

"The 1995 pension scheme with defined benefits appears to be a retrograde step in terms of financial viability of the scheme."

8.146 Our Study Group also received some comments on the implementation of the Scheme, for instance, that the paragraphs 12 and 16 of the Scheme were liable to different interpretations and it was leading to overpayments in certain cases. In certain circumstances, the persons who contributed less could get more pension, and this was an anomaly inherent in the scheme.

8.147 Our Study group has considered various comments on the scheme and the replies of the EPFO and the Actuary. Some of the comments are of a serious nature and need to be addressed by the government. Ordinarily, insurance schemes are periodically subject to valuation by independent valuers. The EPS is also subject to valuation annually for the purpose of adjusting the rates of pension to inflation. This valuation is done by the same Actuary who designed the scheme. It is desirable that an independent valuer does three yearly or five yearly valuations.

8.148 We further suggest that all the ambiguities in the interpretation of the Scheme be referred to the Actuary and the Scheme be amended suitably as per his advice.

### **GRATUITY: INTEGRATION WITH THE EPF ACT.**

8.149 The Task Force on Social Security set up by the Ministry of Labour has recommended, inter alia, that the Payment of Gratuity Act may be integrated with the Employees Provident Fund Act and converted into a social insurance scheme.

8.150 Integration of the Payment of Gratuity Act with the EPFO will have an added advantage in that its coverage will automatically be extended to all classes of establishments to which the EPF Act is currently applicable and may, in future, be made applicable in terms of the suggestions made by the Study Group.

8.151 It has been recommended elsewhere that the minimum number of employees in an establishment to be eligible for coverage under the Employees Provident Fund Act should

be progressively reduced. It follows that in the event of integration of the Payment of Gratuity Act with the E.P.F Act, the minimum number of employees in an establishment for coverage under the Payment of Gratuity Act should also be reduced correspondingly.

8.152 If this suggestion is not found acceptable for any reason, the Study Group has suggested that further extension of the Act may be examined with reference to the National Classification of Industries or Occupations and extended to all those classes of establishments to which it can be extended having regard to the capacity to pay and other relevant considerations. The least that could be done is to make the scope of the Act co-extensive with that of the EPF Act so that it may be regarded as complementary to the Employees Pension Scheme. The Commission supports this view.

### **UNEMPLOYMENT INSURANCE**

8.153 The National Commission on Labour (1969) reviewed the legal provisions for lay off and retrenchment compensation and observed as follows:

'While provisions relating to retrenchment and lay off compensation afford some relief and act as a deterrent to hasty retrenchment, certain unsatisfactory features have come to light in the course of their working. A permanent remedy may be in the form of unemployment benefit. On the other hand, if its incidence is distributed over the whole industry, it might under certain conditions imply subsidising of inefficient management. With due safeguards against such contingency, the long term solution lies in adopting a scheme of unemployment insurance for all employed persons. The present schemes of benefit against retrenchment and lay off must continue during the transition.'

8.154 In the context of the Structural Adjustment Programmes, several undertakings in the public as well as the private sector have been reducing their workforce by resorting to voluntary retirement schemes which offer more attractive terms than those the law provides for with retrenchment. Suggestions have, therefore, been made to make the provisions for retrenchment compensation more liberal to make retrenchment easier.

8.155 The National Labour Law Association has suggested that the rate of lay off compensation be raised to 75% and retrenchment compensation be raised to two months wages for every completed year of service, doing away with the need for permission of the government which is now required in case of establishments employing 100 or more workers.

8.156 The Supreme Court in its landmark judgement on the relocation of hazardous industries in Delhi has directed that industries which do not opt for relocation and restarting of operations should pay six years' wages as additional compensation to the respective affected workmen.

8.157 In another order relating to child labour, the Supreme Court has directed that the employers should pay Rs.20,000/- as compensation for every child employed, on its withdrawal from work.

8.158 While proposing to increase the prior permission cut-off from 100 workers to 1000 workers, the Union Finance Minister announced in his budget speech for 2001-02 that separation compensation would be increased from 15 days wages to 45

days wages. There are some ambiguities in this announcement. It is not clear whether the increase would be general in its application or whether it would apply only to those establishments employing not less than 1000 persons.

8.159 It would thus, appear that new concepts of retrenchment compensation are coming in for consideration calling for a fresh look at the existing legislation. We feel that a uniform rational policy needs to be evolved by integrating the payment of lay off and retrenchment compensation with the payment of gratuity on the one hand, and unemployment insurance on the other, to avoid duplication and to minimise the burden on the employers. Details on this issue have been stated in the chapter on review of legislation.

