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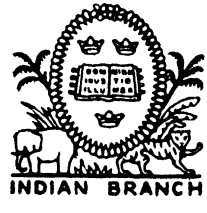
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SOCIAL INSURANCE
FOR
INDUSTRIAL WORKERS
IN INDIA

By S. D. PUNEKAR, M.A., Ph.D.

WITH A FOREWORD BY
C. N. VAKIL
Director, School of Economics and Sociology,
University of Bombay



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FOREWORD

WITH the advent of Independence the functions of the Government in India as well as its policy have undergone a fundamental change. The social approach which now determines the outlook of the Government of India on many questions of economic policy has to be appreciated in order to understand the trend of events in the country. Recent developments in connexion with social security legislation in other countries, and the recommendations of the international conferences convened by the International Labour Organisation, have given an impetus to this outlook so far as thought and action in this sphere are concerned. The development of the new policy and its working will therefore be watched with great interest by all concerned. A systematic study of social insurance standards which are internationally accepted would be a valuable guide to the solution of our own problems. The application of modern ideas of social security to the special problems of India with suitable adjustments would thus become easy. Dr Punekar has rendered valuable service by presenting in a digested form the available literature on this subject in Part I of this book. In Part II he makes concrete proposals for comprehensive planning of social security for the Indian masses, and in doing so he utilizes with effect similar schemes in countries such as the United Kingdom, New Zealand, Australia and the United States of America. While making his constructive suggestions, he also examines recent legislation, such as the Employees' State Insurance Act, 1948, which provides coverage for the three risks of sickness, childbirth and employment injury to factory workers.

This work was first done as a thesis for the Ph.D. degree of the University of Bombay. It was subsequently thoroughly revised and brought up to date and is thus likely to prove a valuable guide to all those who are interested in the development of social security in the country.

School of Economics & Sociology C. N. VAKIL
University of Bombay
30 April 1950

PREFACE

THE publication of this book has been made possible by the joint influence of happy circumstances and kind persons interested in me and in my work.

When, after completing my earlier book on *Trade Unionism in India*, in April 1942, I took up the study of the problems which form the subject matter of this book, social insurance had only an academic interest in India. Since 1942, however, events have moved rapidly in the field of social security, changing thereby this purely academic interest into a thoroughly practical outlook. Important events, such as the Beveridge Report (1942), the Marsh Plan (1943), the I.L.O. Recommendations on income security and medical care (1944), British legislation on family allowances, national insurance and health services (1945-6), the seafarers' social security Conventions and Recommendations adopted by the 28th Session of the International Labour Conference (1946), the Australian Social Services Consolidated Act (1947), the Ceylon Report of the Commission on Social Services (1947) and the Social Security Resolution adopted by the Preparatory Asian Regional Labour Conference (New Delhi, 1947), have had their influence on current ideas on social security in India. This influence was reflected in India in such events as Professor Adarkar's appointment in 1943 as Officer on Special Duty to draft a health insurance plan for industrial workers, the setting up of the Labour Investigation Committee in 1944 to collect factual data for planning social security schemes, visits of I.L.O. experts (Messrs. Stack and Rao and Miss Bodmer) during 1945 to modify the Adarkar plans of social insurance for factory workers and for seafarers, the introduction in the Assembly of the Workmen's State Insurance Bill, 1946 and the enactment of the Employees' State Insurance Act, 1948. The administrative machinery for the implementation of the provisions of the Act is being gradually set up. The period of my study thus coincided with the occurrence of important social security events in India and abroad, and this dynamic aspect of the study enabled me to have a clear and practical view of the problem which, otherwise, might have created only a blurred impression on my mind. Further, I was fortunate to have opportunities to obtain a close view of important social security activities in India. Early in 1944, I worked as Professor Adarkar's Research Assistant, when he drafted his *Report on Health Insurance for Industrial Workers*. From July 1944 to May 1945, I was a Supervisor in the Labour Investigation Committee and thereby got some experience of factual surveys in Indian labour conditions. In May 1945, I was selected as a Research Officer (Social Security) in the Ministry of Labour and worked in that capacity, at a time when the Workmen's State Insurance Bill was being drafted.

There is a long list of institutions and people to whom I must express my sincere gratitude. Foremost among the list of institutions are the University of Bombay and its School of Economics and Sociology. The University granted me a fellowship in the early stages of this research, accepted the thesis for its doctorate and arranged for its publication in its Economics Series. I must also express my gratitude to the Ministry of Labour, Government of India, where I was able to study the practical aspects of social security; to the Labour Bureau, which gave me research facilities, and to the Employees' State Insurance Corporation which provided some valuable suggestions for the text. The approach with which I have attempted to tackle the problems of social security makes me indebted to one more organization, namely, the International Labour Office. The literature on labour problems published by this office has provided the basis for the structure I have tried to build and I must gratefully admit that I have drawn freely from the storehouse of knowledge provided by the I.L.O.

Among the persons who helped in this work, I am deeply grateful to two in particular: to Professor C. N. Vakil for an ideal teacher's kindly advice, constructive criticism and encouragement, and to Professor B. P. Adarkar for providing me excellent research opportunities in the field of social security. It is impossible for me to express in words how much I owe to both of them. I shall ever remember with pride and pleasure the happy periods during which I worked under them.

My friends Pritam Lal and Om Prakash typed the manuscript for me and also assisted in the last stages of checking, revising and proof-reading.

I am fully conscious of the imperfections of this book and I accept full responsibility for what I have written, including any errors or limitations. I must emphasize that the views expressed are my own and the Government of India share absolutely no responsibility for the facts and opinions expressed by me.

Kennedy House, Simla S. D. P.

30 March 1950

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INTRODUCTION

THE present thesis does not claim to be an exhaustive treatise on the problems of social insurance. Its object is modest and practical. It sets out to examine how far international social security standards, evolved out of the resolutions of the international conferences and the social security laws of various countries, can be usefully adapted to the peculiar labour conditions of India. This approach to the problem necessitates the study of international social security standards, the existing provisions of social insurance, assistance and welfare in India, and the ways and means of improving upon the present conditions in the light of international standards and experience.

The study of the problem naturally imposes certain limitations. The minimum standards of social security laid down by the international labour conferences and the social security legislation enacted by other countries have been studied with a view to see the extent to which their provisions can usefully be followed in this country. The existing provisions of social security, meagre though they are, have been analyzed to find out how far they can serve to build social security and to examine the need for their improvement. The social security laws and plans of the Central and States' Governments have also been examined to see how far they fall short of the internationally approved minimum standards.

The theoretical side of social security has been excluded as far as possible. Some of the important aspects such as the definition of social security, the compulsory nature of insurance, and the role of the State, have been either omitted altogether or are very briefly dealt with. International standards laid down by the international conferences have been more or less taken as axiomatic.

This book is limited to the social insurance field of social security. Social insurance and social assistance are the two main divisions of social security.[1] The efficacy of the social insurance method has been examined and even the existing provisions of social assistance have been reviewed with the same object. These two forms of social security, however, cannot always be demarcated and history shows that social insurance in its later development has tended to absorb social assistance.

The importance of social security is being ever-increasingly realized. Social assistance in the form of poor relief to needy persons has been in existence, though in a crude form, in most countries for many centuries. It was in 1883 that Germany, with a political motive, made sickness insurance compulsory for industrial workers. Since then modern social insurance has steadily developed, ever widening its scope, perfecting the systems of contributions

[1] I.L.O. *Approaches to Social Security* (Studies & Reports, Series M. No. 18), pp. 80-3.

and of benefits and systematically organizing autonomous institutions for the administration of the schemes. Social insurance as the principal method of affording income security has won universal acceptance. This method was particularly developed during the half-century 1885-1935. During the Second World War, on account of political insecurity, adequate attention could not be given to the problems of social security, which, however, naturally regained its importance as one of the most essential post-war objectives. The Atlantic Charter contemplated 'the fullest collaboration between all nations in the economic field with the object of securing for all improved labour standards, economic advancement and social security'. The question of social security principles and problems arising out of the war was placed on the agenda of the XXVIth Session of the International Labour Conference, held at Philadelphia in 1944. The reason given for placing this item on the agenda was 'the prominence given to social security as a post-war objective in the Atlantic Charter and by an increasing number of Members individually'.[1]

The XXVIth Session of the International Labour Conference marks an important step in defining the standards of social security. Social insurance before the Second World War developed branch by branch.[2] The order in which the several branches of social insurance developed depended in each country on the degree of urgency attributed to each branch and also on the comparative difficulty of the administrative problems involved.[3] Generally, however, the first in the field was a simple employer's liability law, i.e., workmen's compensation, while the last to receive attention was unemployment insurance. Between the two, insurance against injury, occupational disease, invalidity, disablement, ill-health, maternity, old age, burial, widowhood, and orphanhood was developed. Co-ordination of all these branches into an 'all-in insurance' covering all citizens and all risks was often thought of but rarely followed. In 1938, New Zealand created for the first time, a comprehensive social security system by bringing together a series of social assistance schemes that provided old age, invalidity and survivors' pensions, unemployment benefit and family allowances, adding sickness benefit and all forms of health services. In 1942, Sir William Beveridge in his monumental *Report* advocated improvement of state insurance 'by means of improving the present schemes of social insurance in three directions: by extension of scope to cover persons now excluded, by extension of purposes to cover risks now excluded, and by raising the rates of

[1] I.L.O., *Social Security: Principles and Problems arising out of the War.* Preface to Part 1.

[2] The Social Security Act of New Zealand, enacted in 1938, was an attempt, made even before World War II, for the universal coverage of risks and population.

[3] I.L.O., *Approaches to Social Security*, p.22.

benefit'.[1] These ideas, of universal scope, advocated in New Zealand and the United Kingdom, for comprehensive cash benefits and a comprehensive medical care service have captured the imagination and reason of statesmen and peoples everywhere, and have found expression in social security plans that have appeared in a number of countries, such as Australia, Brazil, Canada, France and the United States.[2] The International Labour Conference also fell under the influence of this tendency, 'to bring together in a single scheme all provisions for assuring maintenance in case of inability to work or to obtain work and to extend these provisions to all workers, whether employed or self-employed and whether urban or rural'. The XXVIth Session of the Conference laid down the above-mentioned principles in two Recommendations (Nos. 67 and 69), which deal with income security and medical care. They provide the basis of social security standards and as such have been utilized in this study both as a rod to measure the progress and as a guide for the adoption of provisions relating to social security.

Two recent events have brought the problem of social security in India to the forefront. The first was the adoption of a comprehensive resolution on social security passed by the Preparatory Asian Regional Labour Conference, held in New Delhi in October-November 1947; and the second was the enactment by the Indian Parliament of the Employees' State Insurance Act, 1948. The importance of providing social security has also been recognized in India's new Constitution, article 32 of which says, 'the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and public assistance in case of unemployment, old, age, sickness, disablement, and other cases of undeserved want'.

Resolution of the Asian Labour Conference. When the XXVIth Session of the International Labour Conference adopted the Recommendations relating to income security and medical care, doubts arose about the enforcement of these standards in industrially backward Asian countries. The same Session, therefore, adopted the following resolution concerning social security in Asian countries:

> 'Whereas the proposals for the promotion of social security before the Conference are for the most part inapplicable to Asiatic countries such as India in their present stage of industrial development; and
>
> 'Whereas the Asiatic Member States constitute a large part of the world with vast populations which should not be excluded from the benefits of the proposed measures for the promotion

[1] Sir William Beveridge, *Report on Social Insurance and Allied Services*, para. 12.

[2] I.L.O., *Problems of Social Security*, p. 6. See also the *First Report of the I.L.O. to the United Nations*, pp. 40-41.

of social security having regard to the aims and purposes of the International Labour Organization;

'The Conference recommends that an Asiatic regional conference be held at as early a date as possible and that the question of organization of social security be included in the agenda of that conference.'

The Asian Regional Labour Conference referred to in the last paragraph of the above resolution, was held in New Delhi from 27 October to 8 November 1947 and 'Problems of Social Security' was the first item on its agenda. After a detailed discussion on the subject the Conference adopted a resolution containing comprehensive proposals concerning income security and medical care. According to this resolution, the establishment of social security services, which are an essential condition of building up a genuine democratic society, has become an urgent task, because of the extreme poverty, the wide prevalence of disease and epidemics, the high incidence of infant and maternal mortality, the low expectation of life, and the misery and destitution caused by unemployment among the working peoples of most Asian countries. Social security schemes are in various stages of consideration in some of the Asian countries and the progress of such schemes should be accelerated. The risks covered should be sickness, maternity, invalidity, death of the bread-winner, and employment injury and, in the case of industrial workers, old age and unemployment under certain conditions. Income security should be afforded by means of social insurance and while formulating the social insurance policy, an integral and long-term plan of social insurance, to be implemented in stages, should be framed from the outset. However, as a first step, social insurance schemes in respect of employment injury, maternity and sickness should be applied in certain geographical areas or in respect of all regulated labour, as may be found possible. The resolution further lays down certain provisions relating to benefits in case of employment injury, maternity, old age and death. As for medical care, the resolution recommends public medical care service, preventive measures and supervision by health authorities. An important recommendation of the resolution is 'to consider the possibility of organizing crop and cattle insurance schemes'. The resolution invites the governing body of the I.L.O. to undertake detailed studies of the social insurance schemes which have already been implemented or may be under consideration by the Asian countries; to arrange with the Food and Agriculture Organization of the United Nations for effective international consideration of the problems of crop and cattle insurance; and to instruct the Office to submit to the next Asian Conference a survey of the action taken on the basis of this resolution.

The Employees' State Insurance Act, 1948.[1] The Employees' State Insurance Act, 1948 is the result in a concrete form of various reports, drafts, notes, debates, discussions, and inquiries by a number of experts during the course of the last five years. The Act, as the beginning of social security measures, has opened a new chapter in the history of Indian labour legislation. The scheme envisaged by the Act is one of compulsory state insurance, providing for certain benefits in the event of sickness, maternity and employment injury to employees employed in or in connecion with work in factories other than seasonal factories.

The evolution of social insurance may be either risk by risk, developing each type of institution or law separately, in accordance with its inherent and, as it were, natural, possibilities, or by the adoption from the outset of an integral long-term plan of social insurance to be completed in stages.[2] The first method, which is the line of least resistance, has been developed in most European countries. It is a natural development of accepted principles and of existing provisions. Employment injury insurance, for example, was developed out of the principle of employer's liability and the provisions of workmen's compensation. So also, sickness insurance in some countries arose out of sickness assistance granted by friendly societies and similar organizations. In India, we have the Workmen's Compensation Act, 1923, and the Maternity Benefit Acts, whose provisions have been extended by the Employees' State Insurance Act, 1948, in respect of insurance against employment injury and childbirth.

A survey of the more important national developments, however, reveals that the goal of comprehensive social security is being pursued in many countries not only through the amendment of existing schemes, but also in the planning of new ones.[3] The social security system created in New Zealand in 1938, Sir William Beveridge's *Report on Social Insurance and Allied Services* (1942), the Recommendations on Income Security and Medical Care adopted by the International Labour Conference at its 1944 Session and the resolution on social security adopted by the Preparatory Asian Regional Labour Conference (New Delhi, 1947)—all these reflect the modern tendency to bring together in a single comprehensive scheme all provisions for income security to be made available to all citizens.

This book is divided into two parts, representing the two tendencies mentioned above: the first part deals with the internationally approved social insurance standards and studies them

[1] A detailed summary of the provisions of this Act is given in Chapter VIII.

[2] I.L.O., *Problems of Social Security*, Chapter V (pp. 52-71). This whole chapter states some important considerations which arise when social insurance is being developed either by branches or as a whole.

[3] I.L.O., *Report of the Director-General*, 1948 (Report I of the 31st Session (San Francisco, 1948) of International Labour Conference), p. 69.

risk by risk. Each risk, or a group of analogous risks, has been separately studied, analyzing the standards in respect of insurance against that particular risk or group of risks, and reviewing the existing provisions in that field. The first chapter in the first part attempts to define in a precise manner the minimum standards of social insurance, in light of the conclusions reached at the various international labour conferences. The subsequent chapters deal with the various risks covered by social insurance: maternity protection, workmen's compensation, sickness insurance, 'pensions' insurance, i.e., insurance against the risks of old age, invalidity and death, and unemployment insurance. The last chapter in the first part covers social security for seafarers. This class of workers has received special consideration by the International Labour Organisation, as can be seen from the fact that out of thirty-two sessions of the International Labour Conference so far held, six were purely maritime sessions. The subject of social security for seafarers in its various aspects came up for discussion in three sessions, in 1920, 1936 and 1946. In India, too, the necessity of providing social security for Indian seafarers has been recently realized and the *Report on the Scheme of Social Insurance for Indian Seamen*, drafted by Dr Laura Bodmer of the I.L.O. and B. P. Adarkar, has been published by the Government of India.

The second part of the book is based on the background of the modern tendency of a comprehensive plan, co-ordinating all branches of social security. The Employees' State Insurance Act, which provides for insurance against three risks, namely, sickness, childbirth and employment injury, may be considered as the first important step in the evolution of an all-in social security plan for Indian workers. This Act, as it is at present, is limited in its scope and needs wide extensions in various directions, such as, risks and persons covered and benefits granted. In the later chapters the various provisions of the Act, its main features, its effects on existing legislation and standards, possibility of extension, etc., are studied. The medical, financial and actuarial aspects, because of their importance, deserve detailed study, and hence have been studied in separate chapters. In the last chapter of the book the extensions necessary to evolve a comprehensive scheme of social security out of the existing limited provisions of the Employees' State Insurance Act are studied, the object being to examine the factors necessary for its successful enforcement, to compare the provisions of the Indian Act with those of social security legislation in foreign countries and then to suggest measures to improve the social security legislation and conditions in India. The Act has been recently enacted and India has so far no satisfactory precedent in this field. The peculiar economic and social conditions in India may not allow an easy adaptation of some foreign social security provisions to Indian conditions. A study of social security on the lines mentioned above may therefore prove of some use.

