

CHAPTER-VIII

SOCIAL SECURITY

Very early, in its deliberations on social security, the Commission had to make up its mind on a somewhat ticklish issue. One view was that the Commission should confine itself strictly to matters that related to the security of workers, and that it should therefore, exclude matters that related to issues and policies that fell within the realm of general or overall social security. But we came up against a problem very soon. Our terms of reference ask us to study and recommend measures for assuring protection and welfare to workers. Consequently, protection, safety at workplaces, and measures that offered social security to workers fall within our terms of reference. We have been asked to review legislation for workers in the organised sector (this includes laws on social security for workers in the organised sector). We have also been urged to recommend an umbrella legislation that assures protection and welfare to workers in the unorganised or informal sector. We have to consider what is required to assure at least a minimum

of social security in both these sectors. Moreover, when we put together the workforce in the organised sector and that in the unorganised or informal sector, we cover the entire workforce in the country. The workforce includes those who are currently in employment, those who are temporarily un-employed as a result of adjustments or change of jobs, and those who are entering the workforce. And the needs of social security to these include at least penumbral and 'collateral' responsibilities for dependents. Thus, it becomes difficult to categorise those who are unconnected with the social security that workers need. We have, therefore, had to look at areas and groups and services that others are also looking at, maybe from similar or different angles or points of view.

THE PARAMETERS

8.2 We are well aware that many others have made their proposals for building some kind of social security systems for different segments of

the population, like the elderly, the retrenched workers, and so on.

8.3 We also realise that these schemes have been proposed, established and administered by different Ministries or Departments or autonomous bodies. This has not deterred us from making our own comprehensive proposals for reasons that we have stated in the earlier sections of this paragraph. We have to make our proposals so that they may be assessed and integrated into the overall vision of social security that the Government and non-governmental agencies evolve.

8.4 No one can say that the concept of social security is new to India. We have had an effective network for economic and emotional security in the joint family, in the institutions of the craft community and guilds, and in the customs, rights and responsibilities of individuals and occupational groups associated with the Panchayat System. The undermining and emasculation of the Panchayat System that British rule brought about, as well as the new conditions created by the emergence of the nuclear family in the post industrialisation society, have made it necessary for us to look for new

frameworks' systems and institutions of social security.

8.5 In this Chapter therefore, we will try to identify and outline (a) the goals and objectives that we have to pursue in the field of social security, (b) the definition and ingredients of social security in the present context, (c) the coverage that we have to achieve, (d) the means that can enable us to achieve the coverage, (e) the services that we have to offer, (f) the structures that we will need to offer these services, (g) the sources from which we can raise the requisite resources, (h) the channels for delivering services and monitoring the functioning of structures, and related questions.

8.6 The Constitution of India was drafted to uphold and paraphrase the ideals that inspired the struggle for freedom. As we have stated in an earlier chapter, the paramount and declared goal of the struggle was not mere independence from imperialist rule but the achievement of 'human freedom in all its majesty.' This meant evolving and protecting a social and political order that guaranteed freedom. It also meant creating the material conditions (including the material requisites) that the citizen

needed to enjoy the richness of freedom. Those who drafted the Constitution were aware of their duty to reaffirm the ideals in terms of rights and duties, and the need to match ends and means, goals and resources, and to provide practical guidelines for graded progress towards ideals that were imperative and unabandonable.

8.7 The Constitution therefore, characterised the state as democratic and socialist, enshrined the Fundamental Rights of the People, and outlined Directive Principles for governance and delineation of policies.

8.8 Thus, we have certain commitments and conventions or covenants that we have pledged to achieve in the field of social security. The commitments include the Fundamental Rights and Directive Principles and the conventions or covenants that we have accepted as members of inter-governmental organisations. Before embarking on a detailed study of the responsibilities that have come with these provisions of the Constitution (Fundamental Rights and Directive Principles) and the covenants and conventions that our country has signed, it is

appropriate and necessary to remind ourselves of the specifics of the responsibilities that these provisions and covenants vest on the state and society.

8.9 We have to start with the words that the Constitution has used for our State. The State has been defined or described as a democratic and socialist state. A democratic state is a state that is based on the concept of equality and accountability. A socialist state is one that accepts responsibility for providing and ensuring 'social security' to all its citizens without any discrimination.

8.10 The Fundamental Rights that our Constitution guarantees to every citizen include the right to life, and as the Supreme Court has pointed out, the right to livelihood is inherent in the right to life. The ultimate object of social security is to ensure that everyone has the means of livelihood. It follows, therefore, that the right to social security is also inherent in the right to life according to the Supreme Court of India, India is Constitutionally a socialist state. The principal aim of socialism is to eliminate inequality of income and status and to provide a decent standard of living to the working people.

8.11 The Directive Principles of State Policy that form part of our Constitution (Part IV) direct that:

- (i) The State under Article 38, shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of the national life. The State shall, in particular, strive to minimise inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities not only amongst individuals, but also amongst groups of people residing in different areas or engaged in different vocations.
- ii) The State shall, in particular, direct its policy towards securing:
 - a) that the citizens, men and women equally, have the right to an adequate means to livelihood.
 - b) that the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity, to enter avocations

unsuited to their age and strength

- c) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.
- (iii) The State shall make within the limits of its economic capacity and development effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement and in other cases of undeserved want under Article 41.
- iv) Under Article 43, the State shall endeavour to secure by suitable legislation or economic organisation or in any other way to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

8.12 In the light of these Principles,

no one can argue that the Indian Constitution does not visualise, a regime of social security for the citizens in general, and the workforce in particular. In fact, as long as these Principles and Fundamental Rights remain in the Constitution, the Indian State, and the policies of any government that may be in power, will be judged by their commitment to these Principles and Rights. Changes in policy cannot abrogate the responsibility of the state in this area. Moreover, it does not seem likely that any proposal to amend the Constitution to abridge or dilute these Rights and Principles will get the requisite popular or parliamentary mandate. We have, therefore, to formulate our recommendations on the basis of these Rights and Principles. As long as these are part of the Constitution, we cannot overlook them or depart from them. No political party or responsible thinker has suggested the deletion or dilution of these commitments in the Constitution. Nor can we hold the view that since Governments have not been adhering to many of the Directive Principles, we have the right to select and respect the sanctity of some, and question the sanctity of others.

8.13 It has been rightly pointed out

that the Directive Principles are not justiceable, as such do not have the same force as the Fundamental Rights. It has also been pointed out that the difference in the status that has been accorded in the Constitution to Fundamental Rights and Directive Principles was not the result of difference in degrees of faith or commitment, but of the belief that the financial implications of making the Directive Principles justiceable could not be laid on the state all of a sudden, that the responsibility for implementation had to be matched with the accrual or acquisition of the requisite financial resources, and that there was, therefore, an inevitable need to provide for gradualness. It does seem that this is a highly plausible explanation.

8.14 We are aware that another consideration has been presented forcefully in the World Development Report of 1997. This view holds that social security is an essential ingredient in the protection, development and full utilisation of human resources, and should, therefore, be looked upon as an 'investment in the development of human resources.' It further distinguishes between the develop-

ment of human resources and human development, and argues that the expenditure that a society or state incurs to provide basic social security is essential both for the development of human resources and 'human development.'

8.15 There are theories of human 'formation' and human resource development that view human beings primarily as means rather than as ends. They are concerned only with the supply side – with human beings as instruments for the production of commodities or the provision of services. It cannot be gainsaid that there is a connection. Human beings are the active agents of all production. But human beings are more important than the capital goods that are necessary for the production of commodities. They are also the ultimate ends and beneficiaries of this process. Thus, the concept of human capital formation (or human resource development) reflects only one side of human development, not the whole.

8.16 Human welfare approaches look at human beings more as beneficiaries of the development process than as participants in it. They therefore, emphasise distributive policies rather than production

structures.

8.17 The basic needs approach usually concentrates on bundles of goods and services that deprived population groups need: food, shelter, clothing, health care and water. It focuses on the provision of these goods and services rather than on the issue of human choices.

8.18 Human development, by contrast, brings together the production and distribution of commodities and the expansion and use of human capabilities. It also focuses on choices – on what people should have or want to have, what they want to be, and what they have to do to be able to ensure their own livelihood. Human development thus, is concerned not only with the satisfaction of basic needs, but also with human development as a participatory and dynamic process. It therefore, applies equally to less developed countries and highly developed countries.

8.19 The World Human Development Report of 1990 has also pointed out emerging changes in the concept of security. It says 'Millions of people in developing countries live on the

edge of disaster. And even in industrial countries people are constantly at risk from crime or violence or unemployment. Joblessness is a major source of insecurity, undermining people's entitlement to income and other benefits.

"For too long the ideal of security has referred to military security or the security of states. One of the most basic needs is security of livelihood, but people also want to be free from chronic threats, such as disease or repression, as well as from sudden and hurtful disruptions in their daily lives. Human development insists that everyone should enjoy a minimum level of security."