8.160 An integrated insurance scheme providing for gratuity, unemployment benefits, lay off and retrenchment compensation may be evolved, and entrusted to the EPFO for its implementation either in lieu of, or in addition to the existing EDLI Scheme, as stated elsewhere.

8.161 There is no provision in Indian Law for unemployment benefit {as distinguished from retrenchment compensation, family allowances and emergency expenses (except funeral expenses) in the ESI Act}. The following types of unemployment can be identified:

- a) Persons who have just entered the job market and have not found a job yet.
- b) Persons who are in seasonal employment for part of the year and remain unemployed for the remaining short periods.
- c) Persons who are employed on very low income and need to supplement the same (this category would technically be called under-employed).
- d) Persons who are thrown out of employment due to retrenchment or closure of establishments.
- e) Persons who have lost jobs due to nation wide or global recession.

8.162 According to the ILO, the best way to tackle unemployment is to provide alternative employment. If

that is not possible, the unemployed may be given assistance for their subsistence, either through an unemployment insurance scheme, or through a social assistance programmes whereby the unemployed may be given relief directly by way of an allowance. 'The first protection against unemployment is a solid policy towards full employment.'

8.163 Unemployment benefits in the form of Unemployment Insurance is prevalent mainly in industrialised countries and rarely in developing countries.

8.164 As of 1988, only four South East Asian countries (China, Mongolia, the Republic of Korea and Hong Kong) had any form of unemployment benefit scheme. Where formal benefits are available they appear to be generally modest.

8.165 The Republic of Korea has introduced an employer financed unemployment allowance which took effect in July 1995. According to the new legislation, every enterprise with more than 30 employees must provide an unemployment allowance. Companies with fewer workers are

required to provide the allowance if more than 50% of the workers so request.

8.166 "The State Council of China issued a regulation in January 1999 requiring the local governments to establish an unemployment security system to cover all of their own enterprises. It is a contributory system under which the enterprises contribute 2% and the employee contributes 1% of his wages. The benefit admissible under the system would be more than that of social assistance and lower than that of local average wage which is determined by the provincial government. (According to one report, persons who have worked for more than 5 years can get 50 to 75% of their salary upto 24 months).

"The Government of China has introduced a three-tiered programmes for dealing with the problem of unemployment.

(a) The unemployed persons may report themselves to reemployment centres for retraining and for re-employment.

(b) If they are unable to get alternative jobs, they will be put on unemployment subsidy.

(c) After two years they will be handed over to the third line of urban poverty alleviation programmes.

"Nearly 10 million persons were covered by the State Unemployment Scheme at the end of 1999. In 1997 878,836 persons were under the poverty alleviation programmes.<sup>10</sup>"

8.167 The question of introducing unemployment insurance in India has been coming up often, and several proposals have been submitted to the Government of India. The issue came up first at the Labour Ministers' Conference in 1981 in the context of the spate of closures of textile mills. A committee was set up to draw up a scheme. The committee recommended the establishment of a multipurpose fund known as Gratuity and Miscellaneous Payments Guarantee fund, to ensure that all

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<sup>10</sup> Social Security Legislation in China Prof. Dr. Yang Yansui; Social Security system in China by Jiang Zhengua, Professor, Vice-Chairman of Standing Committee of National People's Congress of China

statutory payments namely gratuity, retrenchment compensation as well as P.F. and other dues to workers are paid to the workers in case of default by the employers.

8.168 Federation of Indian Chambers of Commerce and Industry (FICCI) and The Associated Chambers of Commerce and Industry (Assocham) also proposed the introduction of a privately run industry-specific contributory insurance scheme for protection against risks of unemployment.

8.169 The Social Security Association of India organised a Seminar in 1992 to consider the changes to be made in the system of social security in the wake of the introduction of the New Economic Policy. The Seminar recommended, inter alia, the introduction of an Unemployment Insurance Scheme and a Wage Guarantee Scheme. The Seminar also worked out the outline of the Schemes and presented them to the then Finance Minister.

8.170 Subsequently, the Union Ministry of Labour appointed a Committee to consider the feasibility of introducing an Unemployment

Insurance Scheme. The committee also recommended the introduction of such a Scheme<sup>11</sup>.