Part I

INDIA AND INTERNATIONAL SOCIAL INSURANCE STANDARDS

CHAPTER I

MINIMUM STANDARDS OF SOCIAL INSURANCE

SOCIAL SECURITY AND SOCIAL INSURANCE

SOCIAL security is a very wide term and it seems that so far adequate attention has not been given to have a standard uniform definition of the term. Both the term 'social security' and its concept are comparatively new and, it was only in 1935 that the term was authoritatively used for the first time when the United States Social Security Act was enacted. The International Labour Conference realized the necessity of 'an international nomenclature of social security terms in order to avoid misinterpretation due to differences in the terminology employed in various countries'. Accordingly the 26th session of the Conference, held in Philadelphia in 1944, passed a resolution requesting 'the International Labour Office to prepare, in consultation with experts on social security, on sociology, and on economic and legal questions, a list containing definitions of terms occurring in International Conventions and Recommendations on socia' security, with a view to arriving at international agreement'. No such list has been available so far. Its absence, however, does not greatly handicap a study of the subject, partly because a number of working definitions are available. The I. L. O., for example, defines social security as 'the security that society furnishes, through appropriate organization, against certain risks to which its members are exposed'. Lord Beveridge thinks social security is an attack on five 'giants'—Want, Disease, Ignorance, Squalor, and Idleness.[1] Social insurance as a part of social security aims at providing income security; it is an attack on Want. It is considered to be the most rational and most effective means of affording to the worker the social security to which he is entitled. The International Labour Conference in its 26th Session adopted a Recommendation, according to which 'income security schemes should relieve want and prevent destitution by restoring, up to a reasonable level, income which is lost by reason of inability to work (including old age), or to obtain remunerative work, or by reason of the death of the breadwinner'. The Recommendation further says that income security, which is an essential element in social security, should be organized as far as possible on the basis of compulsory social insurance and where it is not possible, the needs should be covered by social risks. The following contingencies, or risks, or industrial hazards, are covered by social insurance schemes supported or subsidized by the State: employment injury'

[1] *Report on Social Insurance and Allied Services*, para. 8.

industrial disease, invalidity or disablement, ill health or sickness, maternity or childbirth, old age, burial, widowhood, orphanhood and unemployment.[1] These are the occasions, where the worker is unable to work or to obtain work, or where after his death he leaves a dependent family. They involve in all cases loss of earnings, raising thereby the problem of income security. Social insurance primarily deals with the problem of providing income security.

Social insurance is a fairly modern concept, though in some of its crude forms it might be seen in the craft guilds and the friendly societies, which attempted to meet the common risks of life by mutual action. This mutual insurance was voluntary and was restricted mainly to the highest paid workmen in the best organized trades. The mutual insurance schemes did not prove a success mainly because of lack of actuarial knowledge and the inadequate reserves. The underlying principle of insurance, however, was developed at the hands of the friendly societies, guilds and mutual companies; this principle is the same as that of banking, coupled with a mechanism for the distribution among many of the losses suffered by a few.

This principle of mutual insurance assumed the modern systematized form, when nearly sixty-five years ago Germany introduced a compulsory sickness insurance scheme. The element of compulsion has since then been accepted, mainly because compulsory insurance has a wider scope and is financially more sound than voluntary insurance. It is now universally agreed that the modern state has the right to make insurance compulsory and ought to do so in the public interest.[2] Other measures against insecurity, such as individual thrift, public relief and voluntary social insurance have been found inadequate for various reasons.[3]

During the last sixty-five years, compulsory social insurance, as a method affording protection of working people against the economic risks arising out of industrial hazards, has developed to a considerable extent. This development may be seen in the Conventions and Recommendations adopted by the International Labour Conference, resolutions passed by the various international committees and conferences, and the various national laws on this subject. It may be mentioned here that the decisions of the International Labour Conference and the social security laws in various countries have mutually influenced each other; both base themselves upon certain minimum social security standards and both aim to achieve certain definite social objects. A brief study of the Conventions and Recommendations of the

[1] Union of South Africa, *Report of Departmental Committee on National Health Insurance*, (1936), para. 8.

[2] I.L.O., *International Labour Organisation and Social Insurance*, p. 4.

[3] ibid, pp. 1-5.

International Labour Organisation, of the various resolutions of the international committees and conferences and of the social security legislation in different countries is essential for the purpose of defining the minimum social security standards and to examine their application or adaptation to Indian conditions.

The Preamble to the Constitution of the International Labour Organisation drafted in 1919 included a reference to the protection of the worker against sickness, disease and injury arising out of his employment, and provision for old age and injury. In 1944 the 26th Session of the International Labour Conference, while declaring the aims and purposes of the International Labour Organisation, recognized its 'solemn obligation' to further among the nations of the world, programmes which will achieve, *inter alia*, 'the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care'. The part played by the International Labour Organisation in this field during the last thirty years is indeed great and has been universally appreciated. To quote from its own Recommendations, it has promoted the development of social security:

> By the adoption by the International Labour Conference of Conventions and Recommendations relating to workmen's compensation for accidents and occupational diseases, sickness insurance, provision for maternity, old age, invalidity, and widows' and orphans' pensions, and provision for unemployment.
>
> By the communication to the Members of the Organisation by the Governing Body of the conclusions of meetings of experts relating to public health and health insurance in periods of economic depression, the economical administration of medical and pharmaceutical benefits under sickness insurance, and guiding principles for curative and preventive action by invalidity, old age and widows' and orphans' insurance.
>
> By the adoption by the First and Second Labour Conferences of American States of the resolutions consisting the Inter-American Social Insurance Code, by the participation of a delegation of the Governing Body in the First Inter-American Conference on Social Security which adopted the Declaration of Santiago de Chile, and by the approval by the Governing Body of the Statute of the Inter-American Conference on Social Security established as permanent agency of co-operation between social security administrations and institutions acting in concert with the International Labour Office.
>
> By the participation of the International Labour Office in an advisory capacity in the framing of social insurance schemes in a number of countries and by other measures.[1]

[1] From the Preambles to the Income Security and Medical Care Recommendations adopted by the International Labour Conference in 1944.

India has been directly benefited by the social security work of the I.L.O. In 1944, at the invitation of the Government of India, the I.L.O. sent here two of its experts, Mr Maurice Stack, Chief of the Social Security Section, and Mr Raghunath Rao, Chief of the Asiatic Section, to examine the Adarkar Scheme of health insurance for Indian industrial workers, and suggest modifications. In 1945, another social security expert, from the I.L.O., Dr Laura Bodmer, came to India to assist B. P. Adarkar in drafting a scheme of social insurance for Indian seamen. In 1947, the Asian Labour Conference, held in India, under the auspices of the I.L.O., passed a comprehensive resolution on social security.

The work done by the International Labour Organisation, particularly in the field of social security, may, therefore, be studied under different heads, as follows :[1]

1. Conventions and Recommendations adopted by the various sessions of the International Labour Conference.
2. Standards of social policy arising out of the conclusions arrived at at various meetings of experts on social security and allied problems.
3. Resolutions embodying social security policy adopted by various inter-state conferences held under the auspices of the International Labour Organisation.
4. Influence on social security legislation of various countries.

The work of the I.L.O. relating to social insurance and allied problems is looked after by its Social Insurance Section. The Section collects and keeps up-to-date international material on social insurance and distributes the information to interested parties. The International Labour Office also publishes monographs and periodical publications on various aspects of labour. One series (Series M) in the *Studies and Reports* is wholly devoted to social insurance and so far it has published nineteen volumes.

1. Conventions and Recommendations adopted by the International Labour Conference

Article 19 of the Constitution of the International Labour Organisation (as amended by the Constitution of the International Labour Organisation Instrument of Amendment, 1946) lays down the procedure to be adopted in case of the Conventions and Recommendations of the International Labour Conference.

This procedure makes a difference between a Convention and Recommendation. Conventions are designed as obligation-creating

[1] A detailed account of this work may be found in the publications of the I.L.O. itself. *The International Labour Code, 1939*, (Montreal, 1941) arranges in a systematic manner the Conventions and Recommendations adopted by the International Labour Conference during 1919 to 1939 and also gives the various resolutions, conclusions, etc., embodying other standards of social policy. Another valuable I.L.O. publication is the *International Labour Organisation and Social Insurance*, (Geneva, 1936).

instruments, whereas Recommendations are exclusively standard-defining instruments.[1] The obligations created by the Conventions, however, could be evaded simply by not ratifying the Conventions.[2] However, the procedure laid down by the I.L.O. Constitution makes a member-state submit a draft Convention or Recommendation to Legislature, thereby focusing the attention of the public on the proposals embodied in the I.L.O. regulations. So also once a Convention is ratified, a member-state must see that the provisions of the Convention are incorporated in its legislation and are enforced by its administration.

The International Labour Conference in the course of its 32 sessions held since 1919 has adopted in all 98 Conventions and 87 Recommendations. As many as 23 of these 98 Conventions and 19 of the 87 Recommendations relate to social security. The Conventions lay down certain minimum social standards and hence their ratifications, along with the measures adopted to apply their provisions, mark a definite advance in the field of social progress.[3] India has travelled too slowly on this path; so far she has ratified only 17 Conventions of which two relate to social security.[4] This achievement compares unfavourably with some other countries of 'industrial importance' as can be seen from the following table:

Countries (recognized as industrially important by the I.L.O.)	Total number of Conventions ratified	Number of Social Security Conventions ratified
Belgium	32	9
Canada	11	1
China	13	2
France	33	12
Great Britain	28	13
India	17	2
Netherlands	23	7
United States	5	1

1 *International Labour Code*, Preface, p. xii.

2 Recently, however, the obligation on member-states to submit reports has been extended also to Conventions that have not been ratified. Member-states are now required to explain the reasons for not being able to ratify a Convention

3 L. N. Birla, however, observes: 'There are countries which have not ratified as many conventions as ourselves and yet maintain a higher standard of living for workers as compared to ourselves. Therefore, it does not necessarily mean that only the countries which have ratified these conventions have higher standards for their workers.'—Pillai & Birla, *India and the I.L.O.*, p. 28. Most of the provisions laid down in the I.L.O. regulations are on a higher level than that of similar provisions in India and hence their adoption will certainly mark some progress. Besides, the Constitution of the I.L.O. clearly lays down that 'in no case shall any Member be asked or required, as a result of the adoption of any Recommendation or draft Convention by the Conference to lessen the protection afforded by its existing legislation to the workers concerned' (Article 19 (11)).

4 These two Conventions are: (*i*) No. 18, Workmen's Compensation (Occupational Diseases) Convention, 1925; and (*ii*) No. 19, Equality of Treatment (Accident Compensation) Convention, 1925. Both these Conventions are of minor importance.

The main reason advanced for non-ratification by India of various I.L.O. Conventions is that conditions are not sufficiently ripe for adopting the provisions proposed by the Conventions. While discussing the social security principles and problems (fourth item on the agenda of the 26th Session of the International Labour Conference, 1944), the Indian Government Delegate indicated 'the impossibility in present circumstances of extending the principles to all workers and their families particularly those employed in agriculture'. In fact, this line of reasoning resulted in affecting the Conference in two ways: firstly, the Preamble of the Income Security Recommendation (No. 67) was amended to the effect that the general guiding principles should be applied progressively; and secondly, the Conference adopted a Resolution in favour of holding an Asian Regional Conference, on the agenda of which the question of the organization of social security was proposed to be included, mainly because 'the proposals for the promotion of social security before the Conference are for the most part inapplicable to Asiatic countries such as India in their present stage of industrial development'.[1]

The list of 23 Conventions and 19 Recommendations given at the end of this chapter reveals some interesting features. The following statement classifies these Conventions and Recommendations according to risks covered:

Risks covered	Number of Conventions	Number of Recommendations
1. Maternity	1	1
2. Workmen's compensation:		
for accidents	3	3
for occupational diseases	2	1
3. Sickness	2	1
4. Old age, invalidity and death	7	1
5. Unemployment	3	3
6. Risks pertaining to seafarers	5	3
7. General		6
Total	23	19

[1] One more reason advanced for non-ratification of Conventions is the rule that a Convention must be ratified without reservation, i.e., it must be accepted as a whole or not at all. Cf. in this respect the Indian Labour Member's speech at the opening of the Seventh Tripartite Labour Conference, 26th November 1945. The International Labour Conference, however, takes into consideration the economic, social and geographical conditions of its member-states, while adopting a draft Convention, and provides exceptions to a particular country, if necessary (I.L.O. Constitution, Article 19(3)).

Though a majority of these regulations are meant to cover the persons employed in industrial and commercial undertakings, some classes, such as the agricultural workers and seafarers, have received special attention. The problems of social insurance seem to have attracted the attention of the Conference during certain years (as 1925, 1927, 1933, 1936, 1944, and 1946), perhaps to prove the statement that the history of social insurance develops in great waves, followed by stages of comparative quiet. Another important feature is that the chronological order in which the Conventions and Recommendations were adopted by the International Labour Conference also broadly indicates the order in which the various branches of social insurance are developed. This order is generally as follows: Maternity Protection; Workmen's Compensation; Sickness Insurance; Pension Insurance; Unemployment Insurance; and Co-ordination and Unification of these various branches.

Tendency towards Co-ordination and Unification. The various social security Conventions and Recommendations adopted by the International Labour Conference clearly mark two definite tendencies and also fall into two distinct periods. To quote from a recent publication of the I.L.O.: 'During the period from 1919 to 1939 the Organisation evolved a set of basic international standards concerning social insurance, published a comprehensive series of documentary studies and monographs on social insurance legislation and problems, played a leading role in establishing direct contact between social insurance administrators in different countries, progressively established a reputation as an international centre where Government could secure technical advice concerning the introduction and improvement of social insurance schemes, and devoted increasing attention to the practical problems of social insurance administration. Since 1939 the emphasis has shifted towards a broader conception of social security. The I.L.O. has played an important role in fostering the development of this broader conception to which authoritative expression was given in the Philadelphia Recommendations of 1944, which now form the foundation of the work of the Organisation in this field.'[1] These two Recommendations of 1944, as the I.L.O. publication further says, differ from the international regulations on social insurance adopted at pre-war sessions of the Conference in that they are based, not only on the existing legislation of member-states, but also on the new plans of social security produced by a number of Governments during the war in response to the demands of their peoples.

(a) *Income Security Recommendation, 1944.* This Recommendation adopted by the International Labour Conference gives expression to the present-day tendency in social insurance plan-

[1] I.L.O., *First Report of the International Labour Organisation to the United Nations*, Vol. I, p. 31.

ning, namely, that the various schemes of income security should be unified and co-ordinated under a single scheme.[1] The Recommendation is the result of the desire 'to take further steps towards the attainment of income security by the unification or co-ordination of social insurance schemes, the extension of such schemes to all workers and their families, including rural populations and the self-employed, and the elimination of inequitable anomalies'. It, therefore, recommends the progressive application of thirty general guiding principles, laid down in the Recommendation, and also gives a number of suggestions for their useful application. Income security, the Recommendation says, should be organized normally on the basis of compulsory social insurance; however, provision for needs not covered by such insurance should be made by social assistance. The range of contingencies to be covered by compulsory social insurance should embrace all contingencies in which a person, ordinarily at work, finds himself unable to work or to obtain work, or dies leaving a dependent family. These contingencies can be classified as sickness, maternity, invalidity, old age, death of breadwinner, unemployment, emergency expenses, and employment injuries. Employed persons should be insured against the whole range of these contingencies, while self-employed persons should be insured against the contingencies of invalidity, old age and death, and if possible, against sickness and maternity. Benefits should replace lost earnings, with due regard to family responsibilities, and should be related to the previous earnings of the insured person on the basis he has contributed. The right to benefits other than compensation for employment injuries should be subject to contribution conditions. The cost of benefits and of administration should be distributed amongst insured persons, employers and taxpayers. Lastly, the administration of social insurance should be unified or co-ordinated within a general system of social security services and contributors should be represented on the bodies administering these services.

(b) *Medical Care Recommendation, 1944.*[2] This Recommendation, relating to medical care services, advises the provision of national programmes of medical care for the entire population either through social insurances and supplementary social assistance or through a public medical care service. Like the Income Security Recommendation, this Recommendation is also the result of the desire to improve and unify medical care services and to extend them to all workers and their families, including rural population and the self-employed. A medical care service, the Recommendation says, should aim at restoration of health, curation of illness and prevention of diseases. Medical care should

[1] For a brief but excellent summary of the provisions contained in this Recommendation, see I.L.O., *First Report of the I.L.O. to the United Nations*, Vol. I, pp. 42-3.

[2] For a summary of the provisions contained in the Recommendation, see I.L.O., *First Report of the I.L.O. to the United Nations*, Vol. I, pp. 43-5.

be provided either through a social insurance medical care service with supplementary provision by way of social assistance, or through a public medical care service. Where it is provided through social insurance service, it should cover the insured contributor and his dependents. It should, however, aim to enable all members of the community to have the right to care as insured persons. All adult members of the community should be required to pay insurance contributions, if their income is not below the subsistence level. Other adults should also be entitled to care as insured persons, the contribution on their behalf being paid by the competent authority. Where medical care is provided through a public medical care service, the provision of care should not depend on any qualifying conditions, such as payment of taxes or compliance with a means test. Complete preventive and curative care should be constantly available, rationally organized, and, so far as possible, co-ordinated with general health services. The medical care should comprise both general-practitioner and specialist out- and in-patient care, including domiciliary visiting, dental care, nursing care at home or in hospital or other medical institutions, the care given by qualified midwives and other maternity services at home or in hospital, maintenance in hospitals, convalescent homes, sanatoria, or other medical institutions; and so far as possible, the requisite dental, pharmaceutical and other medical or surgical supplies, including artificial limbs. The medical care service should aim at providing the highest possible standard of medical care and this optimum of medical care should be made readily available through an organization that ensures the greatest possible economy and efficiency by the pooling of knowledge, staff, equipment and other resources, and by close contact and collaboration among all participating members of the medical and allied professions and agencies. Subject to certain conditions, the beneficiary should have the right to make an initial choice, among the general practitioners at the disposal of the service. The cost of public medical care service should be met out of public funds; but where the care is organized under the social insurance service, the cost should be distributed between contributors, employers and taxpayers. Lastly, the Recommendation lays down that all medical care and general health service should be centrally supervised and should be administered by health areas, and the beneficiaries of the medical care service, as well as the medical and allied professions concerned, should have a voice in the administration of the service.