8.20 There is a school of thought which holds and expounds the view that social security is not one of the primary functions of the Government that it should not, therefore, be a charge on the public exchequer; that it should be left open to the citizen to 'buy' whatever services or 'provisions' he can to equip himself with security. The exponents of this view believe in 'downsizing' the state, and confining it to its 'essential' functions. This raises the question of

what the essential functions of the state are, and what is the protection that the common citizen or the people can legitimately expect from the state or the Government. It is obvious that we cannot enter here into a comprehensive discussion on the state. Without entering into a detailed discussion, it must be pointed out that:

- (a) There is perhaps no country in the world where the State has washed its hands of the responsibility of providing any of the social services that are looked upon as ingredients of social security, like the supply of water, elementary medical services, sanitation, elementary education and so on. On the other hand, it can be seen that most states take up and run schemes for area based social security.
- (b) If the State withdraws totally, and leaves social security to be bought, a large percentage, perhaps an overwhelming percentage, of the people of our country will not have access to even elementary social security because they do not

have adequate incomes to buy these services. This may lead to an explosive situation that will affect the security, or law and order that is essential for economic activities, including investment and production. It may also lead to failure in the elimination of crippling communicable diseases, and to insecure health conditions for all. This in, turn, may lead to the deterioration of the quality of 'human resources' available to society.

- (c) It is more likely that private agencies that arrange and offer social security services as a business enterprise, will not be attracted to fields where the room for profits is marginal or where estimated profits do not offer incentives. In fact, this estimate or apprehension has been strengthened by the response that we encountered in the discussion that our study group on social security had with doyens in the field of private insurance. In view of these considerations, the Commission does not find it possible to recommend that the State

should divest itself of all responsibility in the field of social security. Nor does the Commission subscribe to the view that the entire burden of all forms of social security should be placed on the State. It believes that the burden should be lightened to the maximum extent possible through contributions from beneficiaries. Nor can the Commission endorse the view that the functions of the state should be confined to policing and maintaining law and order.

- (d) The contention that only 'welfare states' or socialist states accept 'social responsibility' for social security is not borne out by the beliefs and practices of many, if not most states. The states that are members of the European Community are not generally described as 'welfare states' or 'socialist states.' Yet, the European Union ratified a Convention for the Protection of Human Rights and Fundamental Freedoms and adopted it as the European Social Charter – 1965 (revised in 1996).

8.21 This Convention accepts the responsibility of the State in the field of social security, and specifies:

"Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms... to improve the standard of living and to promote the social well-being of both their urban and rural populations by means of appropriate institutions and action,... the attainment of conditions in which the following rights and principles may be effectively realised.

- All workers and their dependents have the right to social security
- Anyone without adequate resources has the right to social and medical assistance
- Everyone has the right to benefit from social welfare services

- Disabled persons have the right to vocational training, rehabilitation and resettlement, whatever the origin and nature of their disability.

- The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development."

8.22 The convention includes:

- The right to work
- The right to just conditions of work
- The right to safe and healthy working conditions
- The right to a fair remuneration
- The right to organise
- The right to bargain collectively
- The right of children and young persons to protection
- The right of employed women to protection
- The right to vocational guidance
- The right to vocational training
- The right to protection of health
- The right to social security
- The right to social and medical

assistance

- The right to benefit from social welfare services
- The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement.
- The right of the family to social, legal and economic protection
- The right of mothers and children to social and economic protection
- The right to engage in a gainful occupation in the territory of other Contracting Parties.
- The right of migrant workers and their families to protection and assistance.'

8.23 Article 12 – The right to social security says the Contracting Parties will undertake (1) to establish or maintain a system of social security (2) to maintain the social security system at a satisfactory level at least equal to that required for the ratification of the International Labour Convention (No. 102) concerning Minimum Standards of Social Security (3) to endeavour to raise progressively the system of social security to a higher level.

8.24 The right to social and medical assistance as defined in Article 13 also requires the Contracting Parties to undertake, inter alia:

- (i) To ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition.
- (ii) To ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
- (iii) To provide that everyone may receive, by appropriate public or private services, such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
- (iv) To apply the provisions referred to in paragraphs I, II and III of this article on equal footing with their nationals to nationals of

other parties lawfully within their territories, in accordance with their obligations under the European Convention of Social and Medical Assistance, signed at Paris on 11 December 1953.

8.25 The Conventions of the ILO that the Government of India has ratified include Workmen's Compensation, (Occupational Diseases) – (No. 18 and revised Convention No. 42 of 1934); Equality of Treatment (Accident Compensation) – No. 19 of 1925; and Equality of Treatment (Social Security) – No. 118 of 1962.

8.26 Another important international commitment that the Government of India has accepted arises from the ratification of the Covenant of Social, Economic and Cultural Rights of the United Nations. This Covenant, inter alia, recognises the right of everyone to social security including social insurance.

8.27 We have cited all these only to remind ourselves that we have a specific constitutional mandate and international commitments in the field of social security. As long as the mandates are not altered or

terminated, and the international commitments are not repudiated, they will have to be accorded the sanctity that is traditional, customary and legitimate.

8.28 However, this does not mean that we are oblivious of the tremendous demand on financial resources that the fulfilment of all these mandates and commitments will generate. We do not, therefore, want to recommend a system that will only remain in the statute book and seem impractical. At the same time, we have also to remember that the Commission has not been constituted to make recommendations that are limited in their relevance to the immediate present. The Commission cannot fulfil its responsibility unless it takes into account a fairly extended period of time. We have, therefore, to think of the kind of structure or system that can enable us to fulfil our mandate and commitments while taking into account the need to match our programmes and commitments with the resources that we can muster, through contributions from the exchequer and contributions from both sides, the employers as well as the beneficiaries. In a sense, it can

also be argued that both the employers and the employees are beneficiaries since the sense of security that the measures may provide to the worker or the employee will enhance his ability to concentrate on his work, to give his best, and to increase efficiency and productivity.

8.29 Thus, while the words 'social security' do not find explicit mention in our Constitution, the clauses that define Fundamental Rights and formulate the Directive Principles of State Policy (and Governance) leave no doubt about the concern and commitment of the Constitution to the right of citizens to enjoy social security: that the security that is envisaged is not only against aggression and violation of sovereignty by other countries, but also security against deprivation. The concept of social security and the commitment to social security are thus implicit in the Constitution. As we have stated earlier, the judgements of the Supreme Court that clearly declare that the right to life includes the right to livelihood should remove any doubt about the commitment to social security. The right to livelihood includes the right to work, and the right to education that equips us with

the skills that we need for employment as well as the ability to fulfil one's civic and social responsibilities.

SOCIAL SECURITY : A FUNDAMENTAL RIGHT

8.30 It is this integral relationship between employment, education and livelihood that has generated a considerable public opinion in favour of amending the Constitution to include the right to work and the right to primary education as fundamental rights. Others, who have submitted reports before our Commission was appointed, have also endorsed the idea. If one is to go by reports that appear in the press, it seems highly likely that the proposal to include these (education and work) as fundamental rights will be placed before the Parliament in the near future. As we have stated earlier, some Commissions have recommended that the right to social security too, should be included in the Fundamental Rights. There are countries that regard social security as the inalienable right of the citizen. There are International and Inter-Governmental declarations like the Universal Declaration of Human Rights

and the Covenant on Social Economic and Cultural Rights which define social security as a 'human right' or a fundamental right of the human being. Our Government is a signatory to many of these Conventions or Declarations. We have therefore, indicated that we accept the right in principle, even though it is not specifically mentioned in our Constitution. Our Commission too accepts the need to consider social security as a fundamental human right.

8.31 There is a view that the inclusion of the right to social security as a fundamental right will attract justiciability, and that that they may result in creating financial and institutional burdens that we are not ready to bear at this point of time. Taking this view too into consideration, we recommend that as a prelude to making social security a fundamental right, we should immediately incorporate it in the Directive Principles.

8.32 Whether it is accepted as a Fundamental Right or a Directive Principle, or even if the status quo is maintained, the State cannot abdicate the responsibility to provide the

minimum of social security that is necessary to maintain the regime of law and order and to protect society from the chaos and disintegration that will follow if there is a widespread feeling that the State and the system it represents are incapable of, and unconcerned with, providing elementary security to the citizen. The State cannot wash its hands off this responsibility and hope to survive for long. We therefore, believe that even if the State is not in a position to provide social security in all its amplitude as it may have to do when it becomes a Fundamental Right, it must provide at least the basic minimum necessary for the survival of its citizens. We therefore, recommend a system in which the State bears the responsibility for providing and ensuring an elementary or basic level of security, and leaves room for partly or wholly contributory schemes. This will mean that the responsibility to provide a floor will be primarily that of the State, and it will be left to individual citizens to acquire higher levels of security through assumption of responsibility and contributory participation. Such a system will temper and minimise the responsibility of the state, and maximise the role and share of

individual and group responsibility. Thus, there will be three levels in the system:

- a) A basic level where the State or government (including lower levels of governmental authority e.g. local governments) will bear the primary responsibility for providing a minimum level of social security, meeting the cost from subventions from the Exchequer. Of late, this has been described as 'social assistance' that forms part of the social responsibility for social security.
- b) A level where the beneficiary makes a contribution to the cost of social security. The remaining portion of the cost is met by contributions from the employer or the state or both.

Tripartite schemes will provide for the participation of the employer as well as the State, in addition to the contribution of the beneficiary, i.e. the employee. There can be variations in the proportions of the contributions of these three partners, according to increased

paying capacities of the employee and the employer.

Where there is no employer who can be identified, as in the case of the self-employed, or those whose income is too low to permit them to make adequate contributions, the State will substitute the employer, or the employees as the case may be, and assume responsibility to supplement the contributions of the beneficiary workers.

- c) Schemes that confer additional benefits beyond the basic levels of security that those who have the means can subscribe to, as subscribers of policies of insurance.

8.33 The contributions of employees as well as employers can be graded according to their paying capacity. Where the income of the employee is too low or inadequate, the state will take over the responsibility for the remainder. The contribution of the employer too can be graded, the state taking over the responsibility for the remainder of the contribution, where the scale of

operations of the employer is too low and marginal, or where the employer cannot be identified.