8.171 In spite of all these recommendations, no unemployment insurance scheme has so far been introduced. Attempts, on the other hand, have been made to generate supplemental employment opportunities mainly in rural areas, so as to offer a sort of employment guarantee. The Maharashtra Employment Guarantee Scheme and the subsequent Employment Assurance Scheme at the national level may be viewed in this light

8.172 The World Labour Report says:

“The large majority of under-employed workers in the low income and middle income developing countries could in principle be assisted by labour infrastructure programmes. Infrastructural works are undertaken mainly during the lean season when small farmers and landless workers are not engaged in agricultural operations and have no

.....  
<sup>11</sup> Social Security: A critical Survey by R.K.A. Subrahmanya, B.R. Publishing Corporation

alternative sources of employment. However, in an urban setting they could also be undertaken during periods of recession or crises. These programmes can generate employment and significantly reduce poverty by applying labour based construction techniques to mainstream investment programmes and by orienting investments increasingly towards the productive and social needs of the poor and low-income groups. The provision of limited employment guarantees can be achieved through a reorientation of existing and planned investments, and, therefore, does not have to be financed through government deficit spending.<sup>12</sup>

8.173 The Report further says:

“Employment provided under an ELP (Employment Labour Programmes) can be organised so that workers can obtain an employment guarantee for a certain number of days per year. An employment guarantee may, therefore, be seen as a form of unemployment insurance in which employment security is provided and

.....

<sup>12</sup> World Labour Report 2000

thereby income security. The guarantee is most extensive when employment is provided on demand of workers and a government meets that demand by organising the ELP.”

8.174 India has had vast experience in planning and implementing Rural Employment Guarantee Schemes. These are mainly aimed at providing off-season rural unskilled employment. Whether such schemes can be run to provide relief against unemployment of all forms, particularly those arising out of job losses due to structural reforms or otherwise, is a question that needs further study. The alternative to the provision of employment through such works is to give the unemployed a cash allowance whereby they may be assured of the basic needs of livelihood.

8.175 In the light of these facts, we feel that an unemployment insurance scheme could play a substantial role in coping with unacceptable levels of unemployment resulting from the implementation of the structural adjustment programmes and other economic reforms. Urgent measures should, therefore, be taken to

introduce an Unemployment Insurance Scheme.

8.176 The scheme should preferably be implemented through the EPFO organisation and be applicable to all establishments and employees to which the EPF Act is currently applicable, and to which it may be extended in the near future, with no wage ceiling for coverage but with a ceiling of Rs.10,000/- for contributions and benefits. The rate of benefit should be 50% of last pay/wages drawn. The benefit should be payable for a period of one year or till re-employment whichever is shorter.

8.177 The scheme should be financed by a tripartite contribution to be determined actuarially. To begin with, however, the rates of contribution may be fixed at 0.5% to be contributed by the employees, 1.5% by the employers, the deficit if any being met by the Central Government from the NRF.

8.178 The Study Group noted that the EPFO had worked out a scheme of unemployment insurance which would be part of the EDLI and would require an additional contribution by the employer of less than 1%. The

full details of the proposal need to be studied.

8.179 The National Labour Law Association and the Social Security Association of India recommended the establishment of a fund to ensure payment of all dues to workers in the event of failure by the employers to pay them due to permanent closure of their establishments or insolvency. The National Renewal Fund was established in February 1992 to provide a form of a wage guarantee which had to be used for re-training, re-deployment, counselling, placement services for employment and to pay compensation to employees in enterprises where rationalisation of the workforce is taking place. But in practice, NRF has mostly been utilised for implementing the VRS. There is need to restructure this fund to serve as a wage guarantee fund.

8.180 The Government of India is reported to have decided to set up an Insolvency fund to arrange finances for interim payment of wages to workers of sick companies and for possible revival of units. The fund will be made up through contributions at the rate of 0.005%

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<sup>13</sup> The Hindu , August 18, 2001



of the annual turnover of the companies<sup>13</sup>.

**FAMILY ALLOWNCES**

8.181 Family allowances programmes are of two kinds: universal, and employment related. Under the first category, allowances are paid to all resident families with a specified number of children. In the second category, the allowance is paid to the wage earning persons by the respective employers.

8.182 The Study Group has suggested that a provision be made for payment of educational allowance to all employees by amending the existing laws regulating employment and conditions of service of employees. We endorse this recommendation.

**WELFARE FUNDS**

8.183 The Unorganised Sector is equated with the unprotected segment of the labour market where entry is free, labour turnover is high, wages are significantly lower, and the workers, generally, lack legal protection. This sector includes the self-employed, home-based workers,

workers in small and tiny industries, agricultural labour etc. (The concept and status have been discussed in detail in the chapter on Unorganised Sector workers.) But the basic point that one has to remember here is that this sector is not homogeneous. As we have pointed out earlier, the National Commission on Labour (1969) stated that unorganised labour was a 'group of workers who cannot be identified by a definition but could be described as those who have not been able to organise in pursuit of a common objective because of constraints such as (a) casual nature of employment; (b) ignorance and illiteracy, (c) small size of establishments with low capital investment per person employed; (d) scattered nature of establishments; and (e) superior strength of the employer operating singly or in combination.<sup>14</sup>

8.184 The size of the unorganised sector labour has been growing because of shrinkage of employment in the organised sector as well as authority. According to the latest assessment, it constitutes more than

.....  
<sup>14</sup> Report of the first National Commission on Labour

90% of the labour force consisting mainly of agricultural labour, construction labour, beedi workers, weavers, fishermen etc.

