Legislative Provisions: Administrative Machinery and Level of Implementation

Present chapter deals with the various legal provisions made by the Central Government, State Government or local bodies to protect the interests of the unorganised labour. This chapter has been divided into three parts. Part - A consists of various committees and commissions and also a list of legal provisions made by various agencies. Part - B deals with the administrative machinery acting as the watch-dog so that the poor unorganised labour’s interests are protected. Part - C deals with the level of implementation i.e. a comparative study of the legal provisions and the actual conditions at grass root level.

While going through the legal provisions one notices that there are provisions made by the Central Government and by the State Government in general as well as for women and children in particular. There are also various committees and commissions who have time to time conducted studies on this issue. A detail of all such studies is neither possible nor feasible at this stage. Therefore, a brief account of some selective studies is being given below.

A. Committees and Commissions

Indian Labour Conference

The Indian Labour Conference (ILC) is an unparalleled tripartite institution, placing the three segments of production, viz., the worker, the employer and the government, in unison for serving a common cause. The process of its formation started in 1941 at the first conference of labour ministers. In 2009 it has completed its 42nd Session. During this span of time, it swam in currents and undercurrents of the colonial politics and faced tremors of the national awakening. Yet, it has been a busy bee in dedicating itself to the task of shaping the labour policy and programmes of the country. Torrents and tornadoes also came in its way in the independent India owing to the Chinese aggression, Indo-Pak war, and finally, the influx of the millions of refugees during and after the Bangladesh war. But during these adversities, all the three partners of production remained consolidated, like parts of a ship built together and set sail rather than sinking like the dismantled parts of a shipwreck in high seas.1
Indian Labour Conference\(^2\) (1957) emphasised that the minimum wage should be need-based in order to ensure the minimum human needs of the industrial workers. ILC recommended the following norms as the basis for fixation of the minimum rates of wages:

i. Three consumption units for one earner.

ii. Minimum food requirement for 2700 calories a day per average adult.

iii. Eighteen yards of per capita cloth consumption for four members i.e. 72 yards per annum per family.

iv. Rent corresponding to the minimum area provided for under Government’s Industrial Housing Scheme and

v. Fuel, lighting and other ‘miscellaneous’ items of expenditure to constitute 20 per cent of the total minimum wages.

**First National Commission on Labour (1966)**

The First National Commission on Labour (FNCL) was constituted on December 24, 1966 by the Government of India under the Chairmanship of Justice P.B. Gajendragadkar which submitted its report in August, 1969 after detailed examination of all aspects of labour problems, both in the organised and unorganised sector. The FNCL had promised lot in the direction of social security, social welfare, wages, social insurance, industrial relations, industrial adjudication, collective bargaining etc. In sequel to the recommendations made in the report of the FNCL, series of labour enactments were passed.

Justice P.B. Gajendragadkar\(^3\) (1969) devoted attention to labour in unorganised sector. In his report, he recommended:

i. First hand detailed surveys to understand the problems of different categories of unorganised workers.

ii. Legislative protection by the State to unorganised/ unprotected labour.

iii. Simplification of legislative and administrative procedures applicable to small establishments.

iv. Expediting education and organisation in the field of unorganised labour.

v. Reinforcement and strengthening of the inspection system.

vi. Steps for the protection of workers against middlemen and development of self help groups through co-operatives.
National Commission on Rural Labour (1987)

In pursuance of a commitment made by the then Prime Minister Late Shri Rajiv Gandhi in his budget speech on February 28, 1987, Government set up a National Commission on Rural Labour (NCRL) in August 1987 under the Chairmanship of Mr. C.H. Hanumantha Rao to study and report on the economic, social and working conditions of rural labour in the context of changing socio-economic framework in rural areas. The Commission was also to study the existing legislative provisions intended to protect the interests of rural labour and suggest measures to make them more effective.

The NCRL submitted its report to the Government on July 31, 1991. The report contained a large number of recommendations regarding general developmental efforts, social, economic and legislative measures and institutional mechanisms for all round development of rural labour. The NCRL\textsuperscript{4} (1991) after taking a look into the working conditions of vulnerable section of the society and the implementation of social legislation for their protection, recommended:

i. A multidimensional strategy to lift rural labourers out of poverty including creation of an infrastructure to improve productivity and employment, enforcement of minimum wages and social security, introduction of central legislation for agricultural labour to provide security of employment, prescribed hours of work, payment of prescribed wages and a machinery for dispute settlement, introduction of a system of registration and to provide identity cards to the workers, and the creation of a welfare fund to be set up with employers’ contributions in the form of a cess on land, and a nominal contribution from agricultural labour.

ii. A change in the Beedi and Cigar Workers Act, 1966 in order to establish unambiguously the employer-employee relationship in the case of home workers.

iii. Some changes in the existing Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 including:

a. Expansion of the definition of migrant workmen to cover all migrants.

b. Defining more clearly the liability of the principal employer to prevent him from escaping the liability.

c. Making amendments to allow third parties to file complaints.

iv. A minimum wage of Rs. 20 per day at 1990 prices as the subsistence wage below which no employment should be allowed anywhere in the country.
International Labour Organisation

The International Labour Organisation (ILO) was created in 1919, at the end of the First World War. The need for such an organisation had been advocated in the nineteenth century by two industrialists, Robert Owen of Wales and Daniel Legrand of France. After having been put to the test within the International Association for Labour Legislation, founded in Basel in 1901, their ideas were incorporated into the Constitution of the ILO, adopted by the Peace Conference in April of 1919 and its head office was set up in Geneva.5

India is a founder member of the ILO. At present the ILO has 175 members. A unique feature of the ILO is its tripartite character. The membership of the ILO ensures the growth of tripartite system in member countries. At every level in the Organisation, Governments are associated with the two other social partners, namely the workers and employers. All the three groups are represented in all the bodies of ILO and share responsibility of implementing the resolutions passed time to time. The three organs of the ILO are:

- International Labour Conference - General Assembly of the ILO – Meets every year in the month of June.
- Governing Body - Executive Council of the ILO - Meets three times in a year in the months of March, June and November.
- International Labour Office - A permanent secretariat.

The work of the Conference and the Governing Body is supplemented by Regional Conferences, Regional Advisory Committees, Industrial and Analogous Committees, Committee of Experts, Panels of Consultants, Special Conference and meetings, etc.6

The first annual meet of ILO, composed of two representatives from the government, and one each from employers’ and workers’ organisations from each Member State, held in Washington on October 29, 1919. It adopted the first six International Labour Conventions, which dealt with hours of work in industry, unemployment, maternity protection, night work for women, minimum age and night work for young persons in industry.

The Member States of the ILO meet at the International Labour Conference, held every year in Geneva, Switzerland, in the month of June. Each Member State is represented by a delegation consisting of two government delegates, an employer
delegate, a worker delegate, and their respective advisers. Employer and worker delegates are nominated in agreement with the most representative national organisations of employers and workers. Every delegate has the same rights, and all can express themselves freely and vote as they wish. Many of the government representatives are cabinet ministers responsible for labour affairs in their own countries. Heads of State and Prime Ministers also take the floor at the Conference. The report is presented every year by the ILO’s Director General. The Conference, which is often called an International Parliament of Labour, has several main tasks.