(c) *Co-ordination and Unification.* Both the Income Security and Medical Care Recommendations emphasize the desirability of co-ordination and unification, which have the advantage of better and more economical administration, greater democratization and simplification in most other matters such as contributions, benefits and medical care. The Indian

Employees' State Insurance Act, 1948, groups together the three risks—sickness, maternity and employment injury—because common medical care service can serve an insurance system, covering all these three risks. Whether further unification to the extent envisaged by the Income Security and Medical Care Recommendations is possible in India under the present conditions, is a problem to be studied and it is examined later in this book. The idea of unification may still have a wider scope when the possibility of a comprehensive Indian Labour Code, based upon the Conventions and Recommendations of the International Labour Conference, is considered.[1] Such a Code may replace most of the labour laws at present in existence in India.

2. I.L.O. Meetings of Experts on Social Security Problems

The Conventions and Recommendations adopted by the International Labour Conference form an important instrument in the formulation of international standards of social policy. However, to meet its practical requirements the International Labour Organisation had to adopt some other methods also. One of these methods is the consideration of questions of social policy by special conferences and by standing or *ad hoc* expert committees.[2] The I.L.O. has also set up an international advisory committee of experts, who might be consulted by the Social Insurance Section of the International Labour Office, whenever necessary.[3] A brief study of the relevant conclusions arrived at at the meetings of these experts may prove useful in defining the social security standards.

The *International Labour Code* gives the texts of resolutions or conclusions adopted by five experts' meetings.[4] These relate to :

(a) *Public Health and Health Insurance in Periods of Economic Depression,* (adopted by the Joint Committee on Public Health and Health Insurance at its second session in Geneva from 5-6 May 1944). The Committee laid down the limits of reducing the expenditure on public health and health insurance in times of depression. All measures taken on account of the depression should be applied in

[1] Venezuela drafted such a Code in 1938. Some other countries such as the U.S.S.R. and Chile have also Labour Codes, though they are not based on the I.L.O. regulations.

[2] The discussions at such conferences and committees have frequently resulted in the formulation of international standards of social policy. *The International Labour Code* has collected them in Appendix II. For 'Standards of Social Insurance', see pp. 641-81 of the *Code.*

[3] For the composition and functions of this Committee and the work done by it till 1934, see *I.L.O. and Social Insurance,* pp. 8-10.

[4] In May-June 1948, social security experts of 22 countries belonging to the I.L.O. Correspondence Committee on Social Insurance met in Montreal to study ways of achieving a more effective international treatment of social security problems.

such a manner as not to stand in the way of future reconstruction. It is not, therefore, desirable to spend less on preventive measures, on benefits in kind and even on cash benefits, when they are barely sufficient to meet the essential needs of sick workers. Insured systems may, however, be relieved of the necessity of providing certain benefits when insured persons can obtain them from a generally accessible public service. The existence of a number of different public and private services is often a cause of waste and dispersal of effort. Proper organization and administration of these services may lead to better economy and this should meet the following points: judicious economy as regards prescriptions; a satisfactory distribution of establishments and services; in building and equipping medical centres, most efficient service at the smallest cost; joint medical administration, especially by the centralization of purchases; close collaboration between medical institutions; supervision of the admission of patients; etc.

(b) *The Economical Administration of Medical and Pharmaceutical Benefits under Sickness Insurance Schemes,*[1] (adopted by the Meeting of Experts in Geneva from 9-11 July 1934). While administering medical and pharmaceutical benefits under the sickness insurance scheme, it is necessary to see that they are adequate both in quality and quantity; at the same time it is important to secure a maximum of efficiency at a minimum of cost. Experience in this respect shows that the ideals of efficacy and economy are by no means inconsistent. In the first instance, emphasis should be laid on the importance of systematic prevention, which may, by itself, occasion economies in all directions. In the interest both of medical practitioners and of insurance institutions, each national scheme should adopt guiding principles or recommendations relating to economical prescribing. The guiding principles should serve to prevent excessive or needlessly expensive prescribing by formulating rules which experience has shown to be calculated to prevent any increase in the cost of medicines not justified by an increase in therapeutic effect. The general rules laid down for this purpose include: (i) prescriptions should not be issued unless necessary; (ii) all necessary medicines should be prescribed; (iii) medicines which are necessary in the particular case should be prescribed with a view to securing a maximum of efficacy and economy; the practitioner may well use commonly accepted standard formulae, if they are suitable in the particular case; and (iv) before ordering a further supply of medicines, the practitioner should satisfy himself that a further prescription is necessary and that the consumption of the previous supply has proceeded at the rate indicated by him.

[1] For a detailed study, see I.L.O., *Economical Administration of Health Insurance Benefits*, (Studies and Reports, Series M, No. 15, Geneva, 1938).

(c) *Guiding Principles for Curative and Preventive Action by Invalidity, Old-Age, and Widows' and Orphans' Insurance*, (Meeting of Experts in Geneva from 12-15 October 1932). The Pension Insurance should take measures to provide sick persons with appropriate medical assistance with a view to the recovery of health, the diminution of suffering and the prevention of aggravation. The benefits of assistance should be extended to an insured person, a pensioner and the wife or husband and young children of the insured person and insurance pensioner. An efficacious system of assistance requires a medical service so organized as to place at the disposal of its beneficiaries every means of detecting and treating diseases in their earliest stages. Assistance should comprise in particular of the following elements: (i) treatment in the consulting room or in the patient's home by a general practitioner, and the service of specialists; (ii) the supply of drugs and prosthesis; (iii) treatment and attendance in a hospital or other curative institution; and (iv) home attendance by trained nurses. The treatment should be adequate, appropriate and economical. The other aspect of curative and preventive action by pension insurance is the participation of insurance schemes in the compaign against social diseases. The elements of compaign against social diseases are ascertainment and diagnosis of the diseases; curative treatment comprising general and specialist medical treatment and attendance and the supply of drugs and prosthesis; and prevention.

(d) *The Evaluation of Permanent Incapacity under Workmen's Compensation and Invalidity Insurance Schemes*,[1] (Meeting of Experts in Geneva from 16-20 November 1936). There are three conceptions of incapacity: physical invalidity, occupational incapacity and general incapacity for work. The severity of the damage done to the physique of a person can hardly afford by itself a basis for the evaluation of incapacity and hence forms but one of the factors to be taken into account in the evaluation. The basis is generally the loss or reduction of earning capacity. The question is whether such loss or reduction should be assessed with reference to the previous occupation (occupational incapacity) or to possible earning capacity in the labour market it may have after rehabilitation. In both cases, however, it is necessary to ascertain the part played in the evaluation by the state of the labour market. The different methods of evaluating incapacity almost all lead to the expression of the economic loss as a percentage of incapacity obtained by comparing wages after disablement with wages beforehand. In order to facilitate the task of the authorities responsible for evaluation, recourse has often been had, for workmen's compensation practice, to schedules,

[1] For a detailed study, see I.L.O., *The Evaluation of Permanent Incapacity for Work in Social Insurance*, (Studies and Reports Series M, No. 14, Geneva, 1937).

which exhibit varying degrees of comprehensiveness and refinement.

(e) *Investment of the Funds of Social Insurance Institutions*,[1] (Meeting of Experts in Geneva, from 5-9 December 1938). The constitution and management of insurance holding should be the subject of statutory regulations, which should provide for reserves. The regulations should determine the general conditions which should apply to investments, namely, safety, i.e., security of the value of investments, yield, i.e., optimum yield by way of interest on capital invested, and liquidity, i.e., the invested amount should be capable of easy realization. In choosing between securities, which satisfy these three basic conditions, consideration should be given to the measure of social or economic utility which they provide.

For a successful planning of social insurance schemes, these conclusions adopted by the Experts' Meetings are of considerable practical importance, because they are the results of careful and expert consideration of questions of social policy. They often serve as the guiding principles in the same way as the Conventions and Recommendations do.

3. Social Standards adopted by the Various Inter-State Conferences

Article 19(3) of the Constitution of the International Labour Organisation recommends that in framing any Recommendation or draft Convention of general application the Conference should have due regard to those countries in which climatic conditions, the imperfect development of industrial organization or other special circumstances make the industrial conditions substantially different, and should suggest the modifications, if any, which it considers may be required to meet the case of such countries. Experience has proved that the best and the most effective method of achieving this purpose is to hold regional labour conferences and to discuss the urgent problems of social and economic policy of countries represented therein. The I.L.O. had also taken note of a strong tendency at present prevalent in all parts of the world to emphasize the potentialities of regional action as a means of dealing more intensively than is possible on a broader basis with international problems, and especially with problems of social and economic development.[2]

Inter-American Social Insurance Code. The most successful experiments in regional action so far made by the I.L.O. have been the holding of four Labour Conferences of American States in Santiago de Chile in 1936, in Havana in 1939, in Mexico in

[1] For a detailed study, see I.L.O., *The Investment of the Funds of Social Insurance Institutions*, 1939. See also Chapter X.

[2] I.L.O., *Future Policy, Programme and Status of the I.L.O.* (Report I—First item on the Agenda of the 26th Session of the International Labour Conference, 1944), p. 79.

1946 and in Montevideo in 1949 and of the Asian Regional Labour Conference in New Delhi in October-November 1947. The first two American Labour Conferences had 'Social Insurance' as one of the items on their agenda and out of their deliberations grew the Inter-American Conference of Social Security, designed as a permanent agency of co-operation to act in concert with the I.L.O. The first two American Labour Conferences adopted resolutions upon the fundamental principles, the aims and functions of social insurance. These resolutions, arranged in a consolidated text, may form, what may be called the Inter-American Social Insurance Code.[1]

The first two Labour Conferences of the American States considering compulsory insurance as at once the most rational and most effective means of affording to the workers social security to which they are entitled, adopted certain fundamental principles which appeared likely to facilitate the establishment of fair and suitable systems of social insurance. The Inter-American Social Insurance Code, which embodies these principles, begins with the general purposes of social insurance. According to this Code, social legislation of every country should provide one or more schemes of compulsory social insurance covering the risks of industrial accidents and occupational diseases, sickness, maternity, old age, invalidity, premature death and involuntary unemployment. Social insurance schemes should aim at (i) prevention of such contingencies as sickness, invalidity and industrial accidents; (ii) restoration of the working capacity lost or reduced by these contingencies; and (iii) compensation in case of cessation or interruption of gainful activity. A co-ordinated system of benefits in kind should make available to insured persons and their families the resources of modern medicine, and for this purpose the insurance system must grant the following benefits: general medical care; supply of medicines and curative appliances; necessary surgical operations and services of specialists; assistance at confinement; dental treatment; and necessary facilities for treatment in hospitals and curative establishments. Insurance schemes must also, in the interests of the group which they serve, share in the compaign against diseases, in general preventive measures and in the improvement of the housing conditions of the insured population. The Code then lays down certain guiding principles for workmen's compensation (for accidents and occupational diseases), for sickness and maternity insurance and for invalidity, old age and windows' and orphans' insurance.

[1] See *International Labour Code* pp. 826-42. The *Code* has arranged all of the Santiago and Havana resolutions on social insurance into a consolidated, single text under the title 'Inter-American Social Insurance Code'. A resolution adopted by the Second Labour Conference, also includes some provisions about maternity protection (*I.L. Code*, pp. 820-1).

The first Inter-American Conference[1] on social security, held in Santiago de Chile from 10-16 September 1942, under the auspices of the 'Inter-American Committee to Promote Social Security', declared,

> Each country must create, conserve and build up the intellectual, moral and physical vigour of its active generation, prepare the way for its future generations and support the generation that has been discharged from productive life. This is social security: a genuine and rational economy of human resources and values.
>
> Social insurance, as an expression of social security, is called upon:
>
> (a) To organize the prevention of risks, the occurrence of which deprives the worker of his earning capacity and means of subsistence.
>
> (b) To restore as quickly as possible, the earning capacity lost or reduced by reason of sickness or accident.
>
> (c) To supply the means of subsistence in case of cessation or interruption of gainful activity as the result of sickness or accident, temporary or permanent disability, unemployment, old age, and premature death of the bread-winner.

The Second Session of the Inter-American Social Security Conference was held at Rio de Janeiro in November 1947, when technical problems regarding insurance against occupational risks, unemployment insurance and standardization of morbidity statistics and medical care statistics were discussed.

Social Security in Asian Countries. The American Labour and Social Security Conferences, with the success that they have achieved, may well prove to be a model to be copied by countries similarly situated. In respect of social and economic development the Asian countries are similar in many respects to the Latin American countries. Both the groups are confronted with the same problems, which include inflation, and the lack of equilibrium between wages and prices; immigration and international migration; industrialisation; work of women and children; social insurance; application of international labour Conventions; and the activities of the I.L.O. in the countries participating in the regional conferences.[2] The I.L.O., therefore, rightly realized that the next group of countries, where a regional conference should and could be held, with a view to give effect to the consideration of the specific problems of that region was the region of the Asian countries. Accordingly regional conferences under the auspices of the I.L.O. were held in October-November 1947 in New Delhi (for South-East Asian countries) and in Istambul (for

[1] *International Labour Review*, November 1942, pp. 611-12.

[2] These were some of the topics discussed by the American Conference. Most of them came up also before the Asian Labour Conference (1947).

the Near and Middle East countries). Problems of social security was the first item on the agenda of the Asian Regional Labour Conference, which adopted a comprehensive resolution covering the proposals regarding income security and medical care.

International Social Security Association. The International Social Security Association, which is mainly a European body, has been set up to co-ordinate internationally, and intensify, efforts to protect, develop and improve social security. The Association, in its Eighth General Meeting held at Geneva from 4 to 9 October 1947, adopted two resolutions on income security and medical care services.[1] These resolutions, which generally follow the principles laid down in the Recommendations (Nos. 67 and 69), adopted by the International Labour Conference on the same subjects, reveal the 'tendencies to make social insurance schemes comprehensive in their scope and to unify and consolidate them'.

4. Social Security Legislation

As has been observed earlier, the decisions of the International Labour Conference and the social security laws and plans in various countries have mutually influenced each other. The provisions embodied in the I.L.O. Conventions and Recommendations, ratified or accepted by any country, were generally incorporated in some form in the national laws of that country. On the other hand, the I. L. O. Recommendations on Income Security and Medical Care have been based on the principles embodied in the social security Acts of New Zealand and Australia and also on the social security plans of a number of Governments, like those of Great Britain, Canada and the United States.[2] The I.L.O. regulations, as well as these plans and laws on social security, embody common standards and reveal a common tendency of evolution from social insurance to social security. Though the methods may differ, the aim is common, namely, to provide income security to persons who are unable to work or to obtain work.

All the above-mentioned Conventions, Recommendations, regulations, resolutions and conclusions reached on social security by the various organizations and conferences reveal the main tendency of co-ordination and unification of social security services. The comprehensive plan of social security achieved by the co-ordination and unification of the several branches of social insurance and social assistance may have to undergo certain modifications and alterations in the light of social and economic

[1] For details of this meeting and texts of the two resolutions see *International Labour Review*, March 1948, pp. 205-17; see also International Social Security Association, *Eighth General Meeting (Geneva, 4 to 9 October 1947): Proceedings, Reports and Resolutions, Constitution and Standing Orders* (Montreal, 1948)

[2] I L O., *Social Security: Principles and Problems arising out of the War*, Part I, pp. 1-3; and I.L.O., *First Report of the I.L.O. to the United Nations*, Vol. I, p. 41.

conditions of a particular country which desires to adopt the international social security standards for this purpose. The acceptance of a comprehensive plan of social security, based on international standards and national experience, necessarily involves a detailed study of the various components of social insurance, which itself is a part of social security. Such a study has been attempted later in this book.

Table I

SOCIAL SECURITY CONVENTIONS ADOPTED BY THE INTERNATIONAL LABOUR CONFERENCES AND THEIR RATIFICATIONS IN INDIA

Serial No.	Convention Number	Name of the Convention	Provisions of the Convention	Whether ratified or not in India—Reasons for non-ratification	Remarks
1	2	Unemployment Convention, 1919	(i) Establishment of free public employment agencies, under the control of central authority and advised by representatives of employers and workers ; and (ii) submission to I.L.O. of statistical and other information concerning employment at intervals of not more than three months.	The Convention was ratified in 1921, as it was thought that the Indian famine relief system served the purpose of providing against unemployment. The Central Government, however, denounced the Convention in 1938, because the power to require the submission of statistics whose supply is obligatory under Art. 1 of the Convention was transferred to State Governments.	Till 1938, the Government of India did not consider the unemployment conditions sufficiently ripe to set up such employment agencies, as required by the Convention.
2	3	Childbirth Convention, 1919	Women employed in industrial or commercial undertakings shall have 6 weeks' leave both before and after confinement and shall be paid during this period cash benefit and medical benefit provided out of public funds, or by means of a system of insurance.	Not ratified, because all the State Governments were unanimous in the opinion that immediate legislation on the subject was not possible. The Employees' State Insurance Act has adopted most of the provisions of the Convention.	Several States have passed Maternity Benefit Laws, though their scope falls far short of that of the Convention.

Table I (*Contd*)

3	8	Unemployment Indemnity (Shipwreck) Convention, 1920.	Indemnity against unemployment resulting from loss or foundering of a vessel, on which the seafarer served.	Not ratified. Government thought that difficulties in registering shipwrecked seafarers and in recording their claims would result in constant disputes between seafarers and shipowners.	Some suitable amendments were made to the Indian Merchant Shipping Act, to carry out some of the objects of the Convention.
4	12	Workmen's Compensation (Agriculture) Convention, 1921.	Compensation to agricultural workers for personal injury by accident arising out of, or in, the course of employment.	Not ratified. The Government considered that the time was not ripe for the extension of the Workmen's Compensation benefits to agricultural workers in India.	The position has not changed since 1921.
5	17	Workmen's Compensation (Accidents) Convention, 1925	Compensation and medical aid to workmen who suffer personal injury due to an accident.	Not ratified. The Government considered it impracticable to radically revise the Indian Workmen's Compensation Act.	Later, in view of further recommendations made by the Royal Commission on Labour, the Act was amended in 1933 and 1938
6	18	Workmen's Compensation (Occupational Diseases) Convention, 1925.	Compensation payable to workmen incapacitated by occupational diseases, or in case of death from such diseases, to their dependents.	Ratified.	See Schedule No. III to the Workmen's Compensation Act, 1923.
7	19	Equality of Treatment (Accident Compensation) Convention, 1925.	Equality of treatment for national and foreign workers as regards workmen's compensation for accidents.	Ratified. In India the protection provided for foreigners is equality *de jure*.	