8.185 Welfare Funds represent one of the models developed in India for providing social security protection to workers in the unorganised sector.

8.186 A study team appointed by the Government of India in 1959 to examine labour welfare activities then existing, divided the entire range of these activities into three groups:

- (a) Welfare within the precincts of an establishment: medical aid and crèches, canteens, supply of drinking water, etc.
- (b) Welfare outside the establishment: provision for indoor and outdoor recreation, housing, adult education, visual instructions, etc., and
- (c) Social security.

8.187 The National Commission on Labour (1969) has stated: "The concept of welfare is necessarily dynamic, bearing different interpretation from country to country and from time to time and even in the

same country according to its value systems, social institutions, degree of industrialisation, and general level of social and economic development. According to pre-Independence notions, it could cover, apart from known amenities, items like housing, medical and educational facilities, co-operative societies, holidays with pay and social insurance measures."

8.188 The Government of India has set up welfare funds as Central Funds administered through the Ministry of Labour for the workers employed in beedi manufacture (1976), for cine workers (1991) and for mining workers. Besides, there is a Central Law for construction workers vide which State Governments have to set up welfare funds for these workers. These funds are constituted from the cess collected from the employers and manufacturers from the industry concerned. They mainly provide medical care, assistance for education of children, housing, water supply and recreation facilities. There is a proposal to set up one or more welfare funds for agricultural workers under the Agricultural Workers Bill presently under consideration.

8.189 The Union Finance Minister in

his budget speech for the year 2001-02 announced the proposal to set up a Journalists Welfare Fund with a contribution of Rs.1 crore from the grants of the Ministry of Information and Broadcasting.

8.190 There is also a proposal to set up a welfare fund for advocates under a Central legislation. 20% of the enrolment fee collected by the bar councils from advocates, will be remitted to the fund. In addition, money will be collected by the sale of welfare stamps to be affixed on all vakalatanamas filed by the advocates for handling cases.

8.191 Among the States, Kerala has set up more than 20 Welfare Funds for the benefit of workers in the unorganised sector. Many of these are statutory. A statutory fund was also created for financing measures for plantation workers in Assam. Similar funds have been set up in Gujarat, Maharashtra, Karnataka and Punjab. The funds set up by the Government of Kerala are mostly contributory.

8.192 The National Commission on Rural Labour suggested the establishment of welfare funds for the

following classes of workers:

- (a) Agricultural Workers
- (b) Toddy tappers
- (c) Handloom workers
- (d) Fishermen and others

8.193 In a paper submitted to the recently concluded Indian Labour Conference, Government had proposed the extension of the welfare fund mechanism, wherever feasible, to hitherto uncovered sections and, in particular, to set up new welfare funds for fish processing workers, carpet workers, salt workers, leather workers and others.

8.194 The question whether welfare funds could be set up in respect of all classes of workers in the unorganised sector, was examined by our Study Group which came to the following conclusions:

- (a) Welfare funds could be a model for providing social security to the workers in the unorganised sector.
- (b) A welfare fund may be set up for each of the major employments with a sufficiently large number of persons

employed such as:

- (i) agriculture,
- (ii) Building and construction industry including brick kiln industry,
- (iii) Beedi industry
- (iv) Handlooms and powerlooms
- (v) Fishing and fish processing,
- (vi) Toddy tapping
- (vii) Head load workers
- (viii) Railway porters
- (ix) Agarbatti workers
- (x) Rag pickers and scavengers
- (xi) Rickshaw pullers
- (xii) Salt workers
- (xiii) Carpet weavers
- (xiv) Leather workers, etc.

- (c) As regards the other minor employments it might not be practical to set up a welfare fund for each such employment. It would be necessary to bring them under an umbrella type of legislation with a common welfare fund.

8.195 Welfare Funds fall broadly in two groups – tax based and

contributory. In our opinion, the welfare funds should be contributory but the contributions that workers can make to such Funds would necessarily be small and would not, by themselves, without a matching contribution by either the employers or the Government, be adequate to provide them any meaningful social security. The employers would therefore, have to make a meaningful contribution to the Welfare Funds.