- Crafting and adoption of international labour standards in the form of conventions and recommendations.
- Supervision of the application of conventions and recommendations at the national level, and examination of the reports which the governments of all member States are required to submit, detailing their compliance with obligations arising out of ratified conventions, and their law and practice in respect of conventions and recommendations (ratified or not) on which reports have been requested by the Governing Body of the ILO.
- To examine the Global Report (covering the four fundamental rights, namely freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation) prepared by the office under the follow-up procedure required by the declaration.
- To discuss social and labour questions of importance to the entire world. Passing resolutions that provide guidelines for the ILO’s general policy and future activities.
- To adopt the ILO’s biennial work programme and budget financed by the Member States.


The Second National Commission on Labour (SNCL) was constituted under the Chairmanship of Mr. Ravindra Varma on October 15, 1999 with one full-time member Dr. B.R. Sabade, 7 part-time members including Shri Sunil Shastri, Shri Sudarshan Sarin, Shri G. Sanjeeva Reddy, Shri Jitendra Vir Gupta, Smt. Ela R. Bhatt, Shri Arvind R. Doshi, Shri Hasubhai Dave and one Member-Secretary Shri N. Sanyal.

The SNCL was given two terms of references:
i) To suggest rationalisation of existing laws relating to labour in the organised sector; and

ii) To suggest an umbrella legislation for ensuring a minimum level of protection to the workers in the unorganised sector.

The Commission submitted its report to the Government on June 29, 2002 through which the Commission comprehensively covered various aspects of labour and gave recommendations relating to review of laws, social security, women and child labour, wages, skill development, labour administration, unorganised sector etc.

Second National Commission on Labour (2002) proposed an umbrella legislation to consolidate and amend the laws relating to the regulation of employment and workers’ welfare in the unorganised sector in India and to provide for protection and social security to these workers. The proposed umbrella legislation covered social security and welfare, regulation of employment and conditions of work as well as promotion of livelihoods both in the agricultural and non-agricultural sectors. Its aim was to improve the quality of employment, provide a descent life to the workers and integrate them with the growing opportunities in the country for all types of unorganised sector workers regardless of industry, occupation, work status and personal characteristics. The provisions covered by the legislation included social security, health and safety, working hours, holidays, prohibition of child labour, workers’ right to access the common natural resources to develop and increase the productivity through work, traditional rights related to work and space, protection from unfair labour practices, retrenchment without a reasonable cause, education, and training and skill development.

**National Commission for Enterprises in the Unorganised Sector (2004)**

The Government constituted a National Commission on Enterprises in the Unorganised/ Informal Sector on September 20, 2004 as an advisory body and a watchdog for the informal sector to bring about improvement in the productivity of these enterprises for generation of large scale employment opportunities on a sustainable basis, particularly in the rural areas. Initially the term of the Commission was for a period of one year but later on extended to three years. The Commission had a composition including Dr. Arjun K. Sengupta as Chairman, two full-time members Dr. K. Jayashankar and Dr. K.P. Kannan, one Member-Secretary Shri K.K. Jaswal, and two part-time members Dr. Bibek Debroy and Dr. B.N. Yugandhar. Later on Dr. T.S. Papola was appointed as part-time member of the Commission. The terms of reference of the Commission were as follows:
i. Review of the status of unorganised/informal sector in India including the nature of enterprises, their size, spread and scope, and magnitude of employment;

ii. Identify constraints faced by small enterprises with regard to freedom of carrying out the enterprise, access to raw materials, finance, skills, entrepreneurship development, infrastructure, technology and markets and suggest measures to provide institutional support and linkages to facilitate easy access to them;

iii. Suggest the legal and policy environment that should govern the informal/unorganised sector for growth, employment, exports and promotion;

iv. Examine the range of existing programmes that relate to employment generation in the informal/unorganised sector and suggest improvement for their redesign;

v. Identify innovative legal and financing instruments to promote the growth of the informal sector;

vi. Review the existing arrangements for estimating employment and unemployment in the informal sector, and examine why the rate of growth in employment was stagnated in the 1990s;

vii. Suggest elements of an employment strategy focusing on the informal sector;

viii. Review Indian labour laws, consistent with labour rights, and with the requirements of expanding growth of industry and services, particularly in the informal sector, and improving productivity and competitiveness; and

ix. Review the social security system available for labour in the informal sector, and make recommendations for expanding their coverage.

Later on the Government renamed the National Commission on Enterprises in the Unorganised/Informal Sector as ‘National Commission for Enterprises in the Unorganised Sector’.

The Ministry of Labour and Employment (L&E) made a presentation on the Discussion Paper ‘Making Labour Markets Flexible: Suggestions for Consideration’ before the Hon’ble Prime Minister on November 18, 2005. The Prime Minister’s Office (PMO) suggested that the National Commission for Enterprises in the Unorganised Sector (NCEUS) under Prof. Arjun Sengupta should be requested to prepare the paper by undertaking the review of the Indian labour laws, consistent with labour rights, in order to improve productivity, ensure greater competitiveness and generate greater employment in various sectors like textiles, information technology (IT) and special economic zones (SEZs), which would subsequently be considered by the Committee of Secretaries (CoS).
and Group of Ministers (GoM). Accordingly the NCEUS was requested to take immediate action in this regard.

The National Commission for Enterprises in the Unorganised Sector submitted its report to the Government on ‘the Social Security for the Unorganised Sector Workers’ in May, 2006. Amongst its various recommendations the Commission recommended old age pension of Rs. 200/- per month to all workers aged 60 years and above and belonging to below poverty line (BPL) families. Similarly, the Commission also recommended provision of provident fund to all other workers (Above Poverty Line) with a minimum guaranteed return of ten per cent to the workers, under the proposed Provident Fund Scheme. The Social Security Scheme, as recommended by the Commission included health insurance, maternity benefit, personal and accident insurance cover.

The term of the Commission ended on April 30, 2009. The Commission during its tenure submitted the following Reports/ Draft Legislations making recommendations having far reaching implications:

(i) Social Security for Unorganised Workers and Draft Unorganised Workers Social Security Bill, 2006,
(ii) Report on ‘Comprehensive Legislation for Minimum Conditions of Work and Social Security of Unorganised Workers’ incorporating two Draft Bills:
(a) Agriculture Workers’ Conditions of Work and Social Security Bill, 2007, and
(b) Unorganised Non-Agricultural Workers’ Conditions of Work and Social Security Bill, 2007,
(iii) Conditions of Work and Promotion of Livelihood in the Unorganised Sector,
(iv) National Policy on Urban Street Vendors,
(v) Financing of Enterprises in the Unorganised Sector and Creation of a ‘National Fund for the Unorganised Sector’ (NAFUS),
(vi) Definitional and Statistical issues relating to the Informal Economy,
(vii) A Special Programme for Marginal and Small Farmers,
(viii) Skill Formation and Employment Assurance for the Unorganised Sector,
(ix) Growth Pole Programme for Unorganised Sector Development,
(x) Technology Upgradation for Enterprises in the Unorganised Sector, and
(xi) The Challenge of Employment in India – An Informal Economy Perspective.10

**Unorganised Sector Workers’ Bills, 2004 and 2005**

To ensure the welfare of workers in the unorganised sector which, *inter-alia*, include weavers, handloom workers, fishermen and fisherwomen, toddy tappers, leather
workers, plantation labour, beedi workers, the Government proposed to enact a comprehensive legislation for these workers. The Ministry of Labour and Employment drafted the ‘Unorganised Sector Workers’ Bill, 2004’ which envisaged provision for safety, social security, health and welfare matters. The Draft Bill had been sent to all stakeholders including National Advisory Council (NAC) and National Commission for Enterprises in the Unorganised Sector (NCEUS). The Ministry had received a Draft Bill namely, ‘the Unorganised Sector Workers Social Security Bill, 2005’ from NAC. The Draft Bill was being examined in the Ministry in consultation with the State Governments, Central trade unions, employers’ organisations and NGOs and copies of the Draft Bill had been sent to them. The NCEUS had revised the Bills and had given two bills i.e.
(i) The Unorganised Sector Workers (Conditions of Work and Livelihood Promotion) Bill, 2005 and
Later on the bills were passed and their enactment had been enforced by the Government.