8.34 The area in which the state takes the sole responsibility and provides the 'floor' security that every citizen receives, is termed the area of social assistance, the State discharges its responsibility in this area through 'area-based' schemes – as distinct from individual or group-based schemes, since all residents of the concerned area are beneficiaries, and there is no need to identify or include or exclude.

8.35 Thus, there are two zones that can be identified, the zone of social assistance where all citizens are beneficiaries, and the zone of social insurance where beneficiaries make a contribution, in part, or in toto. The cover of social security is extended to all through a combination of the area of social assistance and the area of social insurance. We will discuss our proposals in detail in the succeeding paragraphs of this Chapter.

THE CONCEPT

8.36 The social security situation in India is characterised by ambiguity in

policy and responsibility. There is a variety of schemes but these have been framed at various points of time and, therefore, do not conform to any overall design reflecting a comprehensive and consistent policy or direction. Indeed, till the 9th Five Year Plan, Plans made no mention of social security. The Working Group on Labour Policy set up by the Planning Commission also pointed out that 'the schemes of social security, types of benefits or protection provided thereunder do not conform to any overall plan or design. There is, as a matter of fact, no policy on social security, no plan for social security and the Five Year Plans are practically silent about this important aspect.' However, in the light of what has been said about the Directive Principles and so on, earlier in the chapter, no one can argue that the Indian Constitution (State) does not visualise a regime of social security.

8.37 The concept of social security has evolved in the course of the last few decades. A sense of insecurity seems to be inherent in humans who are exposed to various kinds of risks and dangers. According to the United Nations Development Programme (UNDP), for most

people, a feeling of insecurity arises more from worries about daily life than from the dread of a cataclysmic world event. Will they and their families have enough to eat? Will they lose their jobs? Will their streets and neighbourhoods be safe from crime? Will they be tortured by a repressive state? Will they become victims of violence because of their gender? Will their religion or ethnic origin target them for persecution?

'Human security can be said to have two main aspects. It means, first, safety from such chronic threats as hunger, disease and repression. And second, it means protection from sudden and hurtful disruptions in the patterns of daily life – whether in homes, in jobs or in communities. Such threats can exist at all levels of national income and development.'

8.38 The term social security has been defined differently by various authorities and thus, there is no commonly accepted definition of the term. There are two streams of thought on this issue, one represented by the ILO that limits the scope of social security to maintenance of one's income against

loss or diminution. (This has been described as the protective form of social security). Another view perceives social security in a broader sense. It is a basket of policies and institutions fashioned to enable a person to attain and maintain a decent standard of life. This may be described as a preventive or promotional form of social security.

8.39 According to Dreze and Sen (1991) 'Economic Growth alone cannot be relied upon to deal either with the promotion, or with the protection of living standards. The strategy of public action for social security has to take adequate note of the problems that limit what aggregate expansion can do in enhancing living conditions.' The 'public action' includes measures taken at the level of the State, the community or the family. While Guy Standing (1999) considers the promotion of seven forms of labour security as the essence of social and development policy, Amartya Sen views social security as a system of proper distribution of income and also a right mechanism of wage fixation. Poverty reduction, in this case, is not a separate welfare issue but a question of industrial relations, of

production relations or ultimately, the question of social relations.

8.40 Recently, some new concepts of social safety nets, social protection and, social funds relating to social security have emerged. Social safety nets are measures to mitigate the negative effects of structural adjustments, mostly in the form of cash payments. The Working Group on Labour Policy has distinguished social security from the social safety net, social security being seen as the universal need of all workers while social safety net is seen as that which is necessary for those who are temporarily or permanently thrown out of the system. Social funds are the brainchild of the World Bank for building up local level capacity in local governance. Social protection provides guarantees of basic social support for citizens, based on their needs rather than on their rights (ILO). The World Bank has defined the term as human oriented, capital-oriented interventions. This definition integrates labour market intervention, social insurance programmes and social safety nets. Some analysts like Chatterjee and Vyas have held that social security needs to be viewed as a basic right rather than a charity oriented intervention.

8.41 What kind of social security do we require in the Indian context? For a proper appreciation of this, it is necessary to have a look at the demographic profile of the country. India is a vast country in terms of area as well as population. It has a total area of 3288 thousand Sq. Km. and a population of over a billion that is growing at just under 2% per annum. Dependency is high, with the ratio of the working population to non-workers being 38:62 (1991 census). Out of the nearly 400 million workers, only a third are women. Almost one fourth of the total labour force is estimated to be unemployed or underemployed.

8.42 The occupation wise distribution of employment indicates that 62% of the workers are engaged in agriculture, 11% in industry and 27% in the services sector. A characteristic feature of the employment situation in the country is that the percentage of workers employed on regular salaried employment (16%) is small. The bulk of the workforce is either self-employed (53%) or employed in casual wage employment (31%).

8.43 Even though official estimates

indicate a decline in poverty over time, a large number of people in India still live in acute poverty. The consumer expenditure data of the 55th Round of National Sample Survey Organisation (NSSO) (on a 30 day recall basis) yields a poverty ratio for 1999-2000 of 27.09 % in rural areas, 23.62% in urban areas and 26.1 % for the country as a whole.

8.44 The child population (0-14 years) as per the 1991 Census accounts for 319 million (37.8%), which include 154.00 million female children. Of the total child population, 18.9 million (5.9%) are below 1 year (infants), 38 .1 million (11.9%) are in the age group 1-2 years (toddlers), 73 million (22.8 %) are in the age group 3-5 years (pre-school), and another 189.6 million (59.4 %) are in the age group 6-14 years.¹

8.45 According to the 1981 Census, the estimated figure of working children was 13.6 million. This figure rose to 17.02 million according to the estimates of the 43rd round of the

NSSO conducted in 1987-88. According to the 1991 Census the number of working children in the country was of the order of 11.28 million². The results of the 55th round of NSSO (1999-2000) indicate a reduction in this number.

8.46 The Human Development in South Asia Report 1998 puts the figure of working children in South Asia at 100 million in 1994.

8.47 According to the 1991 Census, India had an elderly (60+1) population of 56 million, of whom the old-old numbered 20 million. It was expected to go up to 71 million by 2001, 96.30 million by 2011, 133.31 million by 2021, 236.01 million by 2041 and 300.96 million by 2051. In terms of the percentage of the total population it was 6.58 in 1991, and is expected to go up to 7.1 % in 2001, 8.2 % in 2011, 9.9.in 2021, 11.39 in 2031, 14.5 % in 2041, and 17.3 % in 2051.³

8.48 According to the National

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¹ Ninth five Year Plan

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² Annual Report Ministry of Labor, 1999- 2000

³ Demography of Aging by Dr. S. Irudaya Rajan (2000).

Sample Surveys conducted in 1981 and 1991, there were 13.68 million disabled persons in 1981 and 16.30 million persons in 1991 who had at least one or other of the four types of disabilities, viz. locomotive, visual, hearing and speech.

8.49 A sample survey conducted in 1991 showed that 3% of the child population were victims of mental retardation. Among the adults, 1% was suffering from various forms of mental disorders; 10 to 15% were suffering from various mental health problems.⁴

8.50 The number of leprosy affected disabled persons was estimated to be about 4 million, of whom about one fifth were children, and above 15 to 20% were persons with deformities. The prevalence of leprosy was more than 5 per thousand in the 196 highly endemic districts in the country⁵.

APPROACH TO SOCIAL SECURITY

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⁴ ibid

⁵ ibid

8.51 Considering all the conceptual issues as well as the demographic profile of the country we feel that no single approach to provide social security to the exclusion of others, will be adequate. The problem has to be addressed by a multi-pronged approach (as stated earlier) that would be relevant in the Indian context. We feel that the term 'social security' should be used in its broadest sense and, it may consist of all types of measures, preventive, promotional and protective as the case may be. The measures may be statutory, public or private. The term encompasses social insurance, social assistance, social protection, social safety net and other such terms in vogue.

8.52 It will not be out of place to mention that the economically developed countries have established social and safety nets on which they are spending up to 40% of their GDP. Developing countries generally, and India in particular, are lagging behind in this area. According to the World Labour Report, 2000, the public expenditure on social security in India is 1.8% of the GDP against 4.7% in Sri Lanka and 3.6% in China. This is a measure of the human

development that these countries have achieved, and the distance we have yet to travel. This report is designed to provide a guide map for better progress on the journey. In the light of the inadequate expenditure on social security in India, it is necessary that plans and programmes be devised to address the needs of diverse vulnerable sections of the people, comprising the total population of India.

8.53 Social Security needs vary in accordance with the definition of the term. Lord Beveridge (1942) listed eight kinds of primary conditions which demand social security. These are:

- a) Unemployment: that is to say, inability to obtain employment by a person dependent on it and physically fit for it, met by unemployment benefit with removal and lodging grants;
- b) Disability: that is to say, inability of a person of working age, through illness or accident, to pursue a gainful occupation, met by disability benefit and industrial pension;

- c) Loss of livelihood by a person not dependent on paid employment, met by training benefit;
- d) Retirement from occupation, paid or unpaid, through age, met by retirement pension;
- e) Marriage needs of a woman met by Housewife's Policy;
- f) Funeral expenses of self or any person for whom one is responsible, met by a funeral grant;
- g) Childhood provided for by children's allowances if in full time education, till sixteen;
- h) Physical disease or incapacity met by medical treatment, domiciliary and institutional, for self and dependants by comprehensive health service and by post medical rehabilitation⁶.