Table I (*Contd*)

8	24	Sickness Insurance (Industry, etc) Convention, 1927.	Compulsory sickness insurance for workers in industry and commerce, and for domestic servants.	Not ratified. The conditions in India were not considered sufficiently ripe.	The Employees' State Insurance Act was enacted in 1948.
9	25	Sickness Insurance (Agriculture) Convention, 1927.	Compulsory sickness insurance for manual and non-manual workers employed by agricultural undertakings.	Not ratified, because of practical difficulties such as migratory and casual nature of agricultural labour, absence of qualified medical men in rural areas and difficulty in realizing worker's contribution.	
10	35	Old Age Insurance (Industry, etc) Convention, 1933.	Pension insurance, i e , insurance against old age, invalidity and death of the breadwinner, for persons employed in industrial and commercial undertakings, in the liberal professions and for outworkers and domestic workers.		
11	37	Invalidity Insurance (Industry, etc) Convention, 1933		Not ratified	
12	39	Survivors' Insurance (Industry, etc) Convention, 1933.		All these six Conventions were considered together and it was decided not to ratify them.	
13	36	Old Age Insurance (Agriculture) Convention, 1933.	Pension insurance for manual and non-manual workers employed in agricultural undertakings and for domestic workers employed in the households of agricultural employers		
14	38	Invalidity Insurance (Agriculture) Convention, 1933.			
15	40	Survivors' Insurance (Agriculture) Convention, 1933.			

Table I (*Contd*)

16	42	Workmen's Compensation (Occupational Diseases) Convention, (revised), 1934.	Compensation to workers, incapacitated by occupational diseases or, in case of death from such diseases, to their dependents.	Not ratified. This is the revised version of Convention No. 18, which has been ratified.	Certain of the occupational diseases included in the Convention were added to Schedule III of the Indian Act.
17	44	Unemployment Provision Convention, 1934.	Benefit or allowances to the involuntarily unemployed by means of insurance or assistance	Not ratified.	
18	48	Maintenance of Migrants' Pension Rights Convention, 1935.	An international scheme for the maintenance of rights under invalidity, old age and widows' and orphans' insurance.	Not ratified.	
19	55	Shipowners' Liability (Sick and Injured Seamen) Convention, 1936.	Liability of the shipowner to provide medical care and maintenance to sick and injured persons on board ship	Not ratified. The Government considered that the existing Indian law afforded better protection to seamen than the assistance proposed by the Convention. Besides, H. M.'s Government also did not propose to ratify the Convention.	Adarkar-Bodmer Scheme of Social Insurance for Indian seamen has been published by the Government of India.

Table I (*Contd*)

20	56	Sickness Insurance (Sea) Convention, 1936	Compulsory sickness insurance for seamen.	Not ratified. The Government considered that there were difficulties in the way of instituting a compulsory system of insurance in India, applicable to all classes of seamen and providing for the grant of different benefits contemplated therein.	Adarkar-Bodmer Scheme has been published by the Government of India.
21	70	Social Security (Seafarers) Convention, 1946.	(i) medical benefits to seafarers and their dependents, and (ii) cash benefits to seafarers in case of incapacity for work, unemployment and old age, and to their dependents in case of the death of the seafarer.	Not ratified.	The Adarkar-Bodmer Scheme, published by the Government of India, embodies the principles in these Conventions. These Conventions were placed before the Indian Parliament on 5-12-1947, with the statement that the question of their ratification was under consideration.
22	71	Seafarers' Pensions Convention, 1946.	Establishment of a scheme for the payment of pensions to seafarers on retirement from the sea service.	Not ratified.	
23	88	Employment Service Organisation Convention, 1948.	Main principles on which an employment service should be based.	The Convention has been adopted only recently by the Conference.	The provisions of the Convention may prove useful to the Directorate-General of Resettlement and Employment.

Table II

SOCIAL SECURITY RECOMMENDATIONS ADOPTED BY THE INTERNATIONAL LABOUR CONFERENCE AND THEIR ACCEPTANCE IN INDIA

Serial No.	Recommendation No	Recommendation	Provisions made by the Recommendation	Remarks[1] (Action taken in India)
1	1	Unemployment Recommendation, 1919.	Establishment of an effective system of unemployment insurance either through a Government system or through a system of Government subventions to associations providing unemployment benefits.	No action taken, except the establishment of the Employment Exchanges.
2	10	Unemployment Insurance (Seamen) Recommendation, 1920.	Establishment of an effective system of insurance against unemployment arising out of shipwreck or any other cause, either by means of Government insurance or by means of Government subventions to industrial organizations paying unemployment benefits.	Supply of seamen exceeds six times the demand for them and hence the unemployment. No action is possible, unless the recruitment system is organized.
3	12	Childbirth (Agriculture) Recommendation, 1921.	To women wage-earners, similar protection as that provided for women employed in industry and commerce	See Convention No. 3.
4	17	Social Insurance (Agriculture) Recommendation, 1921.	Establishment of systems of insurance against sickness, old age, invalidity and similar social risks to agricultural wage-earners on conditions equivalent to those prevailing in the case of workers in industrial and commercial occupations.	No action taken so far. The Employees' State Insurance Act, 1948, insures only factory employees against three risks.

[1] On most of the subjects the International Labour Conference has adopted a Convention and a Recommendation. Hence in case of some Recommendations, references have been made to relevant Conventions (Table No. I), for the action taken or particular remarks on the subjects dealt with by those Recommendations. Table No. 1, therefore may be referred to for this purpose.

Table II (*Contd*)

5	22	Workmen's Compensation (Minimum Scale) Recommendation, 1925.	Minimum scale of benefits at rates laid down for incapacity of work resulting from employment injury or for death resulting from such injury.	These provisions have been compared with those in the Indian Act in Chapter III.
6	23	Workmen's Compensation (Jurisdiction) Recommendation, 1925.	Special courts or boards of arbitration comprising an equal number of employers' and workers' representatives appointed to act as adjudicators.	Not provided in India.
7	24	Workmen's Compensation (Occupational Diseases) Recommendation, 1925.	A simple procedure by which the list of diseases considered occupational in the national legislation may be revised.	India has accepted the method of Double Schedule, to which diseases can be added.
8	25	Equality of Treatment (Accident Compensation) Recommendation, 1925.	Equality of treatment for national and foreign workers as regards workmen's compensation for accidents.	Accepted. See Convention No. 19.
9	29	Sickness Insurance Recommendation, 1927.	General principles of sickness insurance.	See Conventions Nos. 24 and 25.
10	43	Invalidity, Old Age and Survivors' Insurance Recommendation, 1933.	General principles of invalidity, old age and widows' and orphans' insurance.	No action. See Conventions Nos. 35 to 40.
11	44	Unemployment Provision Recommendation, 1934.	Unemployment insurance and various forms of relief for the unemployed.	No action. See Convention No. 44.

Table II (*Contd*)

12	67	Income Security Recommendation, 1944.	General guiding principles regarding income security schemes to cover the following contingencies : sickness, maternity, invalidity, old age, death of breadwinner, unemployment, emergency expenses, and employment injuries.	With the enactment of the Employees' State Insurance Act, 1948, India has only taken the first step in this direction.
13	68	Recommendation concerning Income Security and Medical Care for persons discharged from the Armed Forces and Assimilated Services and from War Employment, 1944.	(*i*) Mustering-out grant, (*ii*) unemployment insurance and assistance, and (*iii*) pension and sickness insurance for demobbed services personnel.	No action, except the creation of the Directorate-General of Resettlement and Employment.
14	69	Medical Care Recommendation, 1944.	General principles for developing national medical care services.	The Bhore Committee Report has made certain recommendations for medical services. The Employees' State Insurance Act also lays down certain standards of medical care.
15	70	Recommendation concerning Minimum Standards of Social Policy in Dependent Territories, 1944.	Art. 31 provides for maternity protection. Arts. 38-40 provide for the maintenance and treatment of the sick and for the care of the aged, of the incapacitated and of the dependent survivors of deceased persons and for compensation for incapacity for work due to employment injury or occupational disease.	The Employees' State Insurance Act provides for social insurance in certain cases.

Table II (*Contd*)

16	74	Recommendation concerning Minimum Standards of Social Policy in Dependent Territories (Supplementary Provisions), 1945.	Section 3, dealing with security, provides for compensation for employment injury (including occupational diseases).	
17	75	Seafarers' Social Security (Agreement) Recommendation, 1946.	Agreements to ensure that seafarers belonging to one country and employed on board, or in the service of, a vessel of another country remain subject to the schemes of compulsory social insurance or workmen's compensation of either country.	See Convention No 70
18	76	Seafarers' (Medical Care for Dependents) Recommendation, 1946.	Proper and sufficient medical care for the dependents of seafarers	At present, in some ports medical care is provided under welfare schemes.
19	83	Recommendation concerning Employment Service Organization, 1948	Detailed guidance on the means for providing an efficient service.	See Convention No. 88.

Chapter II

MATERNITY PROTECTION

Minimum Social Standards

The International Labour Conference regulations[1] concerning the problems of maternity protection are: (i) The Childbirth Convention, 1919 (Convention No. 3); (ii) The Childbirth (Agriculture) Recommendation, 1921 (Recommendation No. 12); (iii) Articles 10 and 24(3) of the Income Security Recommendation, 1944 (Recommendation No. 67); and (iv) Article 31 of the Recommendation concerning Minimum Standards of Social Policy in Dependent Territories, 1944 (Recommendation No. 70).

Childbirth Convention, 1919. The Childbirth Convention, adopted by the International Labour Conference in 1919, provides for maternity leave and maternity benefits before and after childbirth for women employed in industrial and commercial undertakings. The Convention applies to every woman, irrespective of age or nationality, whether married or unmarried or whether her child is illegitimate or legitimate, employed in any public or private industrial or commercial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed. Such a woman worker has the right to leave her employment on production of a medical certificate stating that her confinement will probably take place within six weeks; further her re-employment during the six weeks following her confinement has been forbidden. The total period of maternity leave is thus 12 weeks—optional for six weeks before childbirth and compulsory for six weeks after childbirth. During her absence on maternity leave, the woman worker is to be paid 'benefits sufficient for the full and healthy maintenance of herself and her child . . . and as an additional benefit shall be entitled to free attendance by a doctor or a certified midwife'. The Convention also lays down that the woman worker, if she is nursing her child, should be allowed half an hour twice a day during her working hours for this purpose.

[1] See I L O, *International Labour Code*, pp 177-9 for the texts of the Childbirth Convention, 1919 and the Childbirth (Agriculture) Recommendation 1921; and pp. 820-1 for the provisions of maternity protection in the resolution concerning the 'Conditions of Employment of Women', adopted by the Second Labour Conference of American States. For a detailed survey and analysis of national laws in this respect, see I L O, *The Law and Women's Work* (Studies and Reports, Series I, No. 4, Geneva, 1939), Chapter II, pp. 16-113. It may be mentioned here that the I.L.O. often excludes the subject of maternity protection from the scope of social insurance and puts it under 'Employment of Women'. The Inter-American Labour Conferences also follow the I.L O. example. The reason for the I L.O. action may be that its Social Insurance Section does not look after maternity protection, compensation for occupational diseases and unemployment insurance. (See I L O., *International Labour Organisation and Social Insurance*, pp. viii and 7n.)

Lastly the Convention stipulates that the maternity benefits granted to women workers must be provided either out of public funds or by means of a system of insurance.

Childbirth (Agriculture) Recommendation, 1921. This Recommendation merely extends the principle embodied in the Childbirth Convention, 1919, to women wage-earners employed in agricultural undertakings. In 1936, the Committee on Agricultural Work appointed by the Governing Body of the I.L.O., found that a mere Recommendation had not been sufficiently effective in stimulating national legislation and suggested that a study should be made of 'the specifically agricultural aspects of the problem of the protection before and after childbirth of women employed in agricultural undertakings . . . with a view to the adoption of effective measures in the form of a draft Convention'.[1] It seems that no tangible results have been achieved in this respect so far.

Income Security Recommendation, 1944. The Income Security Recommendation, 1944, which aims to bring together in a single scheme all provisions for assuring maintenance in case of inability to work or to obtain work includes maternity protection. Most of the provisions laid down in the Childbirth Convention of 1919 have been embodied in this Recommendation (Articles 10 and 24(3)), which goes further in two respects. Article 10(4) of the Recommendation states that the payment of maternity benefit may be made conditional on the utilization by the beneficiary of health services provided for her and her child. Maternity benefit has been considered as much social as individual in its intent and hence it is thought that the payment should be made conditional not only on abstention from work but also on the utilization of health services provided for mothers and infants.[2] Article 24(3) of the Recommendation lays down that maternity benefit should not be less than 100 per cent of the current net wage for female unskilled workers or 75 per cent of the previous net earnings of the beneficiary, whichever is greater, but may be reduced by the amount of any child's allowance payable in respect of the child.[3] Article 15(2), which deals with emergency expenses,

[1] I L O., *The Law and Women's Work*, p 18.

[2] I L O , *Social Security : Principles and Problems arising out of the War*, Part I, p. 7.

[3] It seems that no definite principles were in mind, when the limits were put down. The explanation runs as follows : 'The possible rates of benefit that might be recommended lie between 50 per cent and 100 per cent of wages The lower limit corresponds to the practice of the majority of countries and the higher to the Havana Resolution. As a compromise, a benefit of 75 per cent of wages is suggested. In support of this figure it could be argued that during the period of compulsory abstention from work full wages ought to be paid, whereas during the period of optional abstention from work, 50 per cent of wages might suffice, so that on the average the rate might properly be fixed at 75 per cent over the two periods together.' I.L O., *Social Security · Principles and Problems arising out of the War*, Part I, pp. 24-5.

lays down that a lump sum should be paid at childbirth to insured women and the wives of insured men towards the cost of a layette and similar expenses. Lastly, Article 25(2) of the Recommendation lays down the qualifying period of ten months before the expected date of confinement.

Recommendation concerning Minimum Standards of Social Policy in Dependent Territories. This Recommendation, adopted in 1944, merely states (in Article 31) that subject to such modifications as may be necessary in the light of local conditions, effect should be given to the provisions of the Childbirth Convention, 1919.

The Inter-American Social Insurance Code. The first two Labour Conferences of the American States also discussed the problem of maternity protection. The first Conference, held in Santiago de Chile in 1936, adopted a resolution declaring that 'all the rights and benefits conferred by the Childbirth Convention should be extended to all women employed in agricultural undertakings' and inviting the Governing Body to study the possibility and desirability of submitting to the International Labour Conference a draft Recommendation to supplement the Convention of 1919 in regard to the form in which free medical attendance during childbirth should be given.[1] The Second Labour Conference, held in Havana in 1939, adopted a resolution on the conditions of employment of women. The first part of the resolution, which deals with maternity protection, provides:[2]

i) Protection against dismissal of a pregnant woman unless there exists sufficient ground for her dismissal provided by law.

ii) Facility for a pregnant woman for a change of work, if the work performed by her is prejudicial to her health; if the change of work is not possible, she should be entitled to an allowance.

iii) Right for a pregnant woman to terminate contract of employment at any time and without notice.

iv) Maternity leave for 6 weeks before and 6 weeks after confinement and its extension in cases where, owing to sickness arisingout of pregnancy and confinement, the woman is unable to resume work.

v) Prohibition of dismissal during the above-mentioned leave.

vi) Two breaks a day of half an hour each for the mother to nurse her child.

vii) An allowance sufficient for the full and healthy maintenance of the mother and her child, and at least equivalent to her full regular wage during the leave of 6 weeks before and 6 weeks after confinement; this allowance should be paid independently of the amount of contributions already paid to the insurance fund by the woman; an allowance should also be paid during any additional incapacity for work due to pregnancy or confinement.

[1] I.L.O., *The Law and Women's Work*, pp 18-19.

[2] I.L.O., *International Labour Code*, pp. 820-1.

viii) Payment of maternity allowance by means of social insurance schemes, and failing that, out of public funds.

ix) Medical supervision during pregnancy; attendance by a doctor or a certified midwife free of charge; treatment should be continued until complete recovery of the mother, and medical supervision should extend over the whole period of nursing.

x) Children's crèches and day nurseries in a sufficient number, and provided in such a manner as to avoid having to take the children long distances. The convenience and management of these crèches and nurseries should be entrusted to bodies responsible for maternity assistance.

xi) Services of special workers and certified nurses for the purpose of teaching the principles of hygiene and child care and of assisting and looking after the children of women wage-earners.

By 30 September 1948, as many as 17 countries had ratified the Childbirth Convention, 1919, and thereby had incorporated in their legislation the minimum standards provided by the Convention. Many other countries, though they had not ratified the Convention, had enacted maternity benefit laws, embodying some of the provisions of the Convention. As will be seen later, most of the Indian States have passed such laws, though India has not ratified the Convention.

Social Security Resolution of the Asian Labour Conference, 1947. The resolution on social security adopted by the Asian Labour Conference provides a working ground for social security for Asian countries. One of the risks covered by this resolution is maternity, and it is recommended that consideration should be given to extending the scope of maternity legislation so as to cover as many categories of women workers as may be administratively feasible from time to time. According to the Resolution, (*a*) maternity benefits should be granted during maternity leave for 6 weeks before and 6 weeks after confinement; (*b*) the payment of maternity benefits should, as a rule, be secured by a system of compulsory insurance administered by the State or by a non-profit-making organization; and (*c*) free medical care should be provided.