A Working Group on ‘Labour Laws and Other Labour Regulations’ was constituted by Planning Commission on March 3, 2006 under the Chairmanship of Prof. B.L. Mungekar. The meeting of the Working Group was held under the Chairmanship of Secretary Mr. K.M. Sahni, Ministry of Labour and Employment (L&E) on August 8, 2006. The Group discussed in detail the terms of reference and issues related to amendments of labour laws, simplifications and other labour regulations. The Principal Adviser, Planning Commission offered certain suggestions related to the Minimum Wages Act, 1948, the Industrial Disputes Act, 1947, the Employees’ State Insurance Act, 1948 and the Employees’ Provident Fund and Miscellaneous Provisions Act, 1952 for being considered by the Working Group Meeting.

**Legal Provisions made by Central Government for Unorganised Sector Workers**

**I. Laws which Apply to All Sections of the Unorganised Labour**

a. The Equal Remuneration Act, 1976
b. The Bonded Labour System (Abolition) Act, 1976
II  Laws which Apply to Some Sections of the Unorganised Labour
   a.  The Minimum Wages Act, 1948
   b.  The Child Labour (Prohibition and Regulation) Act, 1986
   c.  The Dangerous Machines (Regulation) Act, 1983
   e.  The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act [IS(MW)], 1979
   f.  The Motor Transport Workers Act, 1961
   g.  The Sales Promotion Employees (Conditions of Service) Act, 1976
   h.  The Trade Unions Act, 1926

III  Laws which can be Extended to the Unorganised Sector
   a.  The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
   b.  The Payment of Wages Act, 1936
   c.  The Building and Other Construction Workers (Regulations of Employment and Conditions of Service) Act, 1996
   d.  The Contract Labour (Regulation and Abolition) Act, 1970
   e.  The Maternity Benefit Act, 1961
   f.  The Workmen’s Compensation Act, 1923
   g.  The Weekly Holidays Act, 1942

State Laws for Unorganised Sector
   a.  The Uttar Pradesh Dookan Aur Vanijya Adhishthan Rules/ Adhiniyam, 1962
       Detailed account of this Act has already been given in Chapter 4.

Provisions for Unorganised Workers (For the Protection of Women Workers)
   a.  The Factories Act, 1948
   b.  The Mines Act, 1952
   c.  The Plantations Labour Act, 1951
   d.  The Employees’ State Insurance Act, 1948
   e.  The Maternity Benefits Act, 1961
   f.  The Equal Remuneration Act, 1976

Programmes introduced by the Government of India for Women Workers
   Government of India introduced following programmes for women workers:
a. National Rural Employment Programme (NREP)
b. Rural Landless Employment Guarantee Programme (RLEGP), 1983
c. Integrated Rural Development Programme (IRDP), 1980
d. Support to Training and Employment Programme for Women (STEP), 1986
e. Awareness Guarantee Programme (AGP)
f. Indira Mahila Yojana (IMY), 1995
g. Balika Samriddhi Yojana (BSY), 1997
h. Development of Women and Children in Rural Areas Programme (DWCRA), 1982

Existing Social Security Nets for Unorganised Sector\textsuperscript{11}

I Centrally Funded Programmes
a. National Social Assistance Programme (NSAP), 1995
b. Employment Assurance Scheme (EAS), 1993
c. Swaranjayanti Gram Swarojgar Yojana (SGSY), 1999
d. Jawahar Gram Samriddhi Yojana (JGSY), 1999
e. Schemes for Handloom Weavers and Artisans

II Social Insurance Schemes
a. Social Security Group Insurance Scheme
b. Janshree Bima Yojana (JBY)
c. Krishi Shramik Samajik Suraksha Yojana, 2001
d. National Policy for Older Persons, 1999

III Social Assistance through Welfare Funds of Central and State Governments
a. Group Insurance Scheme for Beedi Workers
b. Integrated Housing Scheme for Beedi and Mine Workers
c. Welfare Fund for Building and Other Construction Workers
d. State Government Initiatives
   • Welfare Funds in Kerala
   • Statutory Fund under Assam Plantation Employees Welfare Fund Act, 1959
   • Funds under Bombay Labour Welfare Fund Act, 1953
   • Mysore (Karnataka) Labour Welfare Act, 1965
   • Punjab Labour Welfare Act, 1965
   • West Bengal State Assisted Scheme for Provident Fund for Unorganised Workers (SASPFUW)
• Tamil Nadu Social Security and Welfare Scheme, 2001

IV Public Initiatives

a. Self Employed Women’s Association (SEWA)
b. Mathadi Workers Boards Maharashtra

Other Provisions

a. Unorganised Sector (Protection and Social Security) Act, 2008
b. Employees’ Provident Fund Act, 1958
c. National Child Labour Programme
d. Integrated Child Development Scheme (ICDS)
e. Mid-Day Meal Scheme for Schooling Children
f. Public Distribution System
g. Housing for the Poor
h. National Social Assistance Programme (NSAP) Covers
i. National Old Age Pension Scheme (NOAPS)
j. National Family Benefit Scheme (NFBS)
  i. Varishtah Pension Bima Yojana
  j. Group Health Insurance Scheme (GHIS) and Universal Health Insurance Scheme
  k. Non Governmental Organisations (NGOs)
l. National Advisory Council (NAC), 2005 (Introduced ‘The Unorganised Sector Workers’ Social Security Act, 2008’)
m. National Social Security Board

Central Government Labour and Industry Laws Dealing with
Conditions of Work

A number of labour laws have been introduced to safeguard the working conditions of the unorganised workers which have been mentioned in table 6.1.