8.54 According to Recommendation No. 67 of the ILO concerning Income

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⁶ Social Insurance and Allied Services: Report by Sir William Beveridge presented to Parliament, Nov. 1942

Security, social security is required for meeting the following types of contingencies:

- a) Unemployment
- b) Sickness
- c) Employment Injury
- d) Maternity
- e) Invalidity
- f) Old-age
- g) Death
- h) Emergency expenses

8.55 The Social Security (Minimum Standards) Convention 102 of the ILO added medical care and family benefits to the foregoing list and dropped Emergency Expenses.

8.56 The World Bank has adopted a typology of risks which consists of:

- a) Natural Disasters
- b) Health
- c) Social
- d) Gender
- e) Economic
- f) Political and

.....
⁷ Social Protection Sector Strategy: from Safety Net to Springboard: the World Bank Group: the Human Development Network

Environmental ⁷

8.57 The root cause of social insecurity in India is poverty and that is largely due to lack of adequate or productive employment opportunities. It is described as 'chronic or structural social insecurity, a 'first-order' type of social insecurity arising from insufficient degree of overall economic development.' It is associated with other insecurities 'emanating from conventional contingencies such as the loss of employment, disability, old age, death, etc.' which are called the 'second-order' type of insecurities or conventional social insecurity. We have to address both.

8.58 The provision of adequate and stable incomes will enable the poor to satisfy their basic needs and thereby, their other social security needs as well. Till then, the State has to assume the basic responsibility of providing social security, especially in respect of those contingencies, which would be difficult for individuals to cover without assistance from the State. The State also has the responsibility to provide the means of livelihood to those who cannot work and earn their living due to childhood,

old age or other infirmities.

8.59 In order to identify the needs of the diverse sections of the population for social security, it is necessary that we classify the total population in various groups. Lord Beveridge classified the population into four classes of working age, and two others below and above the working age. In the same way, the population of India may be classified into a working population, (including the workers) and a non-working population. The working population may again be categorised as wage earners, self-employed, and unemployed. Wage earners can again be divided under the following categories.

- a) Those who are employed in the government sector.
- b) Those who are employed in the organised sector, public or private, excluding government.
- c) Those who are employed in the unorganised sector.
- d) The non-working population that consists of the old, the infirm and the young who are unemployed and unemployable.

8.60 From the point of view of social security the first priority has to be given to people of the last category, namely the old, the infirm and the young persons who are destitute, and constitute the liability of society and the State, and the first charge on the resources of the State. Admittedly, for this class of people social security has necessarily to be provided by means of social assistance.

8.61 Above this class, in terms of priority, are the unemployed. The priority need of this class of people is employment and a source of income. The entire development plan should be geared to meet this need by means of expanded economic activity and growth. This is, however, a long-term goal. One cannot wait until this goal is reached. In the short term or immediate period therefore, in order to prevent starvation for want of purchasing power, it will be necessary to undertake employment schemes, in the nature of public works and the like to provide employment and income to the unemployed.

8.62 Above this class of people are the people who are employed on a casual, temporary or intermittent

basis. They need continuity of employment. Various de-casualisation measures will be relevant in this context. Selfemployed persons also belong to the same class. They too need protection of their employment against the vagaries of nature and of the market.

8.63 Above all these classes are the people who are in regular employment with assured incomes. They only need protection of their incomes against loss or diminution due to the occurrence of contingencies. All people, irrespective of the class to which they belong, need food security, health security, old age security, and the provision of clothing and shelter, if they are below the poverty line and cannot provide for these through their own efforts.

8.64 Women need maternity protection; they also need protection against widowhood, desertion and divorce. Special measures will have to be taken to increase their participation in gainful employment and to raise their economic status. Children need special attention, care and nutrition. Old people also need care and emotional support especially when they are ill.

8.65 Broadly speaking social insurance types of schemes will be appropriate for those who can make contributions, and social security will have to be provided under social assistance schemes to those who are not in a position to make contributions themselves.

8.66 The social insurance schemes may be occupational or area based. While occupational schemes may be appropriate in the case of well-organised occupations, it may be necessary to adopt area based schemes in other cases, particularly for schemes of social assistance.

8.67 As there are numerous occupations in the unorganised sector for which neither the conventional types of social insurance schemes can be applied, nor can welfare funds be set up, the most appropriate strategy to provide social security appears to be through area based schemes. The idea of area based insurance schemes appears to be analogous to the plan recommended by Lord Beveridge in the U.K in 1942. The main feature of this plan was a scheme of social insurance against

interruption and destruction of earning power and for special expenditure arising at birth, marriage or death. The scheme embodied six fundamental principles: flat rate of subsistence benefit; flat rate of contribution; unification of administrative responsibility; adequacy of benefit; comprehensiveness and classification. Based on these, and in combination with national assistance and voluntary insurance as subsidiary methods, the aim of the Beveridge Plan was to make 'want' avoidable. The Plan was applicable to the whole nation on the basis of citizenship.

8.68 In the current Indian context it seems necessary to design similar area specific schemes applicable to the entire population of an area which may be a State, a District or a smaller formation which may, if necessary, be supplemented by special occupation based schemes.

8.69 The Study Group constituted by our Commission has suggested that a Social Security Policy/Plan for India may be based on the following principles:

- a) Classification
- b) Participation
- c) Equity and efficiency

- d) Occupation specific or area specific and need specific
- e) Gender
- f) Adequacy and
- g) Unified administration

8.70 As has been stated in earlier paragraphs, the State has to bear the responsibility of assuring a basic minimum of security to all citizens. This may be supplemented by other institutions through contributory insurance schemes, welfare funds etc.

8.71 In his opening speech to the 27th General Assembly of the International Social Security Association (ISSA), Shri Johan Verstraeten, President of the ISSA said that our ultimate goal should be to move from basic minimal protection of some residents to a much more ambitious promise of benefits, adequate and universal coverage for all residents; because the objective of social protection is not only subsistence, but social inclusion and the preservation of human dignity.

8.72 'In principle, everyone has the right to be covered by a social security scheme regardless of

nationality, race, gender or religion. As many workers as possible should be brought within the scope of social security schemes based on the solidarity principles of compulsory membership and uniform treatment.

8.73 'We, therefore, need to shift from residual and crisis-related safety nets to the development of permanent, sustainable and redistributive social security systems. But more rapid attainment of universal access to basic social services will require both a relaxation of resource constraints and a reallocation of available resources to higher social priority uses, though the appropriate balance of these often financially conflicting requirements will depend on

national circumstances.'

Before we go into the details of the social security system and schemes that will be suitable for our country, it will be in order to review the existing legislations, programmes and schemes that provide social security to different categories of workers.

8.74 In this discussion, the organised sector includes the government sector, the public sector (other than government) and the private organised sector. The government sector can further be divided into the Central Government, State Governments and local and other autonomous bodies. The public

	sector includes the organisations controlled by the Central Government as well as by the State Governments. The size of the organised sector can be seen from the following:	
1.	Total workforce (1999-2000)	393.21 million
2.	Estimated total number of persons employed on 31.3.99	
a)	Public sector	19.42 million
b)	Private sector	8.70 million
3.	Estimated number of persons employed in:	
a)	Central Government	3.31 million
b)	State Government	7.50 million

- c) Quasi Government bodies
6.40 million
- d) Local bodies
2.26 million

(Source: NSSO 55th Round for (1) and Employment Review DGET 1999)

8.75 The estimated number of persons employed in the private sector includes 5,40,000 persons employed in agriculture, hunting, forestry and fishing, and plantations.

8.76 Our report deals primarily with social security in the non-governmental sector as employees in the government sector are covered under schemes that are framed by rules issued under Article 309 of the Constitution in accordance with the recommendations of Pay Commissions, Pay Committees, etc.

8.77 Employees in the organised sector are generally covered under the benefits provided under employer's liability schemes which include the Employer's Liability Act, Fatal Accident Act (1855), Workmen's Compensation Act 1923, Industrial Disputes Act 1947, The Maternity Benefit Act, 1961 and the Payment of Gratuity Act, 1972. In addition, the Employees State

Insurance Act 1948 provides for medical care and income security benefits for health-related contingencies on a contributory basis. Thus, it is a social insurance scheme. The Employees Provident Funds and Miscellaneous Provisions Act 1952 is a saving scheme in which benefits are in the nature of old age, invalidity and survival benefits. All these Acts will be discussed in detail in later paragraphs.

8.78 A number of Conventions and recommendations of the ILO relate to social security (A list of these appears in the annexure). The laws enacted in India are on the lines of the Conventions and Recommendations of the ILO, although all the Conventions have not been ratified by India. The Study Group on Social Security constituted by our Commission felt that it might not be possible to ratify all the Conventions immediately, but it is desirable to plan for their eventual ratification by upgrading laws and practices gradually, beginning with the Minimum Standard Convention which may be ratified within a reasonable period of time. The Commission endorses the view of the Study Group.

8.79 Employment injury benefits are covered by the Workmen's Compensation Act and Employees State Insurance Act. In India, the concept of social security may be traced to the pre-independence era when the Workmen's Compensation Act 1923 was enacted. The Act covers persons employed in factories, mines, plantations, railways and other establishments mentioned in Schedule 2 of the Act, and is meant to compensate them in case of industrial accident/occupational diseases resulting in disablement or death. The workers and dependants not covered under the ESI Act are eligible for compensation under this Act for work-related injuries. The Act is administered by Commissioners appointed by the State Governments. Detailed regulatory provisions have been made in the Act and the rules have been framed accordingly. It is the employers' liability to pay the compensation. They may insure against this liability with a private insurance company. However, there is no provision for medical treatment or rehabilitation for disability under the Act.