Maternity Legislation in India

The Commission on the Employment of Women of the Washington Conference (the first session of the International Labour Conference, 1919, which adopted the Childbirth Convention) noted in its Report on the employment of women before and after childbirth, 'the peculiar position in India, where although for the present, owing to national custom and tradition, no need for prohibition of employment of women before and after childbirth appears to arise, the Indian representatives have expressed their opinion that this question and the allied one of maternity benefit ought to be made the subject of study'. The Conference

accordingly adopted a resolution on 28 November 1919, requesting the Government of India 'to make a study of the question of employment of women before and after confinement, and of maternity benefits, before the next Conference, and to report on these matters to the next Conference'. The Government of India submitted to the Conference the required report on 15 November 1921. The general tenor of this report was that legislation upon this subject would be premature, but that an attempt would be made to induce the principal organized industries to start voluntary benefit schemes by assisting them financially and that the Government of India had given a lead by re-drafting the rule regarding the grant of maternity leave to their own women employees, and also to use their influence with local authorities such as the Port Trust, etc. to do the same.[1] The report expressed the inability of the Government of India to ratify the Childbirth Convention, because of the impossibility of enforcing the compulsory periods of absence from work, the shortage of women doctors necessary for issuing medical certificates, the difficulty of compulsory and contributory schemes to provide benefits, the absence of need for the protection of women from loss of employment during pregnancy, etc.[2] The majority of local Governments, however, agreed to endeavour to persuade and assist financially, wherever necessary, the employers to start voluntary benefits schemes. The inquiries, regarding the extent to which maternity benefit schemes were in force in India, were continued in 1924. The local Governments of all the major States and the Chief Commissioner of Ajmer-Merwara were requested by the Government of India to furnish information in this respect.[3] The replies received reveal the inadequacy of the maternity benefit provisions in India at that time. These so-called maternity benefits mainly consisted of leave of absence, often without pay, provision of light work during maternity period, medical advice, crèches, and in a few cases maternity bonus or maternity assistance.[4] This 'voluntary welfare' on the part of employers was not only utterly inadequate to be of some real value to the women workers but also highly irregular to serve as a foundation to a genuine maternity insurance scheme. The two essential features of a maternity benefit scheme, namely, compensation and medical care, had been completely neglected. Welfare and not insurance was taken as the basis and even that depended upon the

[1] I L O., *International Labour Code*, p. 809.

[2] I.L O., *Industrial Labour in India*, p. 94.

[3] The results of these inquiries were published in 1925 as Bulletin No. 32 (Indian Maternity Benefit Schemes) of the Indian Industries and Labour. See also *Industrial and Labour Information*, I.L.O. Weekly, 16 November 1925, pp. 28-33, for a summary of this Bulletin.

[4] For similar voluntary benefit schemes of a later period, 1929-36, see I.L O., *Industrial Labour in India*, pp. 210-11, where some details of maternity benefit schemes in tea plantations and jute mills are given.

philanthropic attitude of the employers. The workers had no rights and hence most of the benefits assumed the form of 'doles', arisen out of the charity of the employers. The State refused to take any responsibility, legal or moral, in this matter and it was the general belief that the employer, and the employer alone, must shoulder all the responsibility regarding maternity protection. The workers, especially women workers, were unorganized and hence were not sufficiently vocal to demand their rights.

Statutory Maternity Benefits. This state of voluntary maternity welfare, however, was soon replaced by what may be called the statutory maternity welfare. In the third decade of the twentieth century, the necessity of maternity benefit legislation was keenly felt. An unsuccessful attempt to replace an all-India maternity benefit law on the statute book of the Central Government was made by N. M. Joshi in 1924. His Bill, which sought to prevent employment of women in factories, mines and tea estates immediately before and after confinement, and provide for benefits during the period, could not get through the Legislature as the Government of India thought that the time was not sufficiently ripe for such a measure, that the principle of the Bill was questionable and that the results of the measure might be harmful to women workers.[1]

Maternity Benefit Acts in India. The local Governments, however, soon thought otherwise and Bombay took the lead in 1929 by passing an 'Act to regulate the employment of women in factories some time before confinement, and to provide for the payment of maternity benefit to them'. Madhya Pradesh immediately followed the lead given by Bombay and enacted a similar Act in 1930. The Royal Commission on Labour, which examined the question by this time, was of the opinion that 'the time was not ripe for the introduction of legislation throughout India making a maternity benefit scheme compulsory in respect of women permanently employed in industrial establishments on full time processes'.[2] The Commission, therefore, recommended that maternity benefit legislation should be enacted throughout India on the lines of the schemes operating in Bombay and Madhya Pradesh. The guiding principles of these schemes according to the Royal Commission were to be as follows:[3]

i) Legislation should be confined to women employed full-time in perennial factories covered by the Factories Act.

ii) The scheme should be non-contributory: in the first instance the entire cost of benefit should be borne by the employer.

[1] A. G. Clow, *The State and Industry*, p. 163.

[2] *Report*, p. 263.

[3] Recommendation No. 211, *Report of the Royal Commission on Labour in India*, pp. 512-13.

iii) Government should have power to exempt individual firms whose existing schemes are at least as liberal as those contained in the Act.

iv) In the event of any general scheme of social insurance being adopted, maternity benefits should be incorporated and the cost should be shared by the State, the employer and the worker.

v) The rate of benefit given by the Madhya Pradesh Act is suitable for general application.

vi) The maximum benefit period should be four weeks before and four weeks after childbirth.

vii) The qualifying period should be in no case less than nine months and might be fixed at twelve months.

viii) The more closely benefit can be linked with treatment the better: probably the best method is to give benefit in any case and to add a confinement bonus only if a trained midwife or hospital treatment is utilized. Failure to use existing facilities should not disqualify the applicant, but bonus and benefit together should not exceed the amount laid down in the Act.

ix) The administration of the Act should be entrusted to the factory inspection staff and, wherever possible, to women factory inspectors.

It is clear that these principles laid down by the Royal Commission fall far short of the standards laid down by the Childbirth Convention. The provisions of the Indian maternity legislation have embodied most of these recommendations of the Royal Commission, as can be seen from the analysis on pp. 36-41 of the Maternity Benefit Acts in India.

This analysis of the Maternity Benefit Laws in India clearly reveals the inadequacies, the defects and the drawbacks of their provisions, especially when they are compared with the minimum social standards laid down by international labour regulations. A comparative study of these two sets of provisions is necessary to find out the ways and means for an effective improvement in the existing conditions, so as to reach the internationally approved standards.

Improvements Necessary

Scope. The Childbirth Convention, 1919, applies to women in industrial and commercial undertakings. The Childbirth (Agriculture) Recommendation, 1921, extends the scope to women employed in agriculture. The First Conference of American States (1936) extended the scope still further to include 'all women employed in agricultural undertakings'.

In contrast to these provisions, the Indian Acts restrict their scope only to factories (and mines, under the Mines Maternity Benefit Act) and that too in many cases merely to non-seasonal factories. The Employees' State Insurance Act also excludes

Table III

MATERNITY BENEFIT LEGISLATION IN INDIA

Legislation	Scope of the legislation	Qualifying period	Compulsory abstention from employment		Rate of cash maternity benefit paid to pregnant women	Additional benefits	Remarks
			After confinement	Before confinement			
I. *Central Legislation*							
1. The Mines Maternity Benefit Act, 1941 (amended in 1943, 1945 and 1948) (The 1945 Act was enacted to meet the conditions arising out of the lifting of the ban on the underground employment of women in coal mines The ban was later re-imposed and hence the 1945 Act became inoperative)	All the mines in the whole of India	6 months for overground workers and 90 days for underground workers (before delivery).	4 weeks (for overground workers)	4 weeks	12 as. a day for overground workers and Rs 6 a week for underground workers	Free medical services at the time of delivery, or bonus up to Rs. 5.	....
			26 weeks (for underground workers).	10 weeks			
2 The Employees' State Insurance Act, 1948 [1]	(*i*) All factories other than seasonal factories ; and (*ii*) All employees earning less than Rs. 400 a month	12 weekly contributions.	12 weeks of which not more than 6 shall precede the expected date of confinement.		12 as a day for all days in a week	Medical benefits under the Act.	....

[1] Maternity protection provided under the Employees' State Insurance Act, 1948 is a part of a unified scheme of insurance of perennial factory employees against the three risks of sickness, maternity and employment injury.

Table III (*Contd*)

II. *Provincial Legislation*[1]							
1 The Bombay Maternity Benefit Act, 1929 (amended in 1934)	All factories in certain districts and towns	9 months (preceding the notice of maternity leave)	4 weeks	4 weeks	8 as. a day in cities of Bombay and Ahmedabad; 8 as. a day or average daily wages, whichever is less elsewhere	....	The Mill-owners' Associations raised the benefit from 8 as. to 12 as. in wartime for Bombay and Ahmedabad.
2. The Madhya Pradesh Maternity Benefit Act, 1930 (amended in 1935).	All factories in the state.	As for Bombay.	4 weeks	4 weeks	8 as. a day	....	Local Govts. may exempt factories working for less than 9 months in a year.
3. The Madras Maternity Benefit Act, 1935.	Non-seasonal factories in the state.	240 days preceding the notice of maternity leave.	4 weeks	3 weeks	8 as. a day	..	Unjustified dismissal within 5 months before confinement does not deprive the woman of maternity benefit.
4. The Bombay Maternity Benefit Act and Rules applied to Delhi on 1-1-1937 (Notification No. 1844 dated 26-11-1936).	All factories in Delhi.	As for Bombay.	4 weeks	4 weeks	8 as. a day	..	..

[1] The provinces are now known as states under the new Constitution.

Table III (*Contd*)

5. The Bombay Maternity Benefit Act and Rules applied to Ajmer-Merwara with certain modifications in 1932.	All factories in Ajmer-Merwara.	As for Bombay.	4 weeks	4 weeks	8 as. a day or average daily earnings, whichever is less.	.. ..
6. The U. P. Maternity Benefit Act, 1938.	Factories employing 10 or more workers in the Province.	6 months preceding maternity leave.	4 weeks	4 weeks	8 as. a day or average daily earnings, whichever is greater.	(*i*) A maternity bonus of Rs. 5, if she avails herself of the medical assistance at the time of her confinement; (*ii*) provision is made for maintenance of creches; appointment of female attendant thereat; additional rest-intervals for women workers having babies; and appointment of health visitor; (*iii*) in case of miscarriage, 3 weeks' leave with pay from the day of miscarriage; and (*iv*) compensation of Rs. 100 or at 180 times her average daily earnings, whichever is greater, to a woman worker dismissed by the employer to avoid payment of maternity benefit.
7. The Bengal Maternity Benefit Act, 1939 (adopted for West Bengal).	Non-seasonal factories in the State.	9 months preceding maternity leave	4 weeks	4 weeks	As for U. P	Unjustified dismissal within 6 months before confinement does not deprive the woman of maternity benefit.

Table III (*Contd*)

8. The West Bengal Maternity Benefit (Tea Estates) Act, 1948.	Tea factories and plantations in West Bengal.	150 days in 12 months preceding the expected date of delivery.	6 weeks	6 weeks	Rs. 5-4-0 a week. The payment may be wholly in cash or partly in cash and partly in kind.	(*i*) Light work is allowed during ante-natal period. (*ii*) Ante-natal and post-natal care under the services of a medical practitioner and a nurse is compulsory, before claim for benefit is made.	
9. The Punjab Maternity Benefit Act, 1943.	As for Bengal.	9 months preceding the day of delivery.	30 days	30 days	12 as. a day or average daily earnings whichever is greater.	..	..
10. The Assam Maternity Benefit Act, 1944.	All factories under section 2(*j*) of the Factories Act, plantations and such other establishments not being mines and coal fields, as may be notified by the Government.	(*i*) 150 days preceding the notice of maternity leave. (*ii*) No qualifying period in case of an immigrant woman, who was pregnant when she first came to Assam.	4 weeks	4 weeks	(*i*) In plantations : (*a*) Re 1 per week before confinement; (*b*) Rs. 1/4/- per week for 4 weeks after confinement, (*c*) Total cash payment shall be Rs. 14. (*ii*) Other than plantations: Average weekly earnings, subject to the minimum of Rs. 2 per week.	Free medical attendance and treatment of approved standard during the period of maternity benefit.	The Govt. of Assam published a Bill in 1947 declaring their intention to raise the rate of benefit to 12 as. a day.

Table III (*Contd*)

11. The Bihar Maternity Benefit Act, 1945 (re-enacted in 1947)	Non-seasonal factories in the State.	6 months preceding the notice of maternity leave.	4 weeks	4 weeks	8 as. a day or average daily earnings, whichever is greater.	All additional facilities as in U.P., except the benefit of miscarriage.	
III. *Indian States Legislation*[1]							
1. The Bombay Maternity Benefit Act applied to Baroda by Notification No. 12 of 1931-2.	All factories in 8 specified towns	6 months preceding notice of maternity leave.	4 weeks	4 weeks	6 as. a day.	..	..
2. The Indore Maternity Benefit Act, 1936	Factories in Indore City (Scope may be extended to new areas).	11 months preceding the notice of maternity leave.	4 weeks	4 weeks	6 as. a day in Indore City and at the rate of average daily wages or 6 as. a day, whichever is less elsewhere.	..	..
3. The Mysore Maternity Benefit Regulations, 1937	All factories in the Mysore State	9 months preceding notice of maternity leave	4 weeks	4 weeks	8 as. a day or average daily wages, whichever is less.	..	..

[1] The provisions mentioned in this section might have been affected because of recent constitutional changes.

Table III (*Contd*)

4.	The Cochin Maternity Benefit Act, 1938 (amended in 1946)	Non-seasonal factories in the Cochin State.	12 months preceding notice of maternity leave.	4 weeks	4 weeks	3 as. a day (raised to 8 as. by the 1946 Act).	..	..
	Cochin Notification No. 86 of 12-4-1937	Women working on plantations, where 10 acres are cultivated or at least 20 workers are employed.	..	..	..	Employer must provide an allowance and food for 7 weeks.	..	..
5.	H. E H. the Nizam's Dominions Maternity Benefit Act, 1942	All factories in the Hyderabad State	9 months preceding notice of maternity leave.	4 weeks	4 weeks	8 as. a day.	..	..
6.	The Gwalior Maternity Benefit Act, 1942.	All factories in the State.	6 months.	4 weeks	4 weeks	Average daily earnings.	Maternity bonus of Rs. 5 (on conditions as in U. P.)	3 weeks' leave with pay in case of miscarriage.
7.	The Travancore Maternity Benefit Act, 1943.	Non-seasonal factories in the State.	9 months preceding notice of maternity leave.	4 weeks	4 weeks	14 *chuckrams*, i.e., about 7½ as. a day.	..	..

the seasonal factories from its scope. The factory, as defined under the Factories Act, 1934, includes only those industrial establishments where 20 or more persons are working, and where a manufacturing process is carried on. It thus excludes a number of occupations and services, which are, for example, included under the Workmen's Compensation Act, 1923 (*vide* Schedule II). The first improvement necessary, therefore, is the widening of the scope of the maternity benefit legislation, so as to include all industrial and commercial undertakings. The amendment of the Factories Act, 1934, on the lines of the British Act 1937, has been effected in the Factories Act, 1948, and this amendment may improve matters a good deal.

A beneficial effect of the Employees' State Insurance Act would be to extend the area at present covered by some of the Maternity Benefit Acts. The Insurance Act extends to the whole of India, while some of the Maternity Benefit Acts, like those of Bombay and Indore, do not cover all the places under the jurisdiction of the respective local Governments. At the same time, it may be mentioned that the Employees' State Insurance Act restricts the benefits only to perennial factory employees, earning not more than Rs. 400 per month.

At present, the extension of maternity insurance to various groups of gainfully employed women, such as agricultural wage-earners, home-workers, domestic servants, hospital nurses and the like, is not possible. In such cases, however, it is desirable to examine what other benefits can be made available to them.

Qualifying Period. Neither the Childbirth Convention, 1919, nor the Havana Code lays down any qualifying period. Our Maternity Benefit Acts, however, prescribe a qualifying period, which generally varies from 6 to 9 months. Under the Employees' State Insurance Act, a woman is qualified to claim maternity benefit for a confinement occurring in a benefit period (generally of 26 consecutive weeks or 6 consecutive months) if, during the corresponding contribution period, weekly contributions in respect of her were payable for not less than two-thirds of the number of weeks during which she was 'available for employment', subject to a minimum of 12 contributions; but of these at least one contribution must have been paid between 35 and 40 weeks before the week in which the confinement takes place, or in which notice of pregnancy is given before confinement, whichever is more advantageous to the insured person. This provision broadly means a qualifying period of 35-40 weeks, i.e., 8 to 9 months. This should be reduced to at least 6 months.

The greatest defect of the qualifying period is that it often enables the employer to dismiss a woman worker under the pretext

that there was a break in service on account of absence of leave.[1] The evil of evasion will be studied later in this chapter.

Maternity Leave. The Childbirth Convention and the Havana Code have set the normal duration of maternity leave at 12 weeks. Though none of our Maternity Benefit Acts has provided for so much leave, the Employees' States Insurance Act conforms to the international regulations when it lays down 'a period of twelve weeks of which not more than six shall precede the expected date confinement'.

Maternity Benefits. (a) *Cash.* The Childbirth Convention prescribes a benefit 'sufficient for the full and healthy maintenance' of mother and child. The Havana Code has interpreted this expression as meaning a benefit 'at least equivalent to her full regular wage'. The Income Security Recommendation provides as a compromise, a benefit of 75 per cent of wages.

Many of our Maternity Benefit Acts provide for a rate, which varies between 8 as to 12 as a day, or which is equal to the average wages or earnings of the woman worker. The rate of 12 as per day, provided by the Employees' State Insurance Act, is an improvement in this respect. However, under this Act, the woman will have to pay her contributions, according to a schedule, to the Insurance Fund. This contribution is the same both for men and women, whereas the incidence of the industrial risks, especially of employment injury, is less upon a woman than upon a man. Under these circumstances, the law should provide for a rate which is equivalent to her wages, or 12 as a day, whichever is greater. The Bhore Committee recommend payment of full wages during a maternity period of 12 weeks. 'It is just at this time, she requires nourishing food and special treatment. The payment of full wages, moreover, is justified in India, where the prevailing wages of women workers are, generally speaking, very low.'[2] Such a provision will not lead to malingering, because the contingency of maternity can always be proved without any doubt.