Social Security Legislations in India

a. Risk Covered under Social Security Acts in India

The Indian Government has introduced various social security legislations at the central as well as at the state level. Table 6.2 shows these legislations formulated to cover the risks under social security for both the organised and unorganised workers.

b. Provident Funds Scheme, 1925
c. Payment of Gratuity Act, 1972
Table 6.1 Labour Laws Dealt with Conditions of Work

<table>
<thead>
<tr>
<th>Broad Categories of Conditions of Work</th>
<th>Description/Detail</th>
<th>Laws that have Provisions to Regulate the Conditions of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Conditions of Work</td>
<td>Space, ventilation, illumination, temperature, humidity, hygiene, health and safety</td>
<td>The Dangerous Machines Act, Inter-State Migrant Workmen Act, The Building and Other Construction Workers Act, The Beedi and Cigar Workers Act</td>
</tr>
<tr>
<td>Duration and Timing of Work</td>
<td>Hours of work, spreadoever, hours of rest, overtime work, hours of work per week, night work, paid holidays during the week</td>
<td>The Minimum Wages Act, Inter-State Migrant Workmen Act, The Building and Other Construction Workers Act, The Child Labour Act, The Beedi and Cigar Workers Act</td>
</tr>
</tbody>
</table>


Table 6.2 Social Security Legislations in India

<table>
<thead>
<tr>
<th>Risk</th>
<th>Laws under which Covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disablement</td>
<td>Workmen’s Compensation Act, 1923</td>
</tr>
<tr>
<td></td>
<td>Employee’s State Insurance Act, 1948</td>
</tr>
<tr>
<td>Death</td>
<td>Workmen’s Compensation Act, 1923</td>
</tr>
<tr>
<td></td>
<td>Employee’s State Insurance Act, 1948</td>
</tr>
<tr>
<td>Maternity</td>
<td>State Maternity Benefit Acts</td>
</tr>
<tr>
<td></td>
<td>Central Maternity Benefit Act, 1961</td>
</tr>
<tr>
<td></td>
<td>Employee’s State Insurance Act, 1948</td>
</tr>
<tr>
<td>Sickness</td>
<td>Employee’s State Insurance Act, 1948</td>
</tr>
<tr>
<td>Old Age</td>
<td>Coal Mines Provident Fund and Bonus Scheme Act, 1948</td>
</tr>
<tr>
<td></td>
<td>Employees’ Provident Fund Act, 1952</td>
</tr>
<tr>
<td></td>
<td>Assam Tea Plantations Provident Fund Schemes Act, 1955</td>
</tr>
<tr>
<td></td>
<td>Seamen’s Provident Fund Act, 1966</td>
</tr>
<tr>
<td>Funeral</td>
<td>Employee’s State Insurance Act, 1948</td>
</tr>
</tbody>
</table>

Source: Dr. Deepak Bhatnagar, Labour Welfare and Social Security Legislations in India, 1984
B. Administrative Machinery

To implement various labour laws as introduced by the Central Government, State Government and local bodies, there is administrative machinery which works through proper channels for checking the implementation level of labour laws. This machinery acts as an important link between the labourers and the employers. It inspects different areas which come under the labour acts from time to time and in case where exists improper execution of labour laws and violation of various provisions for labourers as mentioned in various labour acts by the employers, necessary actions are taken by the administrative machinery. The administrative machinery may be different at national level, State level, regional level and district level. It includes Ministry of Labour and Employment, Labour Commissioners (LCs), Deputy Labour Commissioners (Dy. LCs), Assistant Labour Commissioners (ALCs), Additional Labour Commissioners (Addl. LCs), Labour Enforcement Officers (LEOs) (formerly known as Labour Inspectors) etc., collectively known as administrative machinery.

Administrative Machinery at National Level

At national level there is Ministry of Labour and Employment. As on March 13, 2009 Shri Mallikarjun Kharge was the Union Minister of Labour and Employment. The Ministry of Labour and Employment has the following thirst areas:

- Labour policy and legislation;
- Safety, health and welfare of labour;
- Social security of labour;
- Policy related to special target groups such as women and child labour;
- Industrial relations and enforcement of labour laws in the central sphere;
- Adjudication of industrial disputes through Central Government Industrial Tribunals-cum-Labour Courts and National Industrial Tribunals;
- Workers’ education;
- Labour and employment statistics;
- Emigration of labour for employment abroad;
- Employment services and vocational training;
- Administration of central labour and employment services; and
- International co-operation in labour and employment matters.

Ministry of Labour and Employment administers a number of labour acts under different sections which have been given in table 6.3.
Table 6.3 Labour Acts being Dealt within the Ministry of Labour and Employment

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of Section Administering the Act</th>
<th>Name of Acts</th>
</tr>
</thead>
</table>

Source: Ministry of Labour and Employment, GOI, 2007

The organisation chart of the Ministry of Labour and Employment is given below.
Note:

() Vacant
* ILAS is one single section. Its bifurcation into TECH (I-V) is only to show the
distribution of work of the Section and the channels of submission of files.
# Shri S.K. Verma is designated as Director, Public Grievances, Public Grievances Cell, a
part of SS-II Section.
@ (a) Shri R.L. Tapryal, Deputy Secretary is Head of the Department under DFPR, GFR,
FR/ SR etc. in respect of Ministry (MS).
(b) Shri R.L. Tapryal, Deputy Secretary is Staff Grievances Officer (SGO) and Public
Grievance Officer (PGO) for handling the pension and retirement related matters in r/o Ministry
(MS); Nodal Officer for ACC Vacancy Monitoring System (AVMS) of Ministry.
β Shri S.P. Gupta, Deputy Secretary is Liaison Officer in r/o representations of SCs/ STs in
establishments/services under administrative control of Ministry.
& Shri S.K. Dev Verma, Joint Secretary is Chief Vigilance Officer (CVO) in the Ministry
of Labour and Employment.
$ Shri S.R. Joshi, Director is designated as IT Manager for all the related work, e-
Governance, PGRAMS, DMIS, RMIS. He is Nodal Officer and Chief Information Security
Officer (CISO) for co-ordinating Indian Portal Project pertaining to Ministry with D/o IT.
¥ Shri Harish Kumar Jethi, Deputy Secretary is looking after the Technical Work relating to
survey in Child Labour Division and also the work of Media and Publicity.
Φ US (Adm. II) is Security Officer and Welfare Officer for Staff of the Ministry.
** SO (Adm. III) is Departmental Record Officer and in-charge of the Record Room of the
Ministry of Labour and Employment (MS).
% (a) Shri Devendra Singh, Director has been designated as Central Public Information
Officer (CPIO) under the Right to Information Act in respect of public Authority, namely, M/O
L&E (HQ).
(b) Shri S.K. Dev Verma, Joint Secretary has been designated as Senior Officer for the
purpose of Section 19 (1) of the Right to Information (RTI) Act.

Legend (Designations in Ministry)
LEA - Labour and Employment Adviser, EA - Economic Adviser, JS - Joint Secretary, FA -
Financial Adviser, DGLW - Director General Labour Welfare, CLC(C) – Chief Labour
Commissioner (Central), DIR – Director, DS - Deputy Secretary, WC – Welfare Commissioner, CA
- Controller of Accounts, Dy. CA - Deputy Controller of Accounts, JD - Joint Director, US -
Under Secretary, DD - Deputy Director, SA - Senior Analyst, AO - Senior Accounts Officer

Names of Sections/ Desks/ Units
AA - Anuvad Anubhag, ADM – Administration, AC - Audit Cell, B – Bank, B&A - Budget and
Accounts, BL - Bonded Labour, C – Coal, C&WL - Child and Women Labour, CLS - Central
Labour Service, CMT - Career Management and Training, COORD – Co-ordination, CR - Central
Registry, CR(JH) - Central Registry (Jaisalmer House), DU - Departmental Undertaking, ESA -
Economic and Statistical Analysis, FIN – Finance, IA - Internal Audit, IC(NCL) - Implementation
Cell (National Commission on Labour), ILAS - International Labour Affairs Section, IMP –
Implementation, IR - Industrial Relations, ISH - Industrial Safety and Health, IWSU - Internal
Work Study Unit, LC – Labour Conference, LDRC - Labour Documentation and Research
Centre, LW - Labour Welfare, MISC – Miscellaneous, MMO - Meeting and Maintenance Officer,
OL – Official Language, PAO - Pay and Accounts Officer, PG - Policy General, PL - Policy
Legal, PLG - Planning Unit, PU - Parliament Unit, RBN - Raj Bhasha Niti, RTI&L – RTI and
Legal Cell, RW - Rural Workers, SS - Social Security, TECH – Technical, W – Welfare, WB -
Wage Board, WC - Wage Cell, W.II (C) - Welfare II (Committee)