8.196 It would, however, not be easy to collect contributions from the employers except where they are required to obtain a permit or a licence or where they are required compulsorily to register themselves. In other cases, collection of contributions would require effective administrative machinery which might not be cost effective.

8.197 Another option is that the Government provides the supplementary finance to the funds by levying a tax in the form of a cess or surcharge at a rate which would yield sufficient revenue. Where a separate Welfare Fund is set up for a particular employment it might be easy to identify the source of the tax revenue. But in the case of a

Common Fund the source of revenue would have to be of general nature.

8.198 If a tax of a general nature was to be levied for financing social security of the large majority of workers in the unorganised sector, it might be more appropriate to adopt the area based approach recommended by the ILO which is akin to the system obtaining in Australia or New Zealand or the system that was recommended for the U.K by Lord Beveridge.

8.199 In the unorganised sector, the State will have to take the place of the employer if the employer cannot be identified or made to pay his share of the contributions. It is even more so in the case of self-employed persons for whom there are no employers.

8.200 The existing laws provide for welfare funds for workers in six classes of mines, namely, mica, iron ore, manganese ore, chrome ore, limestone and dolomite. It seems that these workers have received more favourable treatment while the workers of other mines have been denied the facility. In this context, it may be noted that the Employees' State Insurance Act is not presently

applicable to mines. Nor is there any legal provision requiring the employers to provide the facilities which the welfare funds provide to their workers. The existing arrangements seem, therefore, to be discriminatory.

8.201 It is also not clear why three separate funds have been constituted one for mica, one for limestone and dolomite, and another for iron ore, manganese ore and chrome ore mines. It would have been more advantageous and economical if they could have been further unified into one fund with uniform rates of cesses/contributions and benefits.

8.202 As we have stated earlier, the welfare funds set up by the Central Government are financed by levying a cess on specified goods. A noticeable feature of this provision is the wide variation in the rate structure of the cesses. The duty on mica is on ad valorem basis whereas the duties on other commodities are at specific rates which too range from Re.0.50 to Rs.4 per metric tonne. The rationale behind the different rate structure is not clear.

8.203 The Central Welfare Funds for mine workers and beedi workers may be used, inter alia, for:

- a) The improvement of public health and sanitation, prevention of diseases.
- b) Provision and improvement of medical facilities.
- c) The provision and improvement of water supplies and facilities for washing.
- d) The provision and improvement of educational facilities.
- e) The improvement of standards of living, including housing and nutrition.
- f) Amelioration of social conditions and provision of recreational facilities.
- g) The provision of family welfare, including family planning education and services.
- h) The provision and improvement of such other welfare measures and facilities as may be prescribed.

8.204 In actual practice, the bulk of the expenditure from the welfare funds has been on health, education and housing.

8.205 It may be seen that barring medical care, the welfare funds set up by the Central Government for mine

and beedi workers, do not provide for meeting the expenditure on any of the well recognised branches of social security, such as sickness benefit, occupational injury benefit, maternity benefit, invalidity benefit, old age benefit, survivor benefit or unemployment benefit. In a strict sense, therefore, these welfare funds cannot be deemed to be providing social security, but they have the scope and the potential to become instruments of social security if suitable amendments are made to the laws.

8.206 The Kerala Welfare Fund schemes provide a much wider range of benefits, including many of the branches of social security required to be provided under the ILO Convention concerning Minimum Standards of Social Security.

8.207 The two models, namely, the Central and the Kerala models represent the two extremes, one representing the minimalist approach, and the other a maximalist approach. Neither can be adopted as a model for future development of welfare funds in India in so far as the benefit structure is concerned. What needs

to be done is to prepare a standardised list of benefits which may be provided from the welfare funds and to prioritise them somewhat on the following lines:

- a) Health care,
- b) Invalidity, old age and survivor benefits,
- c) Maternity and Child care,
- d) Educational assistance, and
- e) Housing.

8.208 There are broadly three ways of organising medical care under social security:

- a) Reimbursement to the patients of the costs of medical care incurred by them at standard rates or at actuals.
- b) Providing service indirectly by entering into contract with hospitals, dispensaries and doctors.
- c) Providing the service directly under an integrated arrangement in which the financing and providing of the service is with the same organisation.

8.209 Some of the Kerala Welfare Funds have adopted the first model of reimbursing the cost of medical care subject to certain ceilings. Some of the public sector establishment have the adopted the second model.

The Employees State Insurance Scheme is based on the third model.

8.210 The Central Welfare Funds have also adopted the integrated model, and have undertaken to provide the services directly. Each fund has created its own hospitals, dispensaries and other facilities for providing medical care. The Labour Welfare Organisation is directly running 13 hospitals with 525 beds and 229 dispensaries, but it is doubtful whether they can provide medical care of the requisite standard.