Major Lloyd Jones in his *Report on Standards of Medical Care for Tea Plantations in India* lays emphasis on duration rather than on the rate of benefit. The tea planters at present are paying Rs. 5-4 a week for 8 weeks as maternity benefit. Major Jones recommends the rate of Rs. 3 a week for 16 weeks—4 weeks before confinement and 12 weeks after.

The Income Security Recommendation, 1944 makes the payment of maternity benefit conditional on the utilization by the beneficiary of health services provided for her and her child. Similar provision is made by the Bihar and U. P. Acts, but it

[1] B. P. Adarkar, *Report on Health Insurance for Industrial Workers.* Appendix XXII, p. 205. Professor Adarkar quotes the *Report of the Bombay Textile Labour Enquiry Committee* and *Report of the Court of Enquiry, Coimbatore* from *Madras Labour, July 1937-October 1938,* to illustrate this statement.

[2] *Report of the Health Survey and Development Committee,* Vol. II, p. 128.

relates only to maternity bonus. Such a provision has both its merits and drawbacks especially in the light of the social conditions in India. A social insurance Act in India, therefore, has little to lose, if such a provision is not made.

(b) *Medical.* According to the Childbirth Convention, free medical attendance must be given at the time of confinement. The Havana Code recommends medical supervision during the period of pregnancy and nursing, and attendance by a doctor or certified midwife free of charge. The Medical Care Recommendation, 1944 lays down certain general provisions for developing national medical care services.

One of the greatest drawbacks of most of the Maternity Benefit Acts is that they do not provide for medical aid. Only five Acts (of Mines, Assam, West Bengal (Tea Estates), Bihar and Uttar Pradesh), have some provision in this respect, though it is highly inadequate in comparison with the internationally approved standards. Under the Employees' State Insurance Act, medical care, which includes medical, surgical and obstetric treatment, is to be provided by States' Governments at such hospitals, dispensaries and other institutions, as may be prescribed for the purpose. There is no qualifying period for medical benefit.

The provisions regarding medical benefit should form a part of a comprehensive health service covering all members of the community, as envisaged by the Medical Care Recommendation, 1944. Because of the necessity of extension and unification of medical care services, the problem assumes a common interest and hence it has been studied in a later chapter.[1]

(c) *Additional Benefits.* Besides cash and medical benefits, the international regulations and national laws provide for some additional benefits. Maternity benefit legislation in various countries follows, for example, the Childbirth Convention in providing that during the nursing period a woman is entitled to breaks in her work—generally half an hour twice a day—for nursing purposes. This provision has been made by the Havana Code also. In many countries, this benefit is linked with another provision making it compulsory for establishments employing more than a specified number of women to maintain special rooms to which infants can be brought to be nursed by their mothers or to be looked after by female attendants, while the mothers are at work. In India, only the Bihar and Uttar Pradesh Acts provide for maintenance of crèches and appointment of female attendants there; if such a provision is made, the employer is allowed to reduce the two additional rest intervals to a quarter of an hour each.

The maintenance of crèches, however, is also provided under the Factories Act, 1934.[2] In accordance with Section 33(2) of

[1] Chapter IX.

[2] It is also provided under section 48 of the Factories Act, 1948

this Act provision has been made by Bombay, Madras and Bengal to the effect that factories employing more than a specified number of women (100 in Bombay and 50 in Madras and Bengal) should provide suitable rooms for children under six years. Mysore follows the Madras model. Lastly, provision of some light work during the pre-natal period, if the doctor permits, may also be considered. Assam has made such a provision.

Guarantee of Re-instatement in Employment. The Childbirth Convention makes it unlawful for an employer to dismiss a woman worker during her legal absence. The Havana Code also provides for the protection against dismissal of a pregnant woman, unless there exists some sufficient ground for her dismissal provided by law. The Maternity Benefit Acts in India also provide that no woman can be discharged during the period of legal absence nor can she be deprived of benefit by a notice of dismissal without sufficient cause. These Acts, however, protect women against dismissal only during the period of authorized absence but there is nothing to prevent an employer from dismissing a woman on the first signs of pregnancy. The *Statistics of Factories* (Annual Notes on the working of the Factories Act) often refer to a decline in the employment of women because of the reluctance of employers to employ persons who are subjected to special provisions involving a certain amount of additional responsibilities in the shape of maternity benefit, compulsory crèches, etc.[1] The Employees' State Insurance Act takes over from the employer the responsibility of payment of maternity benefits and hence it is hoped that this unhappy tendency on the part of the employer may cease to operate.

Financing of Maternity Benefits. The Childbirth Convention allows of only two alternative methods of financing maternity benefits, namely, their supply from public funds or from insurance. The Havana Code recommends payment of maternity allowance by means of social insurance schemes and, failing that, out of public funds.

The Maternity Benefit Acts in India require employers to finance maternity benefits. The disadvantages of this method—the greatest of which is the risk of immediate dismissal as soon as the employer suspects pregnancy—are felt more strongly, when the employment contract is for a very short period and dismissal

[1] Thisi s perhaps one of the reasons of the fact that as a direct consequence of the passing of the Maternity Benefit Acts, the employment of women in factories has been somewhat discouraged. This has been very ably discussed by B. P. Adarkar, who collected some valuable factual and statistical data in this respect. See his *Report on Health Insurance for Industrial Workers*, Appendices XXII, pp. 204-7, XXIV pp. 209-10 and XXV, pp. 211-13.

is therefore easy, as is usually the case with industrial workers.[1] The Employees' State Insurance Act has mitigated this evil by raising maternity protection from statutory welfare to statutory insurance.

Administration. The greatest defect of the Indian Maternity Benefit Acts is their non-enforcement to an adequate extent.[2] The Rules under the Acts make a Factory Inspector primarily responsible for the administration of the Acts.[3] Till recently, no other state except Bombay had engaged a woman Inspector for this purpose. It is an admitted fact that a considerable number of women workers fail to get maternity benefits, though they are entitled to them. Many of them no doubt are ignorant as to their rights; but then it is the duty of the authorities, who administer the Acts, to educate the workers in this respect. Many others are reluctant to put in their claims, because of the fear of victimization or because of the small amount of benefits. Insecurity of employment, especially of women, discourages a woman worker from claiming her lawful rights and protecting her interests. Lastly, it may be mentioned that some of the women workers are reluctant to accept what they call the employer's charity.[4]

The paucity of women doctors also discourages women workers to avail of maternity benefits. In order to obtain such benefits, a woman worker must produce a certificate of her pregnancy. Some women are reluctant and even definitely object to submit themselves to examination by male doctors.[5]

B. P. Adarkar collected some valuable statistics regarding maternity benefits in Bengal, Bombay, Madhya Pradesh,

[1] I.L.O., *The Law and Women's Work*, p. 30. The annual note on the working of the U. P. Maternity Benefit Act during 1938 admits that many women workers were discharged immediately after the Act was passed. On the other hand, the Bhore Committee were assured that, in Bombay and Madras, the enforcement of the Maternity Benefit Acts did not result in any decrease in the number of women employed.

[2] The Labour Investigation Committee found that the Maternity Benefit Acts were not properly observed or enforced especially in the smaller concerns. 'There are various devices adopted to evade liability under the Acts (*Main Report* of the Committee, p. 378). Similar is the conclusion of a recent study made by the International Labour Office: 'Women fail to file claims either because they fear such an application may be followed by dismissal. In some cases, women workers are unable to prove completion of the requisite period of service, because their employers have not kept the proper records.'—I.L.O., *Problems of Social Security*, Asian Labour Conference (1947), Report I, p. 24.

[3] In fact, the Maternity Benefit Acts are so closely linked with the Factories Act that in many states the returns under both the Acts are collected and published together.

[4] For detailed discussion on these points, see B. P. Adarkar's *Report on Health Insurance for Industrial Workers*, pp. 205 and 211-13.

[5] *Report of the Health Survey and Development Committee, Vol. I (Survey)*, p. 85

Madras and Uttar Pradesh.[1] These statistics reveal a considerable disparity in the maternity benefit ratios (i.e., the ratios of number of claims paid to total number of women workers employed), which cannot be explained away by any differences of fertility or technical factors. Thus the average ratio according to the statistics collected by B. P. Adarkar, is 7·6 per cent for Bengal, 7·3 per cent for Bombay, 12·7 per cent for the Madhya Pradesh, 3·0 per cent for Madras and 4·7 per cent for the U.P. According to a Bombay Labour Office Enquiry, it was found that there were 12·34 maternity cases per 100 women workers per annum.[2] In another Inquiry, Dr Mrs Barness found out 10 maternity cases per 100 potential mothers among all classes in the city of Bombay.[3] Compared to these figures the maternity ratios given above are too low, except in Madhya Pradesh. It seems from these figures that in most of the states about half the mothers who are entitled to benefits, do not receive them, primarily because of the lack of adequate enforcement of the Act.

Latest available figures about maternity benefits also tell the same story. The table on page 48 gives 1947 figures for some provinces.[4]

[1] *Report on Health Insurance for Industrial Workers* Appendix No. XXIV-A, p. 209.

[2] *Labour Gazette* (Bombay), December 1924, pp. 384-93.

[3] *Labour Gazette* (Bombay), September 1922.

[4] *Indian Labour Year Book, 1947-48*, p. 72.

Table IV

MATERNITY BENEFIT PAID IN DIFFERENT STATES DURING 1947

State	Average number of women employed	Number of women who claimed maternity benefit	Number of women who were paid maternity benefit	Number of cases in which a bonus was given or maternity benefit was paid for miscarriage or death	Total amount paid
					Rs.
Ajmer-Merwara ..	1,321	41	43[1]	..	917
Assam[2] ..	152,863	31,088	30,537	..	533,190
Bengal[3] ..	59,718	3,637	3,375	189	176,273
Bihar ..	9,194	759	701	..	33,098
Bombay	42,820	5,258	4,740	130	201,232
Madhya Pradesh ..	5,756	665	628	..	21,691
Delhi ..	273	12	14[4]	..	444
Madras ..	50,867	3,534	3,207	19	138,860
U.P. ..	1,660	149	130	43	9,109

[1] 3 claims of this year are pending and 5 of the last year were paid this year.
[2] For the year 1946. Figures for the district of Kamrup not included.
[3] For the year 1946.
[4] Includes 2 cases of the last year.

CHAPTER III

WORKMEN'S COMPENSATION

International Labour Conventions and Recommendations. The International Labour Conference has so far adopted five draft Conventions and four Recommendations, which exclusively deal with the problems of workmen's compensation either for accidents or for occupational diseases or for both. The five Conventions are: (i) No. 12: Workmen's Compensation (Agriculture) Convention, 1921; (ii) No. 17: Workmen's Compensation (Accidents) Convention, 1925; (iii) No. 18: Workmen's Compensation (Occupational Diseases) Convention, 1925; (iv) No. 19: Equality of Treatment (Accident Compensation) Convention, 1925; and (v) No. 42: Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934.

The four Recommendations are: (i) No. 22: Workmen's Compensation (Minimum Scale) Recommendation, 1925; (ii) No. 23: Workmen's Compensation (Jurisdiction) Recommendation, 1925; (iii) No. 24: Workmen's Compensation (Occupational Diseases) Recommendation, 1925; and (iv) No. 25: Equality of Treatment (Accident Compensation) Recommendation, 1925.

Of the five Conventions, India has ratified only two—No. 18 and No. 19. In addition, some of the provisions in other Conventions and Recommendations have found acceptance and have been implemented in some measure.

One of the contingencies covered by the Income Security Recommendation, 1944 is employment injury. The Recommendation lays down a number of suggestions for the application of the general guiding principle that 'the contingency for which compensation for employment injury should be paid is traumatic injury or disease resulting from employment and not brought about deliberately or by the serious and wilful misconduct of the victim, which results in temporary or permanent incapacity or death'.

Articles 39 and 40 of the Recommendation (No. 70) concerning Minimum Standards of Social Policy in Dependent Territories also provide for the payment of compensation by law to employed persons, in case of incapacity for work caused by occupational diseases, or by accidents arising out of, and in the course of, employment, and, in case of death from such accidents or diseases, to their dependent survivors. Section 3(e) of the Recommendation (No. 74) concerning Minimum Standards of Social Policy in Dependent Territories (Supplementary Provisions) makes some additional proposals regarding employment injury benefits.

The Inter-American Social Insurance Code (Havana Code) also lays down provisions relating to (a) need for legislation in conformity with the principle of occupational risk; (b) form and rates

of cash benefits in case of temporary or permanent incapacity or death; (c) guarantee of payment; (d) settlement of disputes and setting up of judicial machinery; and (e) occupational diseases.[1]

Lastly, a Meeting of Experts (some members of the I.L.O. Correspondence Committee for Social Insurance), held in Geneva from 16-20 November 1936, adopted certain conclusions on the evaluation of permanent incapacity under workmen's compensation and invalidity insurance.[2]

Workmen's Compensation in India. The question of providing workmen's compensation in cases of fatal or serious accidents was first raised in India in 1884 and the importance of enacting legislation for that purpose was urged by factory and mining inspectors as a method of creating a greater sense of responsibility among employers and thus of securing more adequate provisions for safety.[3] In the absence of any workmen's compensation legislation the only course open to an injured workman was to file a suit against the employer for damages under the common law. However, the odds, legal and otherwise, were against him.[4] The first legislative measure adopted by the Government of India was in 1922, when a new section 43 was inserted in the Factories Act, giving power to a criminal court to order the whole or part of a fine imposed in respect of an offence causing bodily injury or death, to be paid as compensation to the injured person or, in the case of his death, to his legal representative. The following year, however, the Government of India enacted the Workmen's Compensation Act (No. VIII of 1923), which is the first measure of social security on an all-India basis.[5] The success of this measure, however, was looked upon in a highly sceptical manner and even the preliminary Committee, which was set up to examine the Workmen's Compensation Bill of 1922 before its introduction in the Legislature stated as follows: 'It may be doubted if we are ready for this state in India. Many Indian employers have

[1] I L O., *International Labour Code*, pp. 828-31.

[2] For a detailed study of this problem, see I.L O , *The Evaluation of Permanent Incapacity for Work in Social Insurance* (Studies & Reports, Series M, No. 14); for conclusions adopted by the Experts, see I.L.O., *International Labour Code*, pp. 651-73. A brief summary of the conclusions is given in Chapter I, pp. 14-15.

[3] I.L O., *Industrial Labour in India*, p. 103.

[4] Workers' claims could easily be defeated through the imposition of three limitations arising from the doctrines of 'common employment', *Volenti non fit injuria* or the defence of 'assumed risk' and by the principle of 'contributory negligence'. (Wilson and Levy, *Workmen's Compensation* and *Report of the Royal Commission on Labour in India*, pp. 314-15). The Employer's Liability Act, 1938 was later enacted so that the employers may not raise the defence of the doctrines of 'common employment' and 'assumed risk' in suits for damage. This Act declared that certain defences should not be raised in suits for damages in respect of injuries sustained by workmen.

[5] *Report of the Royal Commission on Labour in India*, p. 295.

very little idea of the value of insurance and will strongly resent being compelled to pay premiums. Moreover there is no certainty that, to begin with, there will be adequate facilities for insurance.' The Committee recommended, instead of insurance, the provision that compensation claims should have priority in bankruptcy proceedings. Even the Government of India admitted that the Act was an experimental measure and that many of its features owed their origin more to a desire to minimize the difficulties attendant on the introduction of an entirely new measure than to any belief in their permanent value.[1]

The Workmen's Compensation Act has undergone several modifications since 1923. In 1926, the Act was slightly amended to render possible the ratification of the International Labour Convention (No. 18), on this subject. In 1928, the Government of India thought of revising the Act and addressed a circular letter to this effect.[2] In 1929, however, the Royal Commission on Indian Labour was appointed and the revision of the Act was consequently deferred till the Commission reported on the subject. The Royal Commission discussed the problem in great detail and made certain specific recommendations relating to extension of the scope of the Act to cover new classes of workmen, revision of the minimum and maximum scales of compensation, definition of 'dependents', inclusion of more industrial diseases in Schedule III and better administration and procedure.[3] The Workmen's Compensation (Amendment) Act of 1933 (No. XV of 1933) took into consideration these recommendations proposed by the Royal Commission on Labour in India. Later in 1937, because of the separation of Burma from India, the Act was amended so as to enable transfer of payments relating to workmen's compensation, when dependents of workmen were in another country than one in which compensation was deposited.[4] The Act was consequently amended to permit such transfer between India and Burma after separation. The Act was further amended in 1938 and 1939 to remove certain ambiguities and to effect certain minor modifications. In 1942, Section 15 (special provisions relating to masters and seamen) was modified. An important amendment Act passed was in 1946, when the upper wage limit for eligibility to compensation was raised from Rs. 300 a month to Rs. 400 a month; consequently, in Schedule IV, the amounts of compensation for those earning between Rs. 300 and Rs. 400 per month had also to be fixed. In 1948, the amendment Act of 1942, which debarred masters and

[1] *Report of the Royal Commission on Labour in India*, p 295.

[2] *Report of the Royal Commission on Labour in India*, p 295, and Bulletin of Indian Industries and Labour, Bulletin No. 61 (*Indian Labour Legislation*), p. 45.

[3] Chapter XVI of the *Report of the Royal Commission on Labour in India*

[4] Bulletin of Indian Industries and Labour, No 74 (*Labour Legislation in India since 1937*), p. 5

seamen from receiving compensation under the workmen's compensation Act, in respect of any injury for which provision had been made for the payment of gratuity allowance or pension under the War Pensions and Detention Allowances Schemes, etc., was replaced. Far more important amendments, however, will be necessary now that the Employees' State Insurance Act has been passed, because similar treatment must be given to workers covered by the Insurance Act and to those covered by the Workmen's Compensation Act but not by insurance.