Attached Offices
DGE&T – Directorate General of Employment and Training, CLC(C) – Chief Labour
Commissioner (Central), DGFASLI - Directorate General of Factory Advice Service and Labour
Institutes, DGLB – Directorate General, Labour Bureau

Symbols

Broad Structure of the Organisation

Central Industrial Relations Machinery (CIRM) is headed by the Chief Labour Commissioner (Central) [CLC (C)]. As the Head of the Organisation, the CLC (C) has an over all control over the functioning of the Organisation. The CLC (C) has been declared an Inspector under some establishments such as the Minimum Wages Act etc. He has also been given certain special powers under enactments like the Contract Labour (Regulations and Abolition) Act, the Industrial Employment (Standing Orders) Act etc.12

It is entrusted with the task of maintaining good industrial relations in the Central sphere. At the headquarter (H.Q.), CIRM has a complement of 25 officers who perform line and staff functions. In the field, the machinery has 253 officers and their establishments are spread over different parts of the country with zonal, regional and unit level formations.

Specific Functions of CIRM

The CIRM administers labour laws in the industries and its functions, therefore, include prevention and settlement of industrial disputes; enforcement of labour laws; verification of membership of trade unions; enforcement of awards and settlements; conduct of inquiries into the breaches of Code of Discipline; promotion of Works Committees and workers’ participation in management; collection of statistical information; and defence of court cases and writ petitions arising out of implementation of labour laws.

Important Legislations Administered by CIRM

The CIRM administers a large number of labour legislations but their enforcement is performed by the Central Government. The important legislations are mentioned as under:

- The Industrial Disputes Act, 1947 and Rules made there under.
- The Industrial Employment (Standing Orders) Act, 1946 and Rules made there under.
- The Contract Labour (Regulations and Abolition) Act, 1970 and Rules made there under.
- The Payment of Wages Act, 1936 in relation to Railways, Mines, and Air Transport Services (in the major ports as authorised by respective State Government) and Central Rules made in respect of above industries.
- The Payment of Bonus Act, 1965 and Rules made there under.
- Chapter XIV of the Indian Railways Act, 1989 (Hours of Employment Regulations).
- The Child Labour (Prohibition and Regulation) Act, 1986 and the Rules made there under.
- The Payment of Gratuity Act, 1972 and the Rules made there under.
- The Equal Remuneration Act, 1976 and the Rules made there under.
- The Maternity Benefits Act, 1961 (in circus industry only).
- The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Rules made there under.
- Labour Laws (Exemption from furnishing Returns and maintaining Registers by certain Establishments).
- Building and Other Construction Workers’ (Regulation of Employment and Conditions of Service) Act, 1996.

**Regional Offices**

There are 20 regional offices each functioning under one Regional Labour Commissioner (Central) [RLC (C)] assisted by Assistant Labour Commissioner (Central) [ALC (C)] and Labour Enforcement Officers (Central) [LEOs (C)]. The territorial jurisdiction of the various regional offices is mentioned in Appendix III.

**Central Government Industrial Tribunal-cum-Labour Courts (CGIT-cum-LC)**

The Industrial Tribunal-cum-Labour Courts have been set up under the provisions of the Industrial Disputes Act, 1947 for adjudication of the industrial disputes. These Industrial Tribunal-cum-Labour Courts have all-India Jurisdiction. The CGIT-cum-LC No. 1 at Mumbai and the CGIT-cum-LC at Kolkata are at present functioning as National Tribunal also. Each of these courts is under the charge of Presiding Officer who is usually a sitting/ retired High Court Judge or a District Sessions Judge.\(^{13}\)
Board of Arbitration (Joint Consultative Machinery)

The Government of India introduced in 1966 a scheme for Joint Consultative Machinery (JCM) and compulsory arbitration for resolving differences between the Government as an employer and the general body of its employees. The Scheme provides for compulsory arbitration on pay and allowances, weekly hours of work and leave of a class or grade of employees. Under the Scheme, the Board of Arbitration was set up in July 1968. The Board consists of a Chairman and two other members. While the Chairman is a full-time person, the other two members are appointed by the Ministry of Labour and Employment at the time of referring the dispute to the Board, out of a panel of members both from the staff side as well as from the official side maintained by it. The Scheme covers:

(a) Group ‘D’ and Group ‘C’.
(b) Group ‘B’ officers of the Central Secretariat Services and the other comparable services in the headquarters organisation of the Government.
(c) Employees in industrial establishments excluding:
   (i) Those employed in managerial or administrative capacity and
   (ii) Those who being employed in supervisory capacity.

Employees’ State Insurance Corporation (ESIC)

The Employees’ State Insurance Corporation is a corporate body set up under the Employees’ State Insurance Act, 1948. The functions of the Corporation are to provide medical care and treatment to insured persons and their families, and cash benefits during sickness, maternity and employment injury and pension for dependents on the death of the insured persons due to employment injury.

The administrative machinery of the Corporation consists of a three tier set up. At the base level, local offices are responsible mainly for registration of workers as insured persons and disbursement of benefits to the beneficiaries. At the intermediate level, there are 17 regional offices headed by the Regional Directors, who are controlling the local offices situated in their regions and also performing certain direct functions, such as collection of contributions, inspections of factories and establishments etc. The regional offices are located at Hyderabad, Guwahati, Patna, Delhi, Ahmedabad, Bangalore, Bhubaneswar, Trichur, Mumbai, Indore, Chandigarh, Faridabad, Jaipur, Chennai, Kanpur, Kolkata and Panaji. In addition to this, there are nine sub-regional offices at Pune, Nagpur, Marol, Thane, Coimbatore, Madurai, Baroda, Surat and Hubli under the control of Joint Directors. At the apex is the headquarters office at Delhi, which lays
down broad policies at the national level, issues instructions to the regional offices and local offices and supervises their working.14

**Central Board for Workers’ Education (CBWE)**

The Central Board for Workers’ Education implements the Workers’ Education Scheme through a network of 49 Regional Directorates spread throughout the country for the workers engaged in the organised, unorganised and rural sectors. The CBWE aims at achieving the objectives of creating and increasing awareness and educating the workforce for their effective participation in the socio-economic development of the country. The Regional Directorates conduct the training programmes at regional/ unit/village level while the Indian Institute of Workers Education, an apex training institute situated in Mumbai, conducts the national level training programmes.15

The work of the Central Board for Workers’ Education is managed by a governing body comprising representatives of the Central/ State Governments, workers, employers and educational bodies. The Director of the Central Board for Workers Education is the executive head of the organisation and acts as Member-Secretary of the Central Board for Workers Education and Governing Body.