8.211 The per capita expenditure on medical care fixed by the Employees' State Insurance Corporation for purposes of reimbursement to the State Governments, is Rs.500 per insured person. Out of this, an amount of Rs.150 is earmarked for drugs and dressings. The actual expenditure on

medical care incurred by the State Government under the ESI Scheme during 1994-95 ranges from Rs.315 to Rs. 1035. It may be seen that the expenditure incurred on medical care from the welfare funds is comparatively low. It is noteworthy that the prescribed financial norm for purchase of medicines in the dispensaries under the welfare funds is only Rs.4 per patient per visit. (Rs. 3 for Ayurvedic medicines). At the current prices, few medicines can be purchased for this amount. If the per capita expenditure is taken as a measure of the standard, the standard of medical care under the welfare funds would appear to be very low.

8.212 Administration of medical care is a function for specialists. It may be pointed out that the experience of the ESI Scheme in running an integrated model, has not been found popular. Given the option, the insured persons would opt out of the ESI Scheme unless they are given the choice of doctors and hospitals for consultation and treatment. In the circumstances the welfare funds will also do well to adopt models of reimbursing the expenditure, subject to such

conditions as might be considered necessary for providing the services indirectly by entering into agreement with the providers of the service, confining the function of the Fund to the financing of the services.

8.213 The beedi workers are insured under the Weaker Sections Group Insurance Scheme of the LIC, for which 50% of the premium is paid by the welfare fund, the balance, being subsidised by the LIC itself. If GIC can also develop appropriate group insurance schemes for accident and other benefits, the welfare funds might be able to provide a wider range of benefits economically.

8.214 As far as old age benefits are concerned, many of the Kerala Welfare Funds pay a basic minimum pension at a flat rate. For instance, under the Coir Workers Welfare Scheme, the coir workers are paid an old age pension of Rs.75 per month. In the case of Toddy Workers Welfare Fund, however, a provident fund cum gratuity scheme is operated. In the case of coal mine workers there is a separate Coal Mines Employees Provident fund. An important question concerning old age



pension is whether welfare funds should provide only a basic minimum pension, leaving it to the individuals to make their own arrangement for supplementing it as under the Kerala Schemes or whether they should provide income related pensions as under the Employees' Pension Scheme. The current world trend appears to be to pay a basic minimum pension under social security, leaving it to the employers and the individuals themselves to provide for a higher pension. Such an arrangement would also be administratively more convenient as the payment of income related pension would require arrangements for maintenance of service and income records and it would be difficult for the Welfare funds to maintain or obtain such records.

8.215 Most of the welfare funds, Central and State, provide assistance to the beneficiaries for the education of children. This assistance is in the nature of family benefits that indirectly augment the incomes of the workers with family responsibilities. In Kerala, educational assistance is given mainly for higher education.

8.216 Shelter is one of the basic

needs of the people. The convention of the ILO concerning Minimum Standards of Social Security does not, however, recognise housing as part of social security. But the broadened concepts of social security currently being advocated, attach equal if not greater importance to housing in the schemes of social security. There are several schemes for providing such assistance in the form of loans, subsidy, etc. The amount of assistance provided under each of these schemes or the number of houses constructed has not been reported. Considering the present level of costs of construction, it is doubtful if the scale of assistance provided under various schemes is adequate for a meaningful achievement in the construction programme.

8.217 The Central Welfare Funds are administered departmentally by the Ministry of Labour through Welfare Commissioners appointed by the Government with the help of advisory committees which have no financial or administrative powers.

8.218 The Acts under which the Central Welfare Funds have been set up, do not limit their coverage with any wage ceiling. In practical

application, however, a ceiling has been prescribed. Till recently, the wage ceiling was Rs.1, 000 that was raised to Rs.3,500 in 1991. For the Payment of Gratuity Act the ceiling has r been removed altogether but the ceilings for the application of the welfare fund schemes have remained at Rs.3,500. This is indicative of the lack of a positive approach to the administration of the funds.

8.219 One of the major problems of administration of the Central Welfare Funds concerns identification of the beneficiaries. The welfare funds do not have a system of registration. Instead, they have introduced the system of identity cards. Identity cards are required to be issued by the employers and they have not been responsive to this idea. The Ministry of Labour has reported that in the case of beedi workers, identity cards have been issued in respect of about 43 lakhs. The workers cannot get the benefit of the welfare funds unless they have the identity cards. Thus, nearly 16 lakh workers have been denied the benefit because of non-issue of identity cards. On the other hand, in Kerala, the system of registration exists but the schemes being optional, the number of workers

who have registered themselves varies according to the scheme, and in some cases, the coverage has been very low.