Among the Indian States, Workmen's Compensation Acts are found in Mysore (1928), Cochin (1935), Indore (1935), Travancore (1939) and Hyderabad (1940); besides, the Government of Baroda had adopted the Indian Act with certain modifications.

Principle of Occupational Risk.[1] The development of legal concepts governing workmen's compensation has gone through various stages—from the simple application of common law to the establishment of the principle of occupational risk. The first stage was the common law or quasi-delictual liability, under which the victim of an industrial accident could only claim compensation if he could prove the employer to have been at fault in the matter. This system proved to be unfavourable both for the worker and the employer. The worker or his dependents had to face difficulty in proving employer's responsibility, litigation, delay in assessment of compensation, expenses and possibly failure. The employer, on the other hand, if found at fault, had to pay heavy compensation, the amount of which he could not foresee. These litigations also resulted in estrangement of relations between employers and workers. The system failed also because of the difficulty of assigning the fault; a large number of accidents could not be attributed to the fault either of the employer or of the worker.

The system, which replaced the common law, was the system of contractual liability, in accordance with which the worker's right to compensation arose, not from the fault of the employer, but out of the contract for the hire of the workers' services. An accident, occurring in the course of work, was automatically attributed to conditions of work, for which the employer was responsible. It fell to the lot of the employer to prove that the accident was due to the fault of the victim, to chance or to *force majeure*. The onus of proof was thus transferred from the worker to the employer, who was thus rendered liable for the safety of his workers. The system, however, failed to remove the major defects of the common law, cited above. These defects demanded

[1] For a detailed study of the evolution of this principle, see the following three I.L.O. books: (i) *Compensation for Industrial Accidents*, Studies & Reports, Series M. No. 2, pp 1-5; (ii) *I.L.O and Social Insurance*, Studies & Reports, Series M. No. 12, pp. 26-8; and (iii) *Workmen's Compensation for Occupational Diseases* (18th Session of I. L. Conference, 1934, Report V), pp. 1-4.

a solution based on conciliation and fair treatment rather than on the abstract legal interpretation of definitions.

The third stage was reached when there arose the conception of the principle of legal liability or of created risk, which, however, was rapidly displaced by the present principle of occupational risk, according to which, apart from any idea of responsibility, compensation for damages caused in the course of employment must be paid by the employer. This principle, on which the whole body of international regulations on workmen's compensation is based, transfers to industry the loss of the economic value of labour as a productive agent. The principle removes or considerably reduces the various difficulties found in earlier systems. It includes the cost of workmen's compensation among the overhead expenses (as the cost of repair, depreciation, wage-bill, etc.) of the industry.

Though the principle of occupational risk serves as the basis for workmen's compensation laws, there is not any direct mention of this principle, except perhaps in the Havana Code, which says that 'every country should establish and maintain legislation providing for workmen's compensation for accidents in conformity with the principle of occupational risk'. Many laws, like the British Act, however, provide compensation for 'personal injury caused to a workman by accident arising out of, and in the course of, his employment'.[1]

For the employer, the best way to meet the occupational risk is to get insured against it. Prudent employers insured against their liability, especially when they had to pay compensation for an injury, irrespective of the worker's fault. In India, many of the big employers have insured their risk, created by the Indian Workmen's Compensation Act, 1923. This insurance, however, is purely voluntary; compulsory insurance may not be admitted, because of the fact that the employer might be able to insure only with a company carried on for profit. This difficulty can be overcome if the State establishes a mutual fund, with which the employer can insure his risk at a premium that includes no margin of profit. In India, the Employees' State Insurance Act is a step in this direction; it provides for compulsory state insurance against the risks of sickness, childbirth and employment injury. Such a system has the advantages of automatic insurance, guarantee of payment of admitted claims, economy in administration, elimination of friction between claimants and employers, co-operation of employers, employees and the State, and attaining other objectives unattainable by private insurance companies.

[1] This seemingly innocent phrase, however, has been the cause of excessive litigation, thereby defeating the purpose of the acceptance of the principle of occupational risk. For criticism of this phrase, see B. P. Adarkar's *Report on Health Insurance for Industrial Workers*, p. 214. This aspect of the problem will be studied later, when the 'risks covered' by the Act will be considered. I L O., *Approaches to Social Security*, Studies and Reports, Series M., No. 18, p. 24.

Scope. The scope of the Workmen's Compensation regulations can be studied from three aspects: (a) undertakings and services covered; (b) classes of workers covered; and (c) risks covered. Certain limitations are laid down in each of these three cases:

(a) *Undertakings and Services Covered.* The Workmen's Compensation (Accidents) Convention, 1925, applies to 'any enterprise, undertaking or establishment of whatever nature, whether public or private'.[1] The Workmen's Compensation (Agriculture) Convention, 1921, extends similar compensation to agricultural wage-earners. The Income Security Recommendation, 1944, covers 'all employed and self-employed persons'. The Havana Code also recommends that 'workmen's compensation should apply to all employed persons including agricultural workers as soon as the conditions prevailing in the rural areas of each country permit'.

In actual practice, however, the national laws lay down a number of limitations to the liability of industrial undertakings.[2] For example, the law may apply only to those undertakings which employ workers more than a statutory minimum. Another limitation, which relates to importance of risk, excludes industrial undertakings not making use of mechanical power. Parts of undertakings, where there is no risk or where only a few workers are employed, may also be excluded.[3] Other limitations relate to the permanent or occasional nature of the undertaking or the object of the undertaking. The law generally recognizes the right of compensation by providing expressly or tacitly that a given undertaking is covered by it. For this purpose, the method used is either the limitative method of enumeration or the mixed method which, besides naming specified undertakings, includes a broadly descriptive enumeration of undertakings or occupations.[4]

The Indian Workmen's Compensation Act adopts the second method. Its scope is determined by the definition of the term 'workman'[5] who is a person (a) whose employment is not casual, (b) who is employed for the purposes of the employer's trade or business, and (c) who is a railway servant or a person employed on monthly wages not exceeding Rs. 400 in any such capacity as is specified in Schedule II of the Act. The Schedule enumerates a number of services, occupations and industries, which are covered by the Act. Broadly, these are (i) tramways (clerks excluded); (ii) factories having 10 or more workers (clerks excluded);

[1] A later Article of the Convention, however, excludes agricultural workers, seamen and fishermen.

[2] I.L.O., *Compensation for Industrial Accidents*, pp. 15-17.

[3] 'The International Labour Conference did not see fit to allow these exceptions, because they are in contradiction with the principle of occupational risk.'—I.L.O., *I.L.O. and Social Insurance*, p. 28

[4] I.L.O., *Compensation for Industrial Accidents*, p. 14.

[5] Section 2(1) (n) of the Act.

(iii) concerns which make, alter, repair, ornament, finish or otherwise adapt for use, transport or sale, any article and wherein 50 or more persons are employed; (iv) manufacturing or handling of explosives, with more than 9 persons; (v) mines (clerks excluded) where more than 49 persons are employed or where explosives have been used or whose depth exceeds 20 feet; (vi) seagoing (master of a ship or seamen); (vii) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship; (viii) construction, repair or demolition of any building, dam or embankment, road, bridge or tunnel, wharf or other marine work; (ix) telegraph or telephone lines or posts in connexion with overhead electric cables; (x) construction, working, repair or demolition of any serial ropeway, canal, pipe-line, or sewer (clerks excluded); (xi) fire-brigade; (xii) contract or sub-contract work of railways; (xiii) railway mail service; (xiv) petroleum or natural gas companies (clerks excluded); (xv) occupations involving blasting operations; (xvi) any excavation over 20 feet deep and on which more than 50 persons are employed; (xvii) operation of any ferry boat capable of carrying more than 10 persons; (xviii) cinchona, coffee, rubber or tea estate employing 25 or more persons (clerks excluded); (xix) electrical generating or transforming stations (clerks excluded); (xx) light-houses; (xxi) cinematograph pictures; (xxii) training, keeping or working of elephants or wild animals; (xxiii) tapping of palm-trees, felling or logging of trees, the transport of timber by inland waters or the control or extinguishing of forest fires; (xxiv) operations of catching or hunting of elephants or wild animals; (xxv) diving; (xxvi) warehouse (with more than 9 persons employed in the handling or transport of goods); and (xxvii) handling or manipulation of X-ray or radium apparatus or contact with radio-active substances. In addition railways have been included under section 2(1)(n)(i).

This is no doubt an imposing list of occupations and services. Besides, a State Government is empowered to add to Schedule II any class of persons employed in any occupation, which it is satisfied is a hazardous occupation.[1] This provision has made the scope of the Act elastic. However, in spite of these provisions, a number of occupations have been excluded from the scope of the Act. Important among these are: (i) unregulated factories, i.e., factories using mechanical power but having less than 10 workers and factories not using mechanical power and having

[1] In exercise of this power the Governments of Madras and the U. P. have extended by notifications in 1947, the application of the Act to persons employed for the purpose of loading or unloading any mechanically propelled vehicle, or in the handling or transport of goods which have been loaded into such vehicles

less than 50 workers;[1] (ii) agriculture;[2] (iii) fisheries; (iv) domestic service, and (v) some miscellaneous occupations such as the construction, repair or demolition of one storey buildings of less than 20 feet in height. Some of these excluded occupations may be considered as non-hazardous; however, when an employment injury takes place, the economic loss arising out of it is the same as that arising from an employment injury in a hazardous occupation. For example, other things being equal, the death of a worker entails the same hardship for his dependents, whether it occurs in a hazardous or a non-hazardous industry. The Act, therefore, should be extended to cover as many classes of employees and of occupations as possible.

The Employees' State Insurance Act has a far more restricted cope, as it applies only to employees in perennial factories. At he same time, the compensation it provides, both medical nd cash, is on a more liberal scale. It will, therefore, be necessary o amend the Workmen's Compensation Act with a view to provide mployment injury benefits similar to those provided by the insurance scheme.

(b) *Classes of Workers Covered.* Often all the persons employed in undertakings enumerated in Workmen's Compensation legislation are not entitled to compensation; at the same time, some classes of persons outside the enumerated undertakings may be subject to the law.

The Workmen's Compensation (Accidents) Convention, 1925, covers 'workmen, employees and apprentices'. Exceptions, however, are allowed in respect of casual workers, persons who are employed otherwise than for the purpose of employer's trade or business, outworkers, members of the employer's family and non-manual workers whose remuneration exceeds a certain limit. The Convention does not apply to seamen and fishermen, to persons covered by some special scheme, the terms of which are not less favourable than those of the Convention and to agricultural wage-earners (to whom the Workmen's Compensation (Agriculture) Convention, 1921 applies). The Income Security Recommendation and the Havana Code, as we have seen above, apply to all employed persons.

The Indian Workmen's Compensation Act excludes from its scope persons employed on monthly wages exceeding Rs. 400, unpaid apprentices, home-workers and casual workers. Generally no distinction is made between manual and non-manual labour, because both are exposed to the risk of accident. However, the Indian law, as is seen from Schedule II, excludes clerical labour

[1] The Factories Act, 1948, however, widens the definition of a factory and in future more factories will be regulated.

[2] The Royal Commission on Indian Labour recommended that the question of the inclusion of persons employed by the larger agricultural employers and of those employed in reserve forests deserves examination — *Report*, p. 301

in a number of industries from the scope of the Act. Another limitation is about the wage—or income—limit, which excludes workers getting more than this limit. It is argued that in case of such workers the accident risk is very slight and that, owing to their comparatively high earnings, they are able to bear their own risk.[1] In India the wage limit is Rs. 400 per month and the workers who get more lose the right to compensation.[2] Two other categories of workers, which fail to come under the Indian Act are : (a) persons whose employment is of a casual nature, and (b) persons who are employed otherwise than for the purposes of the employer's trade or business. Casual workers have been excluded mainly because of the administrative difficulties. Lastly, the Indian Act excludes the members of naval, military or air forces.

The Employees' State Insurance Act makes no change in this position, because it lays down that 'the worker shall not be entitled to receive the disablement or dependents' benefit, unless he is entitled to compensation under the Workmen's Compensation Act, 1923'. As far as the scope is concerned, however, the Compensation Act covers a very wide area, whereas the Insurance Act applies to perennial factories only.

(c) *Risks Covered.* The risks covered by workmen's compensation are the economic loss and medical expenses resulting from injuries in connexion with employment.[3] The national laws of various countries make a more or less rigid distinction between two classes of employment injuries, namely, 'injuries by accidents' and 'injuries by diseases'.[4]

The term 'accident' has been rarely defined, the laws merely connecting it with the victim's work. Accident, however, has certain characteristics, the most important of which are fortuity, suddenness, violence, externality and bodily injury.[5] The

[1] I.L.O., *I L O and Social Insurance*, p 30.

[2] Up to 1946, the wage limit was Rs. 300 per month. In the Workmen's Compensation Acts of Cochin, Mysore and Travancore, the limit is still Rs. 300 per month

[3] I L O , *Approaches to Social Security*, p 36

[4] There are three systems by which legislation in regard to compensation for occupational diseases is brought into force. These are '(a) that of admitting that all diseases may be of occupational origin, and of bringing them indiscriminately within the framework of a general sickness and invalidity insurance scheme; (b) that of admitting that occupational diseases are to be regarded as an occupational risk similar to the accident risk, and of compensating them in accordance with the general principle of the national legislation for industrial accidents; and (c) that of admitting that occupational diseases constitute an occupational risk *sui generis*, and of providing compensation for these by means of special legislation.' The second system has been adopted in the majority of countries including India (I.L.O., *Workmen's Compensation for Occupational Diseases*, pp. 15-19).

[5] I.L O , *Compensation for Industrial Accidents*, pp. 117-21. A theoretical definition of accident is 'any organic or functional injury to the health as well as any physical modification due to an exterior, sudden and violent cause arising out of, and in course of, work and causing either death or absolute, or partial, permanent or temporary incapacity of work'.—I L.O , *Compensation for Occupational Diseases*, p. 5.

national laws do not make the employer liable to pay compensation for accidents and injuries under certain circumstances, to gross negligence or imprudence on the employee's part, etc. The Indian Act, for example, provides that the employer is not liable to pay compensation in respect of any injury, not resulting in death, caused by an accident which is directly attributable to influence of drink or drugs, wilful disobedience to an express order or rule relating to industrial safety, and wilful removal or disregard of any safety guard or similar device.

The other class of risks covered by the laws of workmen's compensation is of 'injuries by diseases'. Industrial accidents and occupational diseases both form parts of employment injuries, and it has been found difficult to make a distinction between the two. An attempt to distinguish an accident from a disease has been made by experts on the following lines.[1] Injuries produced gradually or by an accumulation of effects or forces acting during long periods or by numerous repetitions, etc., cannot be regarded as injuries by accident, but are in general to be qualified as diseases. Generally, the notion of an accident implies something fortuitous, a hazard, while that of a disease covers all the ordinary injuries; the cause of an accident must be external and must act suddenly, while that of a disease is internal and arises gradually; an accident is caused violently, while the disease develops smoothly; lastly injury by accident must be due to a material event, while disease is not characterized by any event. In spite of these distinguishing features, the question of the relation between accident and disease becomes still more complicated on account of the existence of a number of 'health risks', which refer to something between accident and disease—risks such as employment of toxic, unhealthy conditions in factories, excessive strain, etc.[2]

To define the term 'occupational disease' was found as difficult as to define the term 'accident'.[3] In case of accidents, however, the interpretation of the term has been left to the competence of the law courts or of legal pundits. On the other hand, in case of occupational diseases, a more concrete method, the method of double schedule, has been used. This method shows in one column the disease and toxic substances in respect of which compensation shall be paid, and in the other the industries, or processes in which the diseases or substances enumerated may give rise to pathological disorders of a special nature entitling the worker *a priori* to

[1] I L O., *Compensation for Industrial Accidents*, pp 122-24. See the I L.O., Explanatory Report on Workmen's Compensation (Occupational Diseases) Convention, 1925.

[2] The case of hernia has been cited to prove the difficulty of distinguishing accident from disease.—*Compensation for Industrial Accidents*, p. 124.

[3] For a detailed discussion on 'definition of occupational disease', see I.L.O., *Workmen's Compensation for Occupational Disease*, pp. 4-12 and pp. 53-5.

compensation.[1] The classic legislative provision on these lines was first embodied in the British Act of 1906, which contained a list of diseases, chiefly industrial poisonings, and opposite each disease, the occupation, the exercise of which was conclusively deemed to cause the disease. If the disease was not contracted in the corresponding occupation, then the worker had to prove that the disease was caused by his work.[2] India, which has closely followed the British legislation on various subjects, has adopted the same provisions in respect of occupational diseases. The principle of the double schedule has also been accepted by the International Labour Conference in the two Conventions (Nos. 18 and 42) on occupational diseases. The Recommendation on the subject, namely, Workmen's Compensation (Occupational Diseases) Recommendation, 1925, (No. 24), merely advises the adoption of a simple procedure by which the list of diseases considered occupational in the national legislation may be revised. The provisions of the Havana Code also strike a similar note. The Code recommends that national laws should provide for compensation for all diseases; however, where compensation is not provided for all occupational diseases, (a) the schedule of Convention No. 42 should be followed, and (b) compensation should be provided for other occupational diseases, which are of importance in the country concerned.

Difficulty is often felt in establishing the presumption of occupational origin of a disease. The method often used in this respect is to fix a minimum period of employment in some specified occupations (in which industrial disease may be caused). The Income Security Recommendation states that in fixing this minimum period (as also the maximum period during which the presumption of occupational origin will remain valid after leaving the employment), regard should be had to the length of time required for the contraction and manifestation of the disease. The Indian Act divides the diseases (along with the occupations) into two parts, A and B, and provides that if a workman employed in any employment specified in Part A contracts any occupational disease peculiar to that employment, or if a workman, whilst in the service of an employment in whose service he has been employed for a continuous period of not less than six months in any employment specified in Part B, contracts any disease peculiar to that employment, the disease will be considered as an accident arising out of, and in course of, employment.