**Deputy CLCs (C)**

The Deputy CLCs (C), besides, co-ordinating, monitoring and supervising the activities of regional offices, also handle important industrial disputes referred to or apprehended in the zone effectively. Deputy CLCs (C) as Appellate Authority under Industrial Employment (Standing Orders) Act, dispose off appeals arising out of certification of standing orders by RLCs (C). The Deputy CLCs (C) are authority for deciding cases of same or similar nature of work and condition of wages of contract labour under Rule 25 (2) (v) (a) and 25 (2) (v) (b) of the Contract Labour (Regulations and Abolition) (Central) Rules respectively.

**Assistant Labour Commissioners (Central) [ALCs (C)]**

Assistant Labour Commissioners (ALCs) have been declared Inspectors under all the enactments, except Equal Remuneration Act and Payment of Gratuity Act. They are Conciliation Officers under the Industrial Disputes Act (Section 4). They intervene and prevent the industrial disputes and maintain harmonious industrial relations. ALCs (C) are also Controlling Authorities under the Payment of Gratuity Act (Section 3), Authorities under the Equal Remuneration Act (Section 7) and Registering and Licensing Officers (Sections 6 and 11 respectively) under the Contract Labour (Regulation and Abolition) Act. They are also the Registering and Licensing Officers under the Inter-State Migrant
Workmen (Regulation of Employment and Conditions of Service) Act [IS (MW)], Registering Officer under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, and Inspectors under other enactments. In addition ALCs (C) have to do verification of trade union membership in the establishment wherever required (in respect of industries, which have accepted code of discipline, statutory verification in banks and ad-hoc verification in major ports).

**Labour Enforcement Officers (Central) [LEOs (C)]**

The Labour Enforcement Officers (Central) function basically as Inspectors under various enactments for the enforcement of labour laws, in the industries/establishments in the central sphere. Almost all LEOs (C) having independent offices are also Conciliation Officers under Section 4 of the Industrial Disputes Act. They have also been declared supervisors of the railways employees, as per the provisions of the Indian Railways Act. The other officers of the organisation from the level of Assistant Labour Commissioner (Central) [ALC (C)] up to the level of CLC (C) have also been vested with the powers of Inspectors, under various labour laws where they have not to perform quasi-judicial functions.

The CIRM officers carry out regular inspections under various labour laws. Besides the regular inspections, the officers of CIRM focus special attention on the enforcement of beneficial labour legislations and carry out special drives of inspections known as Crash Programmes and Task Force Inspections.

**Regional Labour Commissioner (Central) [RLC (C)]**

The RLC (C) being the Head of the region is not only in-charge of day-to-day administration but also has to discharge many statutory duties relating to enforcement and industrial relations, including those of Conciliation Officer under the Industrial Disputes Act, Appellate Officers under the Contract Labour (Regulations and Abolition) Act, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act and the Buildings and Other Construction Workers (Regulation of Employment and Conditions of Service) Act. RLCs (C) also function as convener member of the sub-committee constituted by Directorate General, Labour Welfare [DG (LW)] to investigate and report about the desirability to prohibit contract labour in industries.

Regional Labour Commissioners (Central) [RLCs (C)] are the Authority under Minimum Wages Act. They decide cases of payment of wages less than minimum rate of wages fixed, filed before them, as provided under Section 20 of the Minimum Wages Act. They are Certifying Officers, under Industrial Employment (Standing Orders) Act for
certification of the Draft Standing Orders, submitted under the Industrial Employment (Standing Orders) Act. They are the Appellate Authority under Payment of Gratuity Act and Equal Remuneration Act. They have also been declared Inspectors under all the enactments enumerated above, except Equal Remuneration Act and Payment of Gratuity Act.

**Administrative Machinery in Uttar Pradesh**

At state level, generally, Labour Commissioner looks after the labour related issues. In case of Uttar Pradesh, there is an office of Labour Commissioner at Kanpur which was established in 1936. The Labour Commissioner administers and enforces labour laws to ensure, mainly, provisions related to social justice and economic interdependency, improvement in working conditions, social security and protection against harassment and exploitation of working children, women and men employed in organised sector. Labour Department ensures quick disposal of industrial disputes through its conciliation machinery with a view to establish harmonious industrial relations amongst the employers and employees, so that along with growth in industrial production, the interests of workmen are also protected. The Department periodically fixes the minimum wages and ensures their due and timely payment to the workmen.

**Objectives of the Labour Commissioner Organisation**

The Organisation is committed to establish harmonious industrial relations in private and state sector establishments; to protect and safeguard the benefits and rights of workers guaranteed under various labour laws in organised sector in general and also to those engaged in unorganised sector; and to ensure safe work environment in factories. The Organisation is also committed to ensure regulation of employment and conditions of service to the building and other construction workers; the welfare measures to the
building and other constructions workers and their dependents; to ensure safe work environment in factories, eradication of child labour, rehabilitation of bonded labourers, ensuring on-line registration, licensing and renewal thereof to the factories, shops, commercial establishments, contractors, and trade unions; to provide facility to the entrepreneurs of on-line submission of returns under various labour laws; reforms in labour laws and simplification of procedures to suit the environment of liberalisation and globalisation of trade and commerce; and to make provisions for the entire data digitisation of the departmental activities and functions and also electronic data exchange through wide area networking amongst the regional offices and the headquarter (H.Q.).

The Organisation seeks to achieve these objectives through enforcement of various labour laws relating to fixation of minimum wages and timely payment thereof, guaranteeing financial benefits, providing safe and healthy work environment, regulating service conditions, providing social security to the injured workmen and maternity benefit to the women workers and also ensuring abolishing child labour, and rehabilitating those, released from work.

**Subordinate Offices**

There are 17 regional offices of Additional/ Deputy Labour Commissioners located at 17 strategic places to carry out the enforcement and conciliation functions under the control of Labour Commissioner, Uttar Pradesh.

The functions of regional Additional/ Deputy Labour Commissioners are:
- Registration and renewal of shops and commercial establishments;
- Registration and licensing of establishments for the employment of contract labour;
- Registration and licensing for the employment of migrant labour;
- Licence to carry out beedi making;
• Licence to the owner of motor transport establishment;
• Certification of standing orders within 90 days;
• Competent Authority under the Payment of Wages Act, 1936; the Minimum Wages Act, 1948; Commissioner under the Workmen’s Compensation Act, 1923 and Controlling Authority under the Gratuity Act, 1972 to hear and decide the cases filed by workers or their representatives;
• Investigation and settlement of industrial disputes in respect of establishments situated in their administrative jurisdiction. Investigation, if required, is carried out within a period of 10 days;
• Enforcement/ implementation of award and settlements within a period of 120 days;
• Implementation of different central and state labour laws in industrial and commercial establishments through self-certification/ inspections;
• Implementation of labour welfare schemes through welfare centers and industrial housing schemes;
• Keeping a vigil on industries or commercial units so that child is not employed as a labour;
• Identification and rehabilitation of bonded labourers. Rehabilitation of bonded labour is ensured within a period of one year provided that the concerned bonded labour is located;
• Registration of executive body of registered trade unions (Form-J) is done within a period of 30 days by the regional offices;
• Hearing and disposal of Conciliation Board (C.B.) and Conciliation Proceedings (C.P.) cases within a period of 40 days; and also reference of C.B. cases to Labour Commissioner within a period of 30 days; and C.P. cases to labour courts and industrial tribunals within a period of 15 days;
• Disposal of cases under the Public Premises (Eviction) Act, 1972 of all properties relating to the Department in the State within a period of 60 days;
• Disposal of cases under the Uttar Pradesh Industrial Peace (Timely Payment of Wages) Act, 1978 within a period of 30 days; and
• Speedy and timely redressal of complaints and grievances of workers through conciliation proceedings and enforcement of labour laws with a view to establish harmonious industrial relations and payment of dues and benefits guaranteed under various labour laws. This whole process is completed within a period of 15 days.18
Besides these 17 regional offices of Additional/ Deputy Labour Commissioners, there are 22 offices of Assistant Labour Commissioner at Fatehpur, Sultanpur, Unnao, Raibareli, Hardoi, Lakhimpur-kheri, Gonda, Muzaffarnagar, Bijnore, Firozabad, Shahjahanpur, Gazipur, Mau, Deoria, Jaunpur, Rampur, Basti, Mathura, Bulandshahr, Bhadohi (Sant Ravidas Nagar), Mirzapur, and Farrukhabad. There are also 156 offices of Enforcement Officers spread over the whole State. The present area under study i.e. Modinagar town falls under the area of Ghaziabad enforcement office.