**SOCIAL SECURITY:
MAIN LEGISLATION**

8.80 The Employees State Insurance (ESI) Act 1948 is the first legislation relating to social security which was adopted by the country after Independence. The Adarkar Plan and the suggestions made by the ILO experts were incorporated in the Workmen's Insurance Bill of 1946 which was passed by the Central Legislative Assembly in April 1948 as the Employees State Insurance Act. The ESI Scheme aims at providing health care and cash benefits in case of sickness, maternity and employment injury. It is applicable to employees drawing wages not exceeding Rs.6500/- per month. It covers employees of factories and other establishments having a minimum of 10 workers using power, and 20 not using power. The Scheme is primarily a social insurance scheme. The ESI Act has so far been implemented in 20 States and 2 Union Territories, but even in them, all areas have not been covered by the Act. At present, it covers areas with a concentration of 500 or more insurable population. The coverage also depends upon the ability of the State Government to make arrangements for providing medical benefits. There are several areas

with more than 1000 employees where the Act is yet to be implemented. Seasonal factories, mines, and plantations have not been covered under the Act. It also does not cover the unorganised labour or self-employed workers. Out of the labour force of 393.21 million (2001), about 8.00 million workers have been covered under the ESI Act.

8.81 The ESI Scheme is a contributory scheme, and the contributions are made by employers, employees and the government. The rates are prescribed by the Central Government. From 1.1.1997, employers have to pay 4.75% of the wages and employees have to pay 1.75%. Employees whose average daily wages are below a specified amount (Rs.40) are exempted from contributions.

8.82 The cash benefits under this scheme are 70% of the wages as monthly pension for death or permanent total disability, and the same amount is paid for temporary disability for the disability period.

8.83 The ESI Scheme is administered by the Employees State Insurance Corporation which is a multipartite body consisting of

nominees of Central and State Governments and representatives of employers and employees. There is also representation from medical personnel. The Corporation has a three-tier set-up that includes the headquarters, regional offices and primary unit local offices. The administration of medical benefit is the responsibility of the respective State Governments except in Delhi where it has been taken over by the Corporation itself. The State Insurance hospitals, dispensaries and panel doctors are under the control of the respective State Governments.

8.84 India is one of the first countries to enact laws for maternity protection. Article 42 of the Constitution of India requires that the States should make provision, inter alia, for maternity relief. The Maternity Benefit Act enacted in 1961 applies to all factories, establishments, plantations, mines, and shops where 10 or more persons are employed. Maternity benefits are also provided under the ESI Act, and an insured woman is entitled to maternity benefit in the form of periodical payments in case of confinement, miscarriage or sickness arising out of pregnancy. They are also entitled to

medical care under the ESI Scheme for maternity, and where medical facilities are not available they are paid a sum of Rs.250 for the purpose. The factories or the establishments to which the provisions of the ESI schemes apply are excluded from the purview of the Maternity Benefit Act. However, women drawing wages above the wage ceiling under the ESI Act are entitled to be benefited under this Act. There is no wage limit for coverage under the maternity Benefit Act. Payments are made for actual absence upto 12 weeks on average daily wages, minimum wage or Rs.10. The Act is administered by State Governments. There are comprehensive regulatory provisions in the Act. Women employees who complete 80 days of work prior to delivery are entitled to maternity benefits. The provisions in the ESI Act for medical benefit are more comprehensive than those under the Maternity Benefit Act, in so far as they include medical care, and pre and post-natal care.

8.85 Maternity protection in India is provided by some other schemes too such as Beedi and Cigar Workers (Conditions of Employment) Act,

Beedi And Cigar Workers Welfare Fund, Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act 1955, etc. A National Maternity Benefit Scheme (1995) has also been introduced under National Social Assistance Programme (NSAP) to provide financial assistance to women who are below the poverty line. Many State Governments too have their own maternity assistance schemes.

8.86 The Employees' Provident Funds, and Miscellaneous Provisions Act, 1952 was enacted with the object of providing old age invalidity and survivorship benefits to the workforce in the organised sector. The Act covers factories and establishments employing 20 or more employees in scheduled industries and other establishments notified by the Central Government. The employees drawing pay upto Rs.6500/- per month are covered under the Act. There is a provision for voluntary coverage and also for continuance of coverage of a person even after he crosses the ceiling. During 1952, the Act covered 1.2 million workers employed in about 1400 establishments in six major industries namely cement, cigarettes,

electrical, mechanical or general engineering goods, iron and steel, paper and textiles including jute. By March 1998, the Act covered 21.2 million workers in 2,99,000 establishments covering 177 industries/business. The Family Pension Scheme was introduced in 1971 which was substituted by the Old Age Invalidity And Survivorship Pension Scheme 1995. The Employees Deposit-linked Insurance was also introduced in 1976 under the Act. Employers and employees contribute 10 or 12% of the wages to the Fund. Generally, the Act does not cover the unorganised sector workers and the self-employed. It is administered by the Government of India through the Employees Provident Fund Organisation (EPFO) with its 17 regional offices, 82 sub-regional offices and sub-accounts offices, 162 inspectorate offices, 12 service centres and 6 training centres. Apart from the terminal disbursement, the EPF permits withdrawal for purposes of life insurance policies, house building, medical treatment, marriage, higher education, etc.

8.87 The PF scheme is being amended to enable the workers to get their claims settled within 2-3

days. A new comprehensive EPF Scheme based on information technology is on the cards. The modified scheme titled 'Reinventing EPF India' is to establish a system in which a worker can get the information from 267 outlets across the country. A National Registration Identity Number will be given to each member of the Fund along with a smart card carrying the employee's profile. This registration number will remain the same regardless of any change in employment. Casual and migrant labourers too will be benefited. The first phase of the revised scheme has been implemented with effect from Oct. 2001 in six clusters in Indore, Kota, Gurgaon, Patna, Mangalore and Hyderabad. Besides the EPFO Act, the following enactments provide for the establishment of provident funds:

- a) The Coal Mines Provident Funds Act, 1948
- b) Seamen's Provident Fund Act, 1966
- c) The Assam Tea Plantations Provident Fund Act, 1955
- d) The Jammu and Kashmir Employees Provident Fund Act, 1961.

8.88 Besides, there are many provident funds under the P.F. Act of 1925.

8.89 The Government of West Bengal has recently started a State Assisted Scheme of Provident Fund for Unorganised Workers (SASPFUW). All workers employed in any industry in the unorganised sector and in any of the self-employed occupations listed in the annexure to the scheme are covered under this programme. All wage employed and self-employed workers between the age of 18 and 55 years in the unorganised sector in the State of West Bengal having an average family income of not more than Rs. 3,500 per month are eligible under this Scheme. However, workers already covered under the EPF Act, are not eligible. This is a contributory scheme, and the subscriber worker has to contribute a sum of Rs.20 per month, and the State Government will contribute an equal matching amount. Collections may be at the local levels, and passbooks have to be issued to all workers. The State Government will bear all administrative expenditure.

8.90 As we have pointed out earlier, government employees are covered by separate rules framed under

Article 309 of the Constitution. There is also a Public Provident Fund and other such funds recognised under the Income Tax Act in respect of persons who are not covered by the law.

The Payment of Gratuity Act 1972 applies to factories, mines, oilfields, plantations, ports and railway companies and to shops and establishments employing 10 or more persons. Some other establishments are also included by notification, i.e. motor transport, clubs, chamber of commerce and industry, inland water transport, local bodies and solicitors' offices. Gratuity is in the nature of a terminal benefit, paid lump sum, complementary to periodical pension payments. Five years' continuous service is required for entitlement to gratuity. The gratuity is paid at the rate of 15 days wages for every completed year of service or part thereof in excess of 6 months, subject to the maximum of Rs.3.50 lakhs. In case of seasonal industries it is the rate of 7 days wages for every completed year of service. The wage ceiling for coverage under the Act has been removed from May 1994. The Act was amended in October 1997 requiring an employer

to obtain insurance for his liability for payment of gratuity under the Act from the LIC. To ensure effective implementation of the Act, employers are required to get the establishment registered with the controlling authority, which the appropriate government may appoint. The Act also provides for penalties on the employers who fail to comply with the provisions of the Act.

8.91 The legislative provisions for lay off and retrenchment compensation are contained in the Industrial Dispute Act of 1947. Retrenchment covers all separation of workers other than through voluntary retirement, superannuation, termination of the service of the workman, after an expiry of an employment contract and termination of service on the basis of continued illness of a workman. According to Section 25-C, the laid off workers are entitled to a compensation (equal to 50% of the total of the basic wages and dearness allowance) for the laid off period in case they have completed one year of continuous service, subject to certain conditions contained in Section 25-E. In case of retrenchment, workers have to be paid fifteen days' wages for every completed year of

continuous service or any part thereof in excess of the six months.

8.92 The Government of West Bengal has recently introduced a scheme named 'Financial Assistance to the Workers in Lockout Industrial Units (FAWLIU).' The basic objective of the scheme is to for reopen closed units. For this purpose, a sum of Rs.50 crores has been earmarked in the State budget. It is also envisaged that some kind of financial relief may be given to workers who are out of employment due to closure in the State. A separate provision of Rs 50 crores has been made for this purpose. The workers are entitled to a cash assistance of Rs.500 per month with effect from 1.4.98. Units which have been in operation for more than 5 years prior closure and which are registered under the Factories Act, 1948 or the Plantation Labour Act of 1951 are covered under this scheme. The scheme is basically intended not for providing compensation for the loss of income but to provide some relief to the workers. A separate cell under the Labour Directorate is to operate the scheme and the State Government is expected to review it from time to time.