8.220 Another problem of administration concerns cost. The cost of administration of Central Welfare Funds during 1992-93 varied from 7.9% of the total benefit expenditure in the case of Beedi Workers Welfare fund to 19.4% of the benefit expenditure in the case of Limestone and Dolomite Labour Welfare fund. There can be no doubt that if the welfare funds can be integrated, there would be large savings on overheads. This point has been emphasised by the expert committee which reviewed the working of the Kerala Schemes.

8.221 Periodic evaluation is a modern management technique which is built into all development schemes. It has three-fold objectives:

- a) An evaluation of the policies with reference to their objectives;
- b) An evaluation of the programmes with reference to

the policies and objectives;

- c) An evaluation of the implementation of the programmes with reference to the effectiveness and the efficiency of the administrative apparatus, and an assessment of the impact of the schemes on the people, which they seek to improve.

8.222 The Government of India appointed a task force to review the working of the welfare funds in 1991. The task force observed that the working of the welfare funds had suffered due to apathy on the part of the management, want of infrastructure, inadequate resources, cumbersome procedures and unimaginative administration.

8.223 The only social security provision in the conventional sense made in the welfare fund laws is health care. The Welfare funds can, however, be transformed into instruments of social security if they can be restructured suitably as indicated below:

- a) The coverage of the funds should be expanded,
- b) The range of benefits provided under the welfare funds should

be broadened,

- c) The financial arrangements for providing those benefits should be modified; and
- d) Finally the administration of the funds should be decentralised and made participatory.

8.224 Apart from the welfare funds some of the States have established Welfare Boards to regulate welfare schemes for workers in the unorganised sector.

8.225 Tamil Nadu is one of the pioneer States in spearheading social welfare measures for workers in the unorganised sector. The Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme was started in 1994. The Government has constituted the Tamil Nadu Construction Welfare Board to administer this scheme. The Scheme was extended throughout Tamil Nadu in 1997. To implement this scheme a Manual Workers General Welfare Fund has been constituted. As per Section 8A of the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act 1982, any person who undertakes any construction work within Tamil Nadu shall be liable to pay 0.3 % of the total cost of construction to the Fund.

The Government and Government Departments should also pay the contribution to the Fund directly. As and when other persons undertake any construction work, the local bodies collect the 0.3 % of the total cost of construction and remit the amount to the Manual Workers General Welfare Fund. As at December end 1999, the Welfare Board had received Rs.16,74,52,803 as contribution and 1,93,601 construction workers were registered. Rs.48, 40,025 have been collected as Registration Fee at the rate of Rs.25 per worker. Every Manual Worker, whose name has been registered, shall, after two years, renew his/her initial registration or the subsequent renewal of his/her registration, by paying Rs.10 per annum to the Board as Renewal Fee. Identity Cards have been issued to all registered construction workers free of cost. This board is implementing the Group Personal Accident Insurance Scheme, Educational Assistance Scheme, Marriage Assistance Scheme, Maternity/Abortion Assistance Scheme, Natural Death Assistance Scheme and Funeral Expenses Assistance Scheme.

8.226 The Tamil Nadu Manual Workers Security and Welfare Board

was working as a mother board, which was tripartite in nature. Initially, 60 employments were included. At present, some employments have been taken out of the list while some have been included. The Scheme is for both wage employed and self-employed.

8.227 The Kerala Fishermen Welfare Fund Act 1985 provided for the setting up of a Board and a Contributory Scheme under it. The fishery worker has to contribute Rs.30/- per year for the initial three years, and then on 3% of the price of his catch or of the wage. The trader has to contribute 1% of the annual turnover or an amount fixed by the Board. The owner of the fishing vessel, owner of the fishing net and prawn and pisciculture owners are also bound to contribute. There are a number of schemes under this Board for the welfare of the fish workers.

8.228 Recently, the Kerala State Labour Authority Ordinance 2000 was promulgated by the Government of Kerala to establish a Labour Authority in the State to serve as an apex body to co-ordinate, regulate, streamline, monitor and control the

activities the labour welfare schemes of welfare boards. Now, the ordinance has lapsed.