**Zonal Offices of the Directorate of Factories and Its Functions**

There are 7 zonal offices of Deputy Director of Factories located at 7 strategic places to carry out registration, licensing of factories apart from major accident hazardous factories and factories employing less than 50 workers under the control of Director of Factories, Uttar Pradesh and Labour Commissioner, Uttar Pradesh.

![Zonal offices of Dy. Director of Factories](table)

The functions of zonal Deputy Director of Factories are:
- Registration and licensing of factories under the Factories Act, 1948 and renewal thereof except the major accident hazardous factories and factories employing less than 50 workers in their respective administrative jurisdictions within a period of one month.
- Enforcement of provisions relating to safety, health, welfare and working hours in factories situated in their respective jurisdictions.
- Speedy and timely redressal of complaints and grievances of workers within a period of 15 days, with a view to ensure safe work environment, rights and benefits guaranteed under the Factories Act, 1948 and rules made there under and also the provisions relating to management of hazardous substances stipulated in the rules under the Environment (Protection) Act, 1986.
- Investigation of all fatal and serious accidents within a period of one month to ascertain the cause of accident and in providing due and timely advice and instructions to avoid recurrence of such accidents.\(^{19}\)
The other functions are timely coverage and registration of manufacturing units (as per the Factories Act, 1948), rehearsal of on-site as well as off-site emergency plans and finding out pitfalls at least once a year.

Besides these 7 zonal offices of Deputy Directors of Factories, there are various regional offices of Assistant Directors of Factories at Lucknow, Faizabad, Gorakhpur, Allahabad, Varanasi, Kanpur, Bareilly, Aligarh, Agra, Firozabad, Meerut, Bulandshahr, Bijnore, Moradabad, Saharanpur, Muzaffarnagar, Ghaziabad and Noida (Gautam Buddha Nagar) to carry out registration, licensing of non-hazardous factories employing upto 50 workers under the immediate control of respective Dy. Director of Factories. The Assistant Director of Factories are responsible for the implementation of the provisions of the Factories Act, 1948 and rules made there under as well as the provisions of the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 (amended in 2000) and the Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996 under the Environment (Protection) Act, 1986.

**Industrial Tribunals and Labour Courts**

In U.P. the Industrial Tribunals are located (as per the Industrial Disputes Act, 1947) at Allahabad, Lucknow, Kanpur, Agra, Meerut and Gorakhpur, and labour courts are located at Kanpur, Lucknow, Agra, Bareilly, Meerut, Saharanpur, Ghaziabad, Gorakhpur, Allahabad, Varanasi, Rampur, Faizabad, Mirzapur, Firozabad and Gautam Buddha Nagar (Noida) to adjudicate the cases related to industrial disputes.

**Public Grievances**

‘In-house-mechanism’ of grievance redressal has been established in the office of the Labour Commissioner for effective redressal of grievances received from workers, trade unions, entrepreneurs and their associations and also its own employees and other departments. A Complaint Cell headed by Additional Labour Commissioner (I) has been set up in Labour Commissioner’s office to deal with public grievances and complaints filed against gazetted and non-gazetted employees. A Committee to look into the complaints of sexual harassment to women at workplace has also been formed in this organisation. In addition to the Cell, dealing with sexual harassment of women at workplace, a Public Information/ Facilitation Centre has been established for providing adequate guidance and information to the stakeholders. This centre remains open during the office hours.
Right to Information

A number of officers have been nominated as State Public Information Officers (SPIOs) and Assistant State Public Information Officers (ASPIOs) under the Right to Information Act, 2005. A detailed break up is being given in the table 6.4.

Table 6.4 State Public Information Officers and Assistant State Public Information Officers

<table>
<thead>
<tr>
<th>Officer</th>
<th>State Public Information Officer</th>
<th>For</th>
</tr>
</thead>
<tbody>
<tr>
<td>Addl. Labour Commissioner (Administration)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Director of Factories</td>
<td>State Public Information Officer</td>
<td></td>
</tr>
<tr>
<td>Director of Boiler</td>
<td>State Public Information Officer</td>
<td></td>
</tr>
<tr>
<td>All Addl./ Deputy Labour Commissioners and Dy./ Asstt. Director of Factories (In-charge of their regional offices.)</td>
<td>Asstt. State Public Information Officer</td>
<td>Within the local limit of their jurisdiction</td>
</tr>
<tr>
<td>Appellate Authority</td>
<td>Principal Secretary, Labour, Government of U.P., Lucknow</td>
<td>For Labour Department</td>
</tr>
</tbody>
</table>

Source: www.up.nic.in

C. Level of Implementation

Under the Constitution of India, ‘Labour’ is a subject in the concurrent list where both the Central and State Governments are competent to enact legislations. As a result, a large number of labour laws have been enacted catering to different aspects of labour namely, health and safety, employment, training of apprentices, fixation-review and revision of minimum wages, mode of payment of wages, payment of compensation to workmen who suffer injuries as a result of accidents or causing death or disablement, bonded labour, contract labour, women labour and child labour, resolution and adjudication of industrial disputes, provision of social security such as provident fund, employees’ state insurance, gratuity, provision for payment of bonus, regulating the working conditions of certain specific categories of workmen such as plantation labour, beedi workers etc.

India has the most comprehensive legal structure for labour welfare and protection. There are roughly 45 Central laws and 170 State statutes related to labour regulation. Labour inspections are carried out under these laws. Inspections are meant to uphold provisions related to hours of work, wages, safety, health and welfare, and employment of children. Although Inspectors are empowered to cover several categories
of informal workers through a number of basic laws (on minimum wages, equal wages for men and women, laws covering contract labour and migrant labour, and so on), but in practice informal workers are not properly covered.