8.93 While reviewing the existing legislation, we find that although there are several social security schemes in force in India, their coverage is limited in several respects. It should also be pointed out that there is no uniformity in the coverage of various schemes. The EPF Act is applicable to certain specified classes of industries and establishments while the ESI Act is applicable in specified areas of factories and some specified classes of establishments. The Payment of Gratuity Act restricts its coverage in terms of the number of persons employed, and the Workmen's Compensation Act (WC Act) has a specific definition of 'workman.' ESI and EPF Acts are not applicable to establishments employing less than 20 persons except in the case of factories using power for which minimum number of workers is 10 for coverage under the Employees State Insurance Act. The application of some of the laws is also subject to a wage ceiling. This wage ceiling too does not have uniformity. The ESI Act and the EPF Act are applicable to employees drawing wages not exceeding Rs.6500/-. The ceilings have been removed for coverage in case of the P.G. Act and the W.C.

Act. For purposes of benefits, there is a ceiling of Rs.4000/- under the W.C. Act.

The Task Force on Social Security recommended that 'wage ceiling and employment threshold can and should be uniform with a provision for raising the wage ceiling and its eventual removal and lowering employment threshold and its ultimate removal.' Our Study Group endorsed this recommendation. The Commission also agrees with it.

8.94 The W.C. Act contains a list of persons who are included in the definition of 'workmen' that has been given in Schedule II of the Act. The definition of 'workmen' given in the Act restricts its applicability. The Royal Commission on Labour 1929, The National Commission on Labour 1969, the Law Commission of 1974, the Economic Administration Reforms Commission, 1984, the Law Commission of India 1989, and others have recommended widening of the coverage of the Act. But this has not yet been acted upon. The Royal Commission did not favour the adoption of an all embracing definition of 'workmen' on the ground that the law giving all employees the right to

claim compensation would fail to prove effective unless some form of compulsory insurance was adopted, but it did not discourage a substantial enlargement of the number of persons covered by the Act. The Commission held that the method of advance should be to include first workers in the organised branches of industry, whether these are hazardous or not, and secondly, to gradually extend the Act to workers in less organised employment, beginning with those who are subjected to most risk.'

8.95 The National Commission on Labour (1969) considered that all workmen including supervisors employed in the occupation covered under the Act should be eligible without any wage limit for compensation for worker injury (this recommendation was implemented in 1984). The Commission suggested that 'A scheme of a Central Fund for workmen's compensation should be evolved. All employers should pay to this Fund a percentage of total wages as monthly contribution to cover the cost of the benefit and administration. The Fund should be controlled by the ESIC. Periodic cash payments may be made to injured workers and their dependants by the Corporation

through its local offices in the same way as payments are made at present for various benefits under the ESI Scheme.'

8.96 This Commission agrees with the suggestions made by our Study Group on Social Security that

- a) 'the term 'workman' may be replaced by the term 'employee' so as to make the Act applicable to all categories of employees doing away with the distinction between clerical staff, supervisory and managerial staff and others on the one hand, and between persons employed on a casual basis or otherwise on the other.
- b) The term 'employee' may be defined to mean any person employed in any employment specified in Schedule II.
- c) The entries in Schedule II may be revised as per the National Industrial Classification so as to make it applicable to all classes of employees progressively within a time frame, if not immediately, with an omnibus provision as contemplated

earlier, and referred to by the Economic Administration Reforms Commission.

- d) The following types of restrictive clauses where-ever they occur in the schedule may be omitted:

'Otherwise than in clerical capacity'

'in which on any one day of the preceding twelve months ten/ twenty/twenty-five/ fifty or more persons have been so employed'

'whose depth from the highest to the lowest point exceeds twelve feet' etc.

8.97 The provisions under the ESI Act and the W.C. Act relating to occupational injury are not similar. There seems to be no justification in making a distinction between the two laws as to what constitutes an occupational injury. It is therefore, suggested that provisions in the W.C. Act may be made similar to those under the ESI Act. The W.C. Act should be converted from an employers' liability scheme to a social

insurance scheme, its coverage should be progressively extended to more employments and classes of employees, and the restrictive clauses in Schedule II of the Act should be removed.

8.98 The ESI Scheme was introduced with high expectations. The then Minister of Labour, while moving the ESI Bill in the Parliament, had declared that every citizen would be covered by the scheme. But this has not happened, and the coverage has remained more or less static for a decade or more.

8.99 Several committees and commissions have made recommendations for providing maternity benefits. The ESIC Review Committee, 1966, recommended enhancement of the rate of maternity benefits from half the average wage to full average wage of the insured woman. The National Commission on Labour 1969 recommended that a central fund should be established for maternity benefits but this recommendation has not been implemented. The Economic Administration Reforms Commission observed that 'while the coverage itself is not sufficiently wide, effective

access is further limited due to lack of awareness, and on account of evasion and avoidance by employers. Moreover, the liability for maternity benefit induces a tendency not to employ women or having employed them, to discharge them when pregnant.' The National Commission on Self Employed Women also recommended the establishment of a Central Fund for the purpose. The Forum for Crèches and Child Care Services (FORCES) has observed that a more comprehensive legislation is required for giving maternity benefits which should 'cover all women and not only women workers; should provide not only maternity leave and cash benefits but should also cover the nutritional and health needs of women, and provide wage and employment security.'

SOCIAL SECURITY AND WOMAN

8.100 So far as the organised sector is concerned, the existing provisions for maternity benefit should be extended so as to be applicable to all women workers. There are three ways of doing so: one is to extend the application of the Maternity Benefit Act, the other is to extend the application of the ESI Act, and the

third is to extend the scope of the Welfare Fund and other special employment schemes. Since the ESI Scheme is a composite scheme, its extension is conditioned by many factors. Suggestions have therefore been made elsewhere that it should be restructured in such a way as to make it possible to extend the provisions of the Act so far as employment injury and maternity benefits are concerned throughout the country, to all classes of establishments, subject to such limits as may be necessary with respect to the number of persons employed. In the meantime, the application of the Maternity Benefit Act may be extended to all classes of establishments where women are employed in large numbers.

8.101 As we have stated above, the Maternity Benefit Act is presently applicable to all factories, mines, plantations, shops and establishments and a few other classes of establishments. There are many other classes of establishments where women are being employed increasingly, to which the Maternity Benefit Act is not applicable. We recommend that those classes may be brought within the scope of the

Act on priority basis by following the National Industrial Classification. Some of these are mentioned below:

- a) Aviation
- b) Building and construction industry
- c) Transport and communications
- d) Trade and commerce
- e) The Services Sector, namely
 - Educational and scientific services
 - Medical and health services
 - Religious and welfare services
 - Legal services
 - Business services
 - Community services and trade and labour associations
 - Recreation services
 - Personnel services
 - Other services etc.

8.102 Maternity benefits being based on the principle of employer's liability, the financial feasibility for the extension of the Act depends upon the capacity of the employers to pay the benefit. This capacity varies according to several factors and cannot be generalised with reference

to the nature of the industry or occupation. According to Convention 103 of the ILO, in no case should the employer be individually liable for the cost of the benefits. It is, therefore, very essential that the scheme of the Act should be converted into social insurance. This object can be achieved if the Maternity Benefit Act

is integrated with the ESI Act. If that is not feasible, the question of introducing a separate social insurance scheme exclusively for maternity benefit or in combination with the employment injury benefit may be considered. A number of studies have indicated general dissatisfaction with the working of the various legislative measures. The evidence submitted before the Commission in various States also pointed out some of the drawbacks in the legislation. To quote a few: in the case of the ESI Act, the complaints are about the inadequacy of the hospital and dispensary facilities, delays in payment, and payment of cash in lieu of hospitalisation facilities. In the case of the Maternity Benefit Act, the complaints relate to alleged bias against women in employment, lack of awareness on the part of women about their entitlements, etc.

Appropriate measures should be taken to remedy these defects. So far as women in the unorganised sector are concerned, there is undoubtedly a need for a separate legislation for providing maternity benefits. Its implementation is possible through Welfare Funds or area-based schemes.

HEALTH INSURANCE

8.103 A more fundamental policy question which concerns us, is the scope of health insurance in India. Whether it is necessary or feasible to develop health insurance under social security, parallel to public health and medical service for the entire population. If not, how will the systems be integrated or coordinated? The National Health Policy assigns a minor role to health insurance to supplement the public services. The running of the medical services by the ESIC, parallel to the National Health Service might have been a historical necessity at the time when the ESI Scheme was introduced. The object and scope of the Scheme needs to be reviewed in the current context when public as well as private medical services have increased.

8.104 It does not seem possible to extend the existing composite scheme of the ESIC to all sections of the workforce and all parts of the country in the near future. The Corporation has, therefore, to take a decision to delink the employment injury and maternity benefits from the medical benefits, and to extend the application of the ESI Scheme for the purposes of these benefits throughout the country. Alternatively, separate social insurance schemes confining to these benefits will have to be evolved.

8.105 A High Power Committee has recommended that 'the Act may suitably be amended to empower the Corporation to formulate and introduce new schemes of benefits and contributions, to modify any of the existing schemes including duration of contribution and benefit periods as well as of qualifying conditions for eligibility to benefits for seasonal and agricultural wage earners and for any other employees or class of employees.' The ESIS Review Committee, 1982, also made a similar recommendation. This Committee specifically recommended that casual, temporary and badli workers should be insured only for maternity, medical

and employment injury benefits, and should be exempted from payment of any contribution.

