules 50, 51 and 54.

Under E.S.I. Scheme in West Bengal there are 12 E.S.I. Hospitals with total bed numbering 2961. Out of which 275 were exclusively meant for the T.B. Patients. Besides in both government and private hospitals there is provision for E.S.I. 26 beds for general patients 544 T.B. patients 2 cancer or 2 mental patients. The new E.S.I. hospital at Thakurpukur is nearing completion where there is provision for 300 beds. And the work for constructing new block at Kamarhati (24-Parganas) E.S.I. Hospital will be completed very shortly. In this new block the number of bed will be for 150.

New 120 beds were also added in Manicktala E.S.I. hospital. Besides new schemes are being initiated for setting up pathological laboratory centres at Budge Budge Kamarhati Srirampur Uluberia etc. for better treatment with installation of up-to-date equipments. In West Bengal for out treatment E.S.I. in West Bengal maintains 1595 doctors with the pannel alongwith 78 Insurance medical officers. And for supply of medicine
there are 64 approved shops and 51 medicine stores under direct government control (E.S.I.) direct medical shops.

But the vital matter lies in the fact that the treatment in E.S.I. Hospitals is far from satisfactory and it is the general complaint almost from all quarters that it falls short of minimum standard. The poor people are very much neglected in case of treatment and supply of medicines. In case of retirement of doctors honorary doctors are being recruited to cover up the gap temporarily. And the most glaring obstacle crops up from widespread corruption. And in this unholy affair both doctors and patients are involved. The card holders some time manipulate by selling their dues to other illegally. Another difficulty lies in E.S.I. authority arbitrary wage calculation formula. This needs to be suitably rectified.
E.S.I. facilities of un-organised units - its prospect and possibility.

A Committee to review the working of the Employees State Insurance Corporation has expressed its inability to reach a consensus on the controversial question of withdrawing or limiting sickness and other benefits during strikes, lockout lay-offs and closures.

On other sick tests issue too that of lax certification in regard to sickness resulting in an annual loss of thousands of rupees, the committee has not been able to reach any conclusion. Both these vital issues have been remitted to the Governments to find a suitable solution.

The Committee has also been deputed to review the working of the E.S.I. Scheme with reference to administration of medical and other benefits and to recommend steps for their improvement. Although the committee could not suggest solutions on what benefits to be given during the period of enforced idleness of workers or in the matter of fake certificates of sickness it has made a number of suggestions to improve the working of the E.S.I. Corporation. It has recommended drawing up of a five years plan corresponding to the national plan in order to extend the scope of the Act and to improve the services. It has suggested that the progress of implementation of the plans should be monitored closely.
Even if the entire scheme could not be extended to the un-organised sector, the committee has urged that at least medical and disablement benefits should be made available to the unorganised workers. It has called for periodic adjustment in the wages ceiling for application of the E.S.I. Act.

It has pointed out that although the corporation gets the same amount as contribution from all workers, denial of medical care to the families of some representing nearly 15% of the total number of insured people has led to dissatisfaction in regard to the administration of the scheme.

The Committee has also called for improvement in ways to prevent or reduce accidents and occupational diseases in collaboration with other agencies. A regular medical check up every three years and assistance in rehabilitating workers disabled or suffering from occupational diseases has also been suggested.

Besides recommending periodical adjustment of permanent disablement and dependent's benefits to the cost of living index the Committee has said that in case of casual workers and 'badli' workers the scheme should be limited to providing medical benefits, occupational injury and maternity benefits at reduced contributions.

In fine, it is to be regretted much that E.S.I. (Medical benefit) Scheme though introduced in West Bengal quite long ago, has not yet been able to cover up all the districts.
Inspite of its being one of the first Social Security measure in the trust sense E.S.I. appears to please properly none of the people associated with the scheme the patients, doctors, chemists and the administrators. It is pathetic that none is happy with the present state of affairs of such a highly beneficial scheme.

What Mr. S.S. Mukherjee, Chief of the Directorate in charge of the administration of the scheme in West Bengal has recently told in this connection is quite note worthy. To him, 'the main reason for the present sorry state of affair has in the prevailing corruption among certain sections of the people associated with it. The success of a welfare scheme like medical benefit depends much on the integrity of individuals - a commodity which is gradually becoming rare in these days'.

Hope, in full appreciation of the financial and other constraints inherent in not-so-stable economy of the State, all the persons responsible for the success of this unique welfare scheme will devote all their efforts and energy towards fulfillment of this noble objective.
Present position and recent developments of most important wings of social security ESI and Provident Fund:

New addition in ESI Scheme:

As per the directives of the Central Government the coverage limit for employees under ESI Act has gone up from Rs. 3600/- to Rs. 6500/- on and from January 1, 1991, together with this the percentage of employees' contribution has also been increased from 1.5 percent to 1.75 percent. Employers' Contribution too has been raised from 4 percent of the total wages/Salaries.

Steps have already been taken to introduce Computers and the latest information technology in Provident Fund offices all over the Country for speedy redress of grievances relating to Provident Fund and ESI.

Efforts were also being made to utilize the internet system to ensure easy access to all dates.

According to available information nearly 35 lakhs of employees including members are being benefited by ESI Scheme. In West Bengal there are 10 lakhs card holders.

Apart from hospitals the ESI authorities usually appoint allopathy doctors to treat patients in their individual Chambers on a regular basis.

Moreover ESI authorities also decide to arrange Health check-up schemes with X-Ray and blood donation camps for ESI.
Card holders.

The Centre has also approved the proposal for Homeo Clinic at Manick tola ESI Hospital because many patients prefer homeopathy to allopathy.

ESI authority in its latest circular declared that any worker earning less than ₹40/- a day needs no longer make Contribution to ESI; or in other words for ESI benefits workers of wage below ₹40/- is not to pay anything. This monetary consideration will be applicable to a very substantial numbers of workers.

The ESI authority have further decided to waive the arrears of subscription which could not be deposited to ESI by defeculating members. This will Cost ESI almost 60 crores of rupees.

The Labour ministry is contemplating to have autonomous State level Corporation to run the ESI Scheme which is at present under the control of a Central Corporation. These subsidiary Corporations could be formed keeping the present boards at Core. The State level Corporation would have their own separate funds. These would be provided by the Corporation and the state government concerned in a ratio agreed between them.

Being a subsidiary and dependent Corporation of the ESI these State level Corporation would be directly answerable to the ESI Corporation; their performance would be guided and supervised by it.
The sources said the need for making these amendments was felt as the scheme in the states suffered owing to inadequacy of funds, though these were provided in advance on a quarterly basis by the Corporation.

PROVIDENT FUND:

Some important developments

1. Central as well as State Governments have been taking strong measures against the defaulting employer's through appropriate legal proceedings.

2. For avoiding delay in settling the claims Commissions have been given enormous power so that retired employees may not be put to undue harassment through department's irregularity or procrastinating policy.

3. Apart from enhancement of interest the benefit of consumer's protection has recently been extended to the retired employees, so that they can not be made bereft of their legitimate dues in any way. It is indeed a great boon to them.