Many laws have clauses related to the number of employees, so that employers can escape them by keeping the number of workers below a certain threshold. According to Chandra\(^23\) (2008), the Industrial Disputes Act which can not protect workers in establishments employing fewer than 50 workers, or the Industrial Employment (Standing Orders) Act, which does not apply to any enterprise employing fewer than 100 workers. The Factories Act provides for the health, safety and welfare aspects of workers while at work in factories, and even an establishment with ten workers and an electricity connection can be covered. But crèches are provided under the Act only if there are 30 or more women workers; rest rooms only if there are 15 or more workers; a canteen for 250 or more workers, and an ambulance, dispensary, medical and para-medical staff if there are 500 or more persons employed. The structure of the industry has evolved to allow employers to escape regulations by keeping numbers within a single unit below the threshold. According to Sindhu\(^24\) (2006), the bulk of manufacturing in India is done through small scale manufacturing units or home-based workers. Companies making electrical equipment or machinery now routinely produce different components in completely separate industries. This delinks the different stages of the production process and makes it difficult to implement labour laws. Workers may not even know which product the component is being made for.

Rastogi\(^25\) (2002) and Ahsan et. al.\(^26\) (2008) observed that labour inspection procedures are complex, and firms are rarely aware of all the legal requirements that they have to comply with. Inspectors rarely provide them with this information freely. There is strong evidence of widespread corruption in the Labour Department, with Inspectors accepting bribes for reduced enforcement. The Investment Climate Survey\(^27\) (2002) provides clear evidence, based on interviews with firms across the country, on the effectiveness of bribes in reducing visits by Labour Inspectors. The overall conclusion is that Inspectors do little to enforce the law and there is collusion between employers and Inspectors to evade the law. Khan\(^28\) (2005) quoted that one reason for this is the growing inefficiency of the system. Labour courts and tribunals are overcrowded. The average duration of proceedings in labour courts is ten years and, when appeals are included, dispute settlement takes 20 years.
Sharma (2006) cited the example of Uttar Pradesh where Labour Inspectors carry out inspections only after the prior consent of an officer of the rank of Labour Commissioner or District Magistrate, which makes the procedure cumbersome. The States of Rajasthan and Andhra Pradesh have reduced the scope of labour inspection, and have exempted several establishments from the purview of labour inspection.

Labour department staff claims that they can not conduct the required number of inspections, due to lack of resources and power. Khan (2005) commented by saying that the labour department is the underdog; it does not have enough resources. Moreover, villages are scattered and officials without vehicles can not do much.

Deshingkar (2009) found that a majority of informal workers are Hindu and belong to backward castes. A number of practices are used by employers to evade labour laws. Subcontracting has become widespread, with several layers of contractors and subcontractors, which make law enforcement difficult because the employer–employee relationship is not clear. Workers are employed on a casual basis and are vulnerable for being fired without notice. Companies prefer subcontracting because it gives them the flexibility to hire or dismiss workers whenever required. There are some parts of the industry where poorer and more vulnerable workers are employed, such as children in embroidery units.

According to Krishnamoorthy (2006), in case of the garment industry around Delhi, units are closed down or shifted or change their names frequently, hence prosecution is difficult. Unni and Bali (2001) observed that another technique used by employers to escape labour laws is to keep the number of workers small by splitting their operations into several units.

Sarde (2008) found that in case of the construction industry accident rates are high. In fact India has the world’s highest accident rate among construction workers. A recent ILO study shows that 165 workers out of every 1,000 workers are injured on the job.

Deshingkar (2009) observed through her study that the issues raised by informal occupations in agriculture are altogether different. First, agricultural work is more difficult to monitor, because it is away from urban areas where NGOs and other organisations are concentrated, and, second, the degree of violation of labour laws can be much worse. Two examples highlight these problems: work in cottonseed farms, which violates almost all labour laws related to bonded labour, minimum wages and child labour; and work in sugarcane fields, where working conditions continue to be harsh,
despite historic lawsuits and focused public attention. Cottonseed producers violate labour laws on a number of counts. The most serious violation is that they employ large numbers of children.

Venkateswarlu\(^{36}\) (2004) estimated that roughly 286,000 workers were employed in cottonseed farms in Gujarat in 2003–2004. Of these, around 91,000 were children in the age group of 8-14 years. His calculations for Karnataka showed that nearly 26,800 child labourers (aged 7-14 years) were employed in cottonseed farms in 2003–2004, and 88 per cent of them were girls.

The Environmental Justice Foundation\(^{37}\) found that the working conditions in cottonseed farms are completely against the law. The children are recruited by agents who pay their parents an advance – a bondage arrangement similar to the one found in the case of construction workers. The difference is that the wages are extremely low and the children never receive the money. They pay off the debt by working up to 13 hours per day (at Rs. 30 or less than 25 pence a day) from July to February. On an average, 10-12 girls work per acre and are mostly drawn from chronically poor families which are heavily in debt and pledge their child’s labour to pay off the debt. Living and working conditions are very poor and many children are drop outs of school. A UNICEF\(^{38}\) study found that 60 per cent of children working in cottonseed fields were drop outs of school and 29 per cent never attended school and about half of them began working before the age of eleven.

According to Venkateswarlu\(^{39}\) (2004), there is no pressure on the labour department to improve labour standards. He says that there are so many loopholes in the law relating to child labour that he and his colleagues have preferred to work through the legislation against bonded labour and the minimum wages legislation. A number of unions and pressure groups across the country have agitated for improved wages and working conditions for agricultural labourers. While there are some successes, such as the Agricultural Alliance, which has successfully campaigned for the extension of the labour legislation applicable to all workers in the agricultural sector, there is still insufficient pressure from the public or commitment at the policy level for enforcing labour legislation in agriculture. However, what has made a difference in some instances is public pressure in the West, which has forced multinational seed companies to improve their record of labour standards in the value chain.

In Maharashtra poor workers are recruited against a payment of advances by a contractor in sugar industries. The contractor provides the basic accommodation without
proper sanitation. Access to fuel and drinking water are difficult and this increases the workburden on women. While the earnings from such work are good compared to work in the village, the working and living conditions are so poor that they have been cited as one of the most exploited labour groups in India by Jan Breman (1990), who famously said that even dogs are better off.

Thus, the labour inspection machinery has not functioned the way it was meant to. The reasons for its failure include corruption, loopholes in the law, resource shortages and low political priority, collusion between employers and labour inspectors, the inability of the law to deal with new categories of work and subcontracting and the powerlessness of workers against their employers. Some occupations can not be policed properly because there are no laws to cover them. Even when labour laws are formulated, the effort seems to be half-hearted, because of the many ways in which laws can be circumvented.

This is not to say that Labour Inspectorates can not play a positive role; they embody institutional capacity and access to information on labour markets that would be critical to any effort to improve labour standards. Their limited resources, however, mean that they can be effective only if they enter into alliances with a broader group of organisations. These may include organisations working for minority rights, women’s rights, child rights, trade unions, the media and social activists. Labour Inspectorates and other organisations could complement each other because the former have the authority to act upon violations of the law whereas other actors may be more aware of violations of the law and the difficulties faced by employers with compliance. Ultimately, public awareness and political commitment at the national level are essential for improving labour standards, and more inspections involving a range of actors need to happen. This will require the mobilisation of resources to allow civil society organisations and researchers to conduct more investigative work on labour standards in different informal occupations.
References

5. www.ilo.org
6. www.labour.nic.in
7. www.ilo.org
12. www.labour.nic.in
14. Ibid., p 123
15. Ibid., p 127-128
16. www.labour.nic.in
17. www.up.nic.in
18. Ibid.
19. Ibid.
20. Ibid.
21. Ibid.
22. Ibid.
27. www.chronicpoverty.org
37. www.ejfoundation.org
38. www.unicef.org