8.106 The Working Group on Social Security of the Economic Administrative Reforms Commission recommended a basic reform of separating the medical benefits from the cash benefits, and felt that the pre-eminent position given to medical benefits in kind should be reconsidered. The ESI Scheme is basically an insurance scheme which is a finance function. Medical services can be provided directly or indirectly. It is not necessary that direct provision of medical services should be an essential part of the scheme. The service may be provided by anyone who has the facilities, and the Corporation may pay for it under an appropriate arrangement. Indeed, there is a trend in the direction of market-based methods of providing health care. The ESIC itself has taken certain steps in that direction. That being so, the argument that since the provision of medical benefits is the primary function of the ESIC, it cannot be extended merely to provide cash benefits without the medical benefits is no longer valid. Our Study Group

on Social Security therefore, has strongly urged that the benefit structure of the ESI Scheme be unpacked, and provision be made for extension of the scheme for one or more benefits separately or in groups. The Study Group further suggests that immediate steps be taken to extend the scope of the Act for purposes of employment injury benefit and maternity benefit throughout the country without waiting for the corresponding provision for medical benefits. This Commission agrees with the views of the Study Group.

8.107 There is a view that the cash benefit component of the scheme cannot be separated from the medical benefits because the title to cash benefits is based on the medical certificates issued by the Authorised Medical Officers. However, considering that the WC Act and the Maternity Benefit Act are being implemented without any provision for medical care, and also the fact that arrangements can be made to accept certificates issued by Government and other qualified Medical Officers, we feel that arrangements for own-medical-care set up is desirable, but not essential for administration of

cash benefits.

8.108 When the constraints on extension of the ESI Scheme are removed as suggested in preceding paragraphs, there would be no justification for retaining the other restrictions on the application of the Act, namely, the number of persons employed, the areas and sectors of employments to be covered and the wage ceiling. They may all go. If necessary there may be a ceiling on wages for purposes of contributions and benefits only as in the Payment of Bonus Act and the Workmen's Compensation Act.

8.109 Casual and contract workers may be covered for limited benefits at reduced rates of contribution as recommended by various committees and the ILO.

8.110 The existing medical facilities available with the Corporation, along with the purchase of services from other agencies with whom the Corporation can enter into agreements, may be used for providing services to all classes of workers who wish to join the scheme.

8.111 There is a provision in the ESI

Act for grant of exemption to establishments with arrangements to provide similar or superior benefits. The Commission endorses the view of the Study Group that such exemption may be granted in cases where establishments satisfy the prescribed conditions. Moreover, the schemes need restructuring. One way could be to divest the States of their responsibility for medical benefits and transfer the functions to the Corporation. Another way is to create a separate organisation for administration of medical benefits, the ESIC being responsible only for cash benefits. The Study Group favoured the second alternative. Since the ESI Scheme is a contributory scheme, the rates of contribution should be fixed on an actuarial basis, and be free from collective bargaining. Unless the rates of contribution are so fixed as to compensate for the loss of the revenue due to exemption by recovering additional amounts from other insured persons, the Corporation would have to be subsidised by the Government. This would be true in the case of weaker sections of people with low incomes.

8.112 The State Governments make a contribution to the Scheme to the

extent of 1/8th (12½%) of the cost of medical benefits. In addition, they are required to bear expenditure in excess of the ceiling fixed by the Corporation for purposes of reimbursement. Imposition of the ceiling appears to be unrealistic, and has been resented by the State Governments who are demanding its withdrawal. Further, the ceiling appears to be one of the reasons for the unsatisfactory service provided by the State Governments in the ESI hospitals and dispensaries run by them. The Study Group, therefore, has suggested a review of the decision to impose a ceiling, and the level of the ceiling, and to consider the desirability of its withdrawal. The Commission agrees with this suggestion.

8.113 It is said that the real issue and indeed the real challenge in the administration of a health insurance scheme is for the executive to understand the multi disciplinary character of the tasks involved in both health insurance and the delivery of healthcare. The managers will have 'to develop a strong professional cadre within the system.' In other words, the management of the scheme should

be professionalised. While a tripartite body may continue to remain the general body, day-to-day administration may be entrusted to a body of experts who should constitute the governing body.

8.90 8.114 The ESI Scheme has provision for payment for funeral expenses. It is suggested that it should be substituted by the term emergency expenses so as to include care of the sick and the elderly members.

PROVIDENT FUND

8.115 In earlier paragraphs, we have discussed the Provident Fund Act and other provident fund Schemes. There is an obvious multiplicity of provident funds in the country. In a similar situation, Sri Lanka is reported to have enacted a law as early as in 1975 to consolidate all the provident funds into the Employees Provident Fund. A similar law to place all the provident funds under a common regime seems to be called for in India too.

8.116 After the introduction of the Employees Pension Scheme in 1995, it has become necessary to redefine

the object of the EPF Act. It is particularly necessary in the context of the suggestions from various quarters to deliberalise the provisions in the EPF Scheme permitting premature withdrawal from the provident fund which tend to reduce the amounts available for old-age. Several suggestions have also been made from time to time for further extension of the coverage of the Act.

8.117 The Old Age Security and Income Security (OASIS) Committee has suggested that the existing restriction limiting provident fund contribution to 177 (now 180) industries/classes of establishments should be abolished. All establishments should be covered by provident funds. The Task Force on Social Security has also suggested that the Schedule of industries for extension of coverage should be dropped. There is now no reason to delay the implementation of these recommendations. The Commission agrees with these recommendations and suggests that the Act be made applicable to all classes of establishments, subject to such exceptions as may be considered necessary for specified reasons.

8.118 There are also suggestions regarding the applicability of the Act as per the number of persons employed. The OASIS Committee has made a recommendation that the minimum number of employees in an establishment (to be eligible for provident funds) should be lowered from 20 to ten and eventually to 5. Recently, the Task Force has reiterated this recommendation and urged that the employment threshold should be brought down to 10 immediately, to 5 during the next 3-5 years, and to 1 within a short time frame thereafter. The Commission agrees with these suggestions.

8.119 Section 16 of the Act provides that the Act will not apply to co-operative societies employing less than 50 persons and working without the aid of power. The rationale of excluding co-operative societies on this ground has not been spelt out. The Ramanujam Committee recommended withdrawal of the exemption in favour of co-operatives employing less than 50 persons so that they might be covered like other establishments if they employed 10 or more persons and had completed the infancy period of three years. This recommendation has not,

however, been implemented so far. The Task Force has also recommended removal of this restriction.

8.120 Our Study Group has also suggested that the special dispensation granted to co-operatives is not warranted, and should be removed. We endorse this view.

8.121 According to Para 26(a) of the E.P.F. Scheme, every employee employed in, or in connection with the work of a factory or any other establishment to which the scheme applies, shall be entitled, and is required to become a member of the fund from the very first day of his employment. This paragraph has brought within the scope of the Act, workers employed on casual or temporary basis. One of the main sections employed as casual labour as well as contract labour, consists of construction labour. Employment in this industry is characterised by discontinuity and large-scale mobility. The P.F. accounts are maintained by the E.P.F. organisation establishment wise. When a worker changes his employer, his account will have to be transferred from one establishment to another establishment. If it is not

transferred, it will remain ineffective or inoperative and the subscriber may not get the benefit of the contribution. Recovery of contributions in respect of contract labour has therefore, created many administrative problems. While legally, there is no doubt about the liability for payment of contributions in respect of contract labour, it is extremely doubtful if practically it has been possible to enforce the provisions of the law in this regard and to ensure that they benefit workers. It has also been pointed out that workers in the construction industry are averse to deductions being made from their wages towards provident fund because there is no guarantee that the deductions would be credited to their accounts.

8.122 The Study Group constituted by us, commissioned a quick study to see whether the coverage of casual and contract labour has served the purpose for which it was intended. The study revealed that the provisions to cover persons employed on casual or on contract basis were operating largely to the disadvantage of the workers. Firstly, in many cases, although the

workers are not registered with the EPFO the employers deduct contributions from their wages but do not remit them to the EPFO. Thus, the deduction of the contributions operates as an unauthorised deduction.

Secondly, as the persons change their employer frequently, their accounts would have to be transferred from one code number to another, which does not happen. Many accounts opened in their names remain frozen and become inoperative. The EPFO does not keep the addresses of the subscribers and is therefore, not able to track them from employer to employer or from place to place. Thus, the amounts in these accounts remain unclaimed and are transferred to the Unclaimed Deposit account. There is a large amount lying in the unclaimed deposit account of the EPFO, and there is reason to believe that this amount belongs largely to such members. Although the EPF Scheme requires that every employee should be provided with a passbook, the Organisation has failed to supply the passbooks. But, as stated in earlier paragraphs, with the introduction of computerisation such problems can be tackled.

8.123 The OASIS Committee has also recommended that each provident fund member should be allotted a unique identification/account number spanning across all Provident Funds for comprehensive portability of accounts during job changes and temporary unemployment. The 37th Session of the Indian Labour Conference has also made a similar recommendation.

8.124 We further suggest that appropriate provisions be made in the Act to enable the Organisation to frame different schemes with different contributory and benefit packages for application to different classes of establishments employees and persons. This is particularly necessary to make the Act applicable to self-employed people.