8.229 Tripartite boards have also been set up for regulating employment and the conditions of service of workers in the unorganised sector where there is no employer-employee relationship and the income of the workers is insecure. The Mathadi Board of Maharashtra is one such example. The Maharashtra Mathadi Hamals and other Manual Workers (Regulation of Employment and Welfare) Act came into force in 1974. The Act is applicable to 14 employments under the Schedule to the Act in Mumbai and a few other districts of Maharashtra. Under the Act, employers and workers have to register themselves with the Board. Wage rates are fixed by the Board, and employers have to deposit the wages earned by the workers together with the prescribed amount for social security. The wages are distributed to the workers by the Board. The rates of premium vary from 25% to 40%. The administrative cost of the Board is 5%. There is no provision for pension. The Government does not contribute to this fund. Another such

Act is the Kerala Head Load Workers Act 1978, which regulates employment and which was brought into force during 1981.

8.230 It can be seen that Kerala has a multiplicity of Welfare Boards while Tamil Nadu, has one Mother board for all employments. Presently, Kerala is trying to integrate various enactments on Social Security while in Tamil Nadu the latest trend is towards dismantling. However, there are proposals for having a Mother board for Social Security Legislation. The experience of these boards shows that some sort of linkage among the various welfare boards is necessary, and both commonality and variety should be provided for while finalising the social security schemes.

8.231 A tripartite committee has, therefore, unanimously recommended the establishment of tripartite boards for regulating the employment and conditions of service of brick kiln workers to assure them payment of reasonable wages and other social security benefits.

8.232 The National Commission of Self Employed Women and Women in the Informal Sector had

recommended the establishment of Tripartite Boards for home based workers for the reason that no law, however well conceived, will be of benefit to women workers unless they have a major hand in the implementation of these laws, and that can be achieved only in a Tripartite Board in which workers have as many representatives as the Government and the employers. Women workers will be adequately represented, proportionate to their numerical strength. The National Commission on Rural Labour also recommended the setting up of such tripartite boards for regulating agricultural labour. The board could include experts, social activists, non-governmental voluntary organisations, Scheduled Castes and Scheduled Tribes and women members. Such Boards should be constituted at the State, the District and also, at the panchayat levels. One of the objections to these proposals has been that tripartite boards would add to the cost of production and the entire process would become bureaucratised.

8.233 Employers are not averse to contributing to a welfare fund which would provide all the benefits including

social security to workers through a tripartite board; What they do not seem to want is regulating employment through registration of employers and workers, and allotment of workers to the employers by the tripartite board.

8.234 The Study Group appointed by us met officials administering these boards, and the representatives of workers as well as employers, and was informed that these boards were working well. The Study Group has suggested that the welfare Board model be extended to:

- (a) Head load workers
- (b) Security guards
- (c) Beedi workers
- (d) Building workers
- (e) Fish processing workers
- (f) Rag pickers

8.235 There is a demand for such a Board for the building industry as well. This may be set up on an experimental basis in some States like Tamil Nadu, where the demand is very strong, before extending it to other States.

8.236 One of the models for

providing a measure of Social Security started by the Central, or State Governments for weaker sections of people, is subsidised insurance. Some such schemes have been introduced through the LIC and the GIC. The Janshree Bima Yojna and Jeevan Suraksha are under the aegis of the LIC, and Jan Arogya, Public Liability Insurance Act 1991, Comprehensive Crop Insurance Schemes are fielded by the GIC.

8.237 Shiksha Sahyog Yojana is for the children of parents living below the poverty line. A sum of Rs.100/- p.m. is paid to such children who are studying in the 9<sup>th</sup> to the 12<sup>th</sup> standard. This is available to subscribers of Janshree Bima Yojna.

8.238 Khetihar Mazdoor Bima Yojna, May 2001 is an insurance scheme for the benefit of agricultural workers. This has to be implemented from July 1, 2001 in clusters of 5 to 6 villages. Fifty districts have been chosen for the purpose. Lump sum payments are to be made for various purposes. Project societies are to be set up for implementation of the Yojana.

8.239 In his Budget speech

2001-02, the Union Finance Minister asked the Insurance Regulatory Development Authority to prepare a road map for pension reform for workers in the Unorganised Sector. The Integrated Rural Development Agency (IRDA) has been asked to work out a scheme to provide insurance cover for a minimum of Rs.40,000/- and monthly subsistence pension to these workers. The workers opting for the scheme are required to pay a premium ranging from Rs.10/- to Rs.25/- p.m. The Government has also announced a national scheme for agricultural workers, namely, Khetihar Bima Yojna. All these schemes are subsidised insurance schemes, and the premium is shared between the Government and the beneficiary, or the nodal agency sponsoring the beneficiary. In the case of Janashree Bima Yojana the premium is Rs.200 per member of which, 50% is paid by the insured person or the nodal agency, and the balance is met out of the Social Security Fund with the LIC. Assuming that one million persons are covered under the Scheme the cost to the Government will be Rs.10 crores per annum.