8.125 Section 17 of the Act provides that the appropriate Government may, by notification in the official gazette, and subject to such conditions as may be specified, exempt from the operation of all or any of the provisions of any scheme any establishment to which the Act applies. As per the Annual Report for the year 1999-2000, the exempted establishments were in arrears of

contribution to the extent Rs.469 crores as on 31-3-2000, as against the total arrears of Rs.589 crores in respect of unexempted establishments. The representatives of the workers on the Central Board of Trustees have been generally opposed to the exemption. On the other hand, the representatives of the employers favour the continuance/extension of the exemption. The argument against the exemption is that the employers of the exempted establishments tend to misuse the funds. The protagonists of exemption, on the other hand, say that the exempted establishments render better services to the workers than the EPF organisation which has tended to be ineffective.

8.126 Having regard to these facts, the Commission suggests that the EPFO organise an inquiry into the working of all exempted funds by an independent agency and review the entire scheme of granting exemptions from the provisions of the Act.

8.127 The E.P.F. Act has been amended recently to the effect that the Central Government may, on application made to it by the employer and the majority of the

e m p l o y e e s in relation to an establishment employing 100 or more persons, authorise the employer to maintain a provident fund account in relation to the establishment, subject to such terms and conditions as may be specified in the Scheme. This amendment is yet to be given effect. The Commission understands that there is a proposal to delete this provision

8.128 Considering the likely expansion of the coverage of the Schemes under the EPF Act, there seems to be a greater need for decentralising the administration of the schemes. One way to decentralise the administration is to authorise more and more employers to administer their own Provident Funds, the EPFO acting as a regulatory authority. But this should be done without prejudice to the interests of the subscribers.

8.129 Section 6 of the Act provides that the rate of contribution should be 10% of the basic wages and dearness allowance. The Act further provides that in its application to any establishment or class of establishments, which the Central

Government may by notification specify after due enquiry, prescribe a higher rate of contribution of 12% may be prescribed. The Act does not lay down the criteria for enhancing the rate of contribution. It is suggested that the Act be amended so as to do away with the distinction between different classes of establishments for purposes of the rate of contribution. This is, however, without prejudice to the suggestions made elsewhere to provide for different packages of contributions and benefits for different classes of employees.

8.130 As mentioned earlier, the amount of contributions in arrears under the Scheme as on 31.3.2000, was Rs. 1058 crores, including Rs. 469 crores shown in respect of the exempted establishments. Considering the ever-increasing arrears, our Study Group felt that foolproof methods should be evolved to minimise arrears. The Study Group has suggested that the EPFO streamline the procedure for tackling the default employers speedily and to recover the arrears promptly. We agree with the proposal.

8.131 The contributions recovered after deduction of the payments on account of the E.P.F. Scheme are to

be invested according to a pattern laid down by the Government of India from time to time. The National Commission on Labour (1969) had suggested that the PF accumulations should be invested in securities yielding higher returns, as far as possible consistent with the security and safety of the fund, to enable the members to get higher rates of interest. Subsequently, there have been many changes in the money market and many suggestions have been made for engaging professional experts for managing investments. The OASIS Committee has pointed out that inefficient asset management with low rates of return is one of the flaws of the EPF.

8.132 We suggest that:

- (a) The EPFO should have its own mechanism for investment of its balances as the LIC and the GIC have; and, for this purpose, financial experts should be inducted into the organisation at various levels.
- (b) Investment patterns should be further liberalised
- (c) Government may consider issuing of indexed bonds for

investment of PF balances assuring a fixed real rate of return.

8.133 The average rate of interest earned on the investments has not been disclosed in the report of EPF. It is suggested that the investors in these schemes should be assured of a minimum real rate of interest above the rate of inflation.

8.134 The EPF Scheme provides for non-refundable withdrawals from the P.F. accounts of the members for a variety of purposes:

- a) Financing of life insurance policies
- b) Purchase or construction of houses
- c) Illness
- d) Repayment of loans
- e) Marriages
- f) Education of children
- g) Abnormal conditions
- h) Cut in supply of electricity
- i) Purchase of equipment by the physically handicapped
- j) Lock out or closure of establishments

8.135 The advances are non-

refundable and, therefore are in the nature of part final payments. During the year 1999-2000 there were 3.94 lakh part final withdrawals amounting to Rs.782 crores.

8.136 All the expert committees which have gone into the working of the EPF are of the opinion that the liberal provisions for partial withdrawal of balances in the fund, are working against the basic purpose of the fund, namely to make provision for old age. They should therefore be deliberalised. The EARC recommended that withdrawal provisions should be tightened. The task force has expressed the opinion that provision for withdrawals from the fund, negates the objective of the provident fund as an old age protection, and has recommended that this provision be dropped from the Act. The Commission is also of the opinion that the provision for premature withdrawal of funds should be restricted. The bulk of the withdrawal is due to resignation. As the EPFO permits transfer of accounts when a person leaves a job and takes up another, the large number of withdrawals due to resignation indicates that members prefer to withdraw the amount

instead of having them transferred. The reasons for this need to be investigated.

8.137 While there may be some justification for partial withdrawal for specified purposes, there can be no justification for permitting premature final withdrawals in case of resignation. We suggest that appropriate measures should be taken to discourage, if not to stop, such withdrawals.

8.138 As regards the Employees Deposit Linked Insurance (EDLI) Scheme, with the same amount of contributions by the employers and without any amount of contributions by the employees or the Government, the LIC is able to provide better benefit through its Group Insurance Scheme than is admissible under the EDLI Scheme. The continuance of the Scheme should, therefore, be reviewed and revised if necessary. It is understood that there were proposals to integrate the Payment of Gratuity Act with the Scheme and also to introduce an Unemployment Insurance Scheme as part of the Scheme. We welcome these proposals and hope that it will be possible to implement them soon.

8.139 The Employees Pension Scheme was introduced with effect from 16.11.1995 for the members of the Employees Provident Fund by partial diversion of the employers' contribution to the Fund. It substitutes the Employees Family Pension Scheme which stands merged in the new scheme with all its assets and liabilities. The new scheme is an enlargement of the erstwhile Employees' Family Pension Scheme, 1971. Although ordinarily, a pension scheme is preferred to a provident fund scheme, the Employees Pension Scheme has come in for criticism. We will refer to some of these criticisms.

8.140 An ILO Technical Assistance Appraisal Mission (November, 1996) is reported to have commented on certain aspects of the scheme and to have made the following recommendations:

- a) Withdrawal option should be abolished or modified.
- b) Pensions should be adjusted to inflation.
- c) Provision regarding return of capital should be withdrawn.
- d) The option to commute part of the pension should be withdrawn.
- e) The minimum pension age should be raised to 50, and the

- reduction factor should be modified.
- f) The financial sustainability of the current standard age of 58 should be assessed actuarially.
 - g) Pension should be calculated on the basis of the earnings for a longer period instead of last year's earnings.
 - h) Provision should be made to see that no insured person would receive more than one benefit for the same category.
 - i) Provision to pay pension to a non-relative nominee should be reviewed.

8.141 As regards the financial system of the scheme, the Mission has observed that the objectives of guaranteeing the actuarial soundness of the schemes, an acceptable stable contribution rate and adequate protection of pensioners against inflation can be achieved with partial funding.

8.142 In another study, an ILO team has observed that:

"In 1995, India partially converted its Employees provident Fund into a social insurance pension scheme. Only the employers' contribution is

used to finance the pension, which is a percentage of covered earnings in the final year of employment (50% for those with 33 years of insured employment, rising to a maximum of 60% for those with more years of service) This scheme has the potential to provide significant income protection for retired employees and, thanks to transitional provisions, is already paying pensions to a certain number. The workers' own contributions continue to be paid into individual savings accounts.

"While acknowledging that there is room for improving the new pension scheme in India, one cannot deny that the 1995 reform constitutes a considerable step forward in terms of retirement income security. The fact that a number of compromises had to be made is eloquent testimony to the political difficulties involved in moving from provident fund to a pension scheme. Many workers are not only keen to get their hands on the money as soon as possible they also tend very often to be suspicious of the intentions of Governments proposing such reforms and to believe that they are better able than a pension fund to manage their savings. Overcoming these attitudes

is not easy. If the Indian reform was successfully carried to completion, it is in no small measure due to the support which it received from knowledgeable workers' representatives in whom the majority of workers placed their trust.⁸"

8.143 The Project OASIS Committee has summarised its concerns about the EPS as follows:

- (a) 'The fund management that is presently in use with EPS is highly inefficient. Using superior fund management, participants could obtain much higher benefits at the same level of contributions.
- (b) There are persistent concerns about the extent to which the benefits that are promised by EPS 1995 are in line with the contribution rate required. There are also questions about the extent to which future benefits are inflation indexed.
- (c) The Government presently contributes 1.16% towards pension accruals. The subsidy

has no reason to exist.

- (d) The contribution rates and benefits for various establishments participating in EPS 1995 and similar pension plans (e.g. by nationalised banks) are different.

8.144 The Committee has, therefore, recommended, inter alia, that the:

- (a) EPS 1995 should standardise on a single set of benefits for all establishments based on an employer contribution rate of 10%.
- (b) Every year, an actuarial evaluation of EPS 1995 should be conducted and the report should be publicly released. Benefits and contributions should be adjusted so as to ensure that EPS 1995 makes no claim on the government, now or in the future⁹.

8.145 In another paper certain members of the International

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⁸ An operational Framework for pension reform by Roger Beattie, Social Security Department, ILO, Geneva, 1997

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⁹ Final Report of the project OASIS Expert Committee, 1999