Another method, adopted to include occupational diseases among employment injuries, is to describe the risk simply as that of physical injury met with during the work, and this definition comes to include any disease which, in the case considered, is proved to have originated in the work, whether suddenly or

[1] I.L.O., *International Labour Code*, p. 313n.
[2] I.L.O., *Approaches to Social Security*, p. 38.

industrial conditions in India.[1] There are a number of occupational diseases, which have yet to find a place in the schedule. The I.L.O.'s Correspondence Committee on Industrial Hygiene adopted some resolutions[2] in 1935-6 requesting the consideration of the possibility of including the following occupational diseases: (i) occupational diseases of the skin, produced by the action of (a) cements, (b) mineral oils, (c) turpentine and its substitutes, (d) varnishes and lacquers, (e) alkalis with caustic or irritant acid, (f) poisonous woods and (g) persulphate or perborate of ammonium; (ii) asbestos, with or without pulmonary tuberculosis; (iii) poisoning by carbon bisulphade or manganese, and ulceration due to chrome or arsenical compounds; (iv) skin infections due to chrome; (v) miners' nystagnus; and (vi) poisoning by nitrous fumes. The Committee or Commission may examine the possibility of including these and similar other diseases in the schedule[3] or of having separate laws for the important diseases.[4] Mere extension of the schedule, however, will not solve the problem in India, because the difficulty also lies in lack of medical experts and proper administration.[5] These aspects of the problem will be taken up later, when a study of the administration of the Act will be made.

Cash Benefits The principle of occupational risk imposes on the employer the responsibility of repairing the economic loss entailed by industrial accidents upon the victims or their dependents.[6] This economic loss generally consists of two main factors: the total or partial loss of earnings, of expenditure incurred on account of medical and surgical treatment, drugs, appliances and funeral cost. The rate of cash benefit must take into account these factors.

[1] The Bhore Committee have recommended an inquiry by the Government of India into the prevalence of occupational diseases After this inquiry, an exhaustive list of occupational diseases should be prepared and all such diseases should be made notifiable by Statute The Factories Act, 1948, makes such a provision of notifying occupational diseases The Bhore Committee have also recommended the establishment of Departments of Industrial Medicine for the study of occupational diseases

[2] I.L.O., *International Labour Code*, pp 600-3.

[3] B P Adarkar suggested the inclusion of industrial dermatitis and various forms of cellulitis and bursitis —*Report on Health Insurance for Industrial Workers*, p. 216n.

[4] Some countries such as Australia, Great Britain, New Zealand and the Union of South Africa, have separate silicosis legislation —*Workmen's Compensation for Occupational Diseases*, Part IV, pp 257-314

[5] Labour Investigation Committee, *Main Report*, p 387

[6] I.L.O., *Compensation for Industrial Accidents*, p 181. One of the guiding principles in the Income Security Recommendation, 1944, is: 'Benefits should replace lost earnings, with due regard to family responsibilities, upto as high a level as is practicable without impairing the will to resume work where resumption is a possibility and with outlying charges on the productive groups so heavy that output and employment are checked.'

(a) *Scales of Benefit.* The Workmen's Compensation (Minimum Scale) Recommendation, 1925 lays down rates of minimum scale of benefits for incapacity for work resulting from employment injury, or for death resulting from such an injury. The minimum rates of compensation for incapacity resulting from the injury are as follows:

(i) In the case of permanent total incapacity, a periodical payment equivalent to two-thirds of the workman's annual earnings.

(ii) In case of permanent partial incapacity, a proportion of the periodical payment due in the event of permanent total incapacity, calculated in reference to the reduction of earning power caused by the injury.

(iii) In case of temporary total incapacity, a daily or weekly payment equivalent to two-thirds of the workman's basic earnings as calculated for purpose of compensation.

(iv) In case of temporary partial incapacity, a proportion of the daily or weekly payment payable in the case of temporary total incapacity, calculated in reference to the reduction of earning power caused by the injury.

(v) In case of death—where compensation is paid by means of periodical payments, the maximum total of the yearly sum payable to all the dependents should not be less than the capitalized value of periodical payments equivalent to two-thirds of the deceased's annual earnings.

The Recommendation also provides for additional compensation in the event of incapacity involving constant attendance; this compensation is not to be less than half the amount payable in the case of permanent total incapacity.

These same rates have been recommended by the Inter-American Social Insurance Code (Havana Code). The Income Security Recommendation, 1944, also lays down that compensation for employment injuries should not be less than two-thirds of the wages lost, or estimated to have been lost, as the result of the injury. The Recommendation, however, further requires that long-term compensation should be adjusted currently to changes in the wages of the class of workers to which the insured person belonged.

The Indian Workmen's Compensation Act awards the following rates of cash benefits for incapacity.

INDIAN WORKMEN'S COMPENSATION

I. *For death, permanent total disablement and temporary (partial or total) disablement* (Schedule IV of the Act)

Monthly wages of the workman injured		Amount of compensation for Death	Permanent total disablement	Half-monthly payment as compensation for temporary disablement
FOR ADULTS				
More than	But not more than			
Rs.	Rs.	Rs.	Rs.	Rs. as.
..	10	500	700	Half of monthly wages
10	15	550	770	5 0
15	18	600	840	6 0
18	21	630	882	7 0
21	24	720	1,008	8 0
24	27	810	1,134	8 8
27	30	900	1,260	9 0
30	35	1,050	1,470	9 8
35	40	1,200	1,680	10 0
40	45	1,350	1,890	11 4
45	50	1,500	2,100	12 8
50	60	1,800	2,520	15 0
60	70	2,100	2,940	17 8
70	80	2,400	3,360	20 0
80	100	3,000	4,200	25 0
100	200	3,500	4,900	30 0
200	300	4,000	5,600	30 0
300	..	4,500	6,300	30 0
FOR MINORS:		200	1,200 of half of monthly wages subject to a maximum of Rs. 30.	

The Indian Act in this respect follows generally the international standards. In schedule No. 1 it specifies certain injuries and lays down the corresponding degree of incapacity as percentages of loss of earning capacity. This schedule is as follows :

II. *For Permanent Partial Incapacity*

(a) *Injuries deemed to result in permanent partial disablement under the Indian Workmen's Compensation Act* (Sections 2 (1) & (4).[1]

Injury	Percentage of loss of earnings capacity
Loss of right arm above or at the elbow ..	70
Loss of left arm above or at the elbow ..	60
Loss of right arm below the elbow ..	60
Loss of leg at or above the knee ..	60
Loss of left arm below the elbow ..	50
Loss of leg below the knee ..	50
Permanent total loss of hearing ..	50
Loss of one eye ..	30
Loss of one thumb ..	25
Loss of all toes of one foot ..	20
Loss of one phalanx of thumb ..	10
Loss of index finger ..	10
Loss of great toe ..	10
Loss of any finger other than index finger ..	5

In the case of any injury specified in the above schedule, the injured workman is to get such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury. In the case of an injury not specified in the above schedule, the injured workman is to get such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury.

Under the Employees' State Insurance Act, provision has been made for disablement benefit and dependents' benefit for victims of occupational injuries and dependents respectively.[2]

(b) *Form of Cash Benefit.* The victims of occupational accidents or their dependents may receive benefit either in the form of periodical payments (pensions if permanent, allowances if temporary), or in the form of a lump sum or capital amount paid once and for all.[3] However, the payment of benefit in the form of a

[1] Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

[2] The rates of these benefits are given in Chapter VIII.

[3] I L O., *I.L O and Social Insurance*, p. 31.

lump sum has been considered defective because the sum is quickly spent by inexperienced beneficiaries, and the lump sum is usually fixed without reference to the injured person's age. The Workmen's Compensation (Accidents) Convention, 1925, clearly lays down: 'The compensation payable to the injured workman, or his dependents, where permanent incapacity or death results from the injury shall be paid in the form of periodical payments, provided that it may be wholly or partially paid in a lump sum, if the competent authority is satisfied that it will be properly utilized.' The Workmen's Compensation (Minimum Scale) Recommendation, 1925, recommends periodical payments[1] and further states: 'Where compensation is paid in a lump sum, the sum should not be less than the capitalized value of the periodical payment which would be payable. The Havana Code recommends daily or weekly payments in case of temporary incapacity, and pension in case of permanent incapacity or death. 'Nevertheless, in special cases, the pension may be commuted to a lump sum if the competent authority to which the case had been referred considers that the proper utilization of the lump sum, in conformity with the purposes of social insurance, will be secured.' According to the Income Security Recommendation, 1944, compensation for employment injuries should take the form of periodical payments, except in cases in which the competent authority is satisfied that the payment of a lump sum will be more advantageous to the beneficiary.

The Indian Workmen's Compensation Act, in contrast to the general tendency of paying pensions, provides for lump sum payment in case of permanent disablement or death and for pension in case of temporary disablement. Even in the case of pension, provision has been made to commute half-monthly payments into a lump sum. The Employees' State Insurance Act removes this defect and provides for periodical payments.

(c) *Waiting Period.* Though the idea of waiting period seems to be in contradiction with the principle of occupational risk, which requires that compensation should begin from the moment the loss occurs, a waiting period is considered desirable to discourage malingering and to reduce the burden caused by payment of compensation for minor accidents.[2] Most of the national laws fix a waiting period of three to ten days. The Workmen's Compensation (Accidents) Convention, 1925, lays down that the compensation should be paid not later than as from the fifth day after the accident. According to the Havana Code, which recommends pension only in case of temporary incapacity, the injured workman should be entitled to a daily or weekly payment as from the day following that on which the accident occurred. The Income Security Recommendation, 1944 considers a long

[1] I.L.O., *I.L.O. and Social Insurance*, p. 32.

[2] ibid., p. 32.

waiting period undesirable and recommends that consideration should be given to the possibility of paying compensation from the first day of temporary incapacity if the incapacity lasts longer than the waiting period. The Recommendation (No. 74) concerning Minimum Standards of Social Policy in Dependent Territories (Supplementary Provisions), recommends a normal waiting period of five days, but if the incapacity lasts for more than four weeks, compensation should be payable as from the first day of incapacity.

The Indian Workmen's Compensation Act, which provides pensions only in case of temporary disability, fixes a waiting period of seven days. The Employees' State Insurance Act on the other hand does not provide for any waiting period in respect of compensation for employment injury. In Mysore also, half-monthly payments in the case of temporary disablement are payable from the date of accident, provided the disablement exceeds seven days. The abolition of a waiting period has been recommended by the Bhore Committee also.

(d) *Dependents.* National schemes usually make a distinction between two classes of dependents entitled to compensation: the first class always includes the consort (widow or widower) and the deceased person's children below a certain age (usually fixed at 15, 16, or 18 years), while the second class usually includes the grandchildren, brothers and sisters, and ascendants of the deceased person. The second class is required to show proof of their economic dependence in application of the principle of need. The Workmen's Compensation (Minimum Scale) Recommendation, 1925, defines the following persons as dependents: (a) deceased's husband or wife; (b) deceased's children under eighteen years of age, or above the age, if, by reason of physical or mental infirmity, they are incapable of earning; (c) deceased's ascendants (parents or grandparents), provided they are without means of subsistence and dependent on the deceased, or the deceased was under the obligation to contribute towards their maintenance; (d) deceased's grandchildren and brothers and sisters if below eighteen years of age, or above that age if, by reason of physical or mental infirmity they are incapable of earning, and if they are orphans, or if their parents, though still living, are incapable of providing for them. The Havana Code includes all these persons as dependents and also adds 'any unmarried woman with whom the deceased has cohabited as man and wife, and any illegitimate children, the conditions of recognition and of economic dependency being determined by national legislation'. According to the Income Security Recommendation, survivors' compensation should be paid (a) to the widow of an insured person; (b) for the children (until the age of 18, or 21 if the child is continuing his general or vocational education), step-children, adopted children and, subject to their previous registration as dependents, illegitimate

children of an insured man or of an insured woman who supported the children; and (c) under conditions to be defined by national laws to an unmarried woman with whom the deceased cohabited.

Under the Indian Workmen's Compensation Act, 'dependent' is defined as 'any of the following relatives of a deceased workman, namely: (a) a widow, a minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and, (b) if wholly or in part dependent on the earnings of the workman at the time of his death, a widower, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter, legitimate or illegitimate, if married and a minor or, if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, a minor child of a deceased daughter where no parent of the child is alive, or, where no parent of the workman is alive, a paternal grandparent'. This definition shows that class (b) dependents, unlike those of class (a) must prove their dependency on the deceased. The Employees' State Insurance Act accepts this same definition.

After defining the dependents, the national schemes are faced with the problem of distribution of the compensation to be awarded to survivors for death due to employment injury. Most national schemes provide that the aggregate amount of compensation to be divided among all the survivors, whatever their number, their relationship, or their degree of economic dependence, may not exceed a certain limit expressed as a fraction of the deceased person's earnings when compensation takes the form of a pension or as multiple of such earnings when it takes the form of a lump sum. The Workmen's Compensation (Minimum Scale) Recommendation and the Havana Code fix the minimum aggregate amount of compensation to be paid to dependents as follows: (a) where compensation is paid by means of periodical payments, the maximum total of the yearly sum payable to all dependents should not be less than two-thirds of the deceased's annual earnings; and (b) where compensation is paid in a lump sum, this maximum sum should not be less than the capitalized value of periodical payments equivalent to two-thirds of the deceased's annual earnings.

Under the Indian Workmen's Compensation Act, the Commissioner is fully authorized to apportion among the dependents the amount of compensation in such proportion as he thinks fit.

(e) *Additional Compensation.* The Workmen's Compensation (Accidents) Convention, 1925, recommends additional compensation in cases where the injury results in incapacity of such a nature that the injured workman must have the constant help of another person. The Workmen's Compensation (Minimum Scale) Recommendation, 1925, goes further and recommends that the additional compensation should not be less than half the amount payable in the case of permanent total incapacity.

The Indian Workmen's Compensation Act makes no provision for additional compensation in the event of incapacity involving constant attendance.

Benefits in Kind. Benefits in kind, provided by various national laws, take various forms, such as medical, surgical and pharmaceutical aid; artificial limbs and surgical appliances; vocational re-education; and rehabilitation. According to the Workmen's Compensation (Accidents) Convention, 1925, the injured workmen are to be entitled to medical aid and to such surgical and pharmaceutical aid as is recognized to be necessary in consequence of accidents. The cost of such aid is to be defrayed either by the employer, by accident insurance institutions, or by sickness or invalidity insurance institutions. The Convention further recommends for injured workmen the supply and normal renewal, by the employer or insurer, of such artificial limbs and surgical appliances as are recognized to be necessary: provided that national laws or regulations may allow in exceptional circumstances the supply and renewal of such artificial limbs and appliances to be replaced by the award to the injured workman of a sum representing the probable cost of the supply and renewal of such appliances, this sum to be decided at the time when the amount of compensation is settled or revised. The Workmen's Compensation (Minimum Scale) Recommendation advocates the provision of vocational re-education of injured workmen. The Havana Code recommends, for the purpose of restoring as quickly and fully as possible the earning capacity of injured workmen, the following benefits in kind: (a) medical and surgical aid; (b) supply of medicines; (c) orthopaedic and prosthetic assistance; (d) vocational rehabilitation; and (e) facilities for treatment in hospitals and other establishments specialising in accident and orthopaedics. The Income Security Recommendation of 1944 does not specify any specific benefit in kind, except the recommendation that a person who becomes permanently incapacitated should be expected to resume employment in any occupation which may reasonably be indicated for him, having regard to his remaining strength and ability, his previous experience, and any facilities for training available to him. In 1944, however, the International Labour Conference adopted another Recommendation, which provides for medical care for the entire population through social insurance and assistance, or through a public medical care service.

The Indian Workmen's Compensation Act provides merely for compensation and not for restoration or prevention. The medical aspect has been completely neglected. The Employees' State Insurance Act, which provides for compensation for employment injury to perennial factory workers, also makes provision for medical benefit.

Guarantees. The necessity of some guarantee against the insolvency of the person liable to pay compensation is often felt by insurance schemes. In India, for example, in case of small employers, the injured worker or his dependents often fail to get compensation, though it might have been awarded to them.[1]

The various guarantee systems, devised by national laws, may be reduced to four as follows:[2] (a) The victim's claim or that of his dependents ranks as a prior charge on the assets of the employer or insurer; (b) the employer deposits with the state fund security in the form of mortgage stocks and shares, cash, etc., sufficient in amount to ensure the payment of the total compensation for which he may be liable in respect of accidents occurring in his undertaking; (c) a guarantee fund administrated by the State and constituted by a direct or indirect tax on employers as a whole or on insured employers; and (d) compulsory insurance of employers, either with a national fund administered by the State, or with private insurance companies or mutual association supervised by the State. The Workmen's Compensation (Accidents) Convention, 1925, considered all these alternatives but merely recommended that the national laws or regulations, should make such provision as, having regard to national circumstances, is deemed most suitable for ensuring in all circumstances, in the event of the insolvency of the employer or insurer, the payment of compensation to workmen who suffer personal injury due to industrial accidents, or in case of death, to their dependents. The Havana Code is more specific when it advocates compulsory insurance of employer's liability for occupational risks as the only method of guaranteeing permanently the payment of cash benefits, and an adequate and economical organization of benefits in kind. In the absence of compulsory insurance the Code recommends that

[1] The following extracts from the *Annual Notes on the Working of the Workmen's Compensation Act* may prove this statement: (i) *1934 Note*: 'It is reported from Bengal that claims are often tenable against small manufacturing firms which are unable to pay the compensation required within the statutory period. In such cases, compromise is often the only way in which the employee can obtain any payment' (ii) *1935 Note*: 'Both Bengal and Bombay refer to actual cases of the kind mentioned in last year's report, where claims are tenable against small firms which are unable to pay the compensation required within the statutory period. In Bombay, awards for compensation against the proprietor of an unlicensed fireworks factory could not be enforced by dependents of workmen killed in an explosion, as the proprietor was without resources. In Bengal, one factory against which an award was made had previously been closed and in another case the workshop was removed elsewhere and could not be traced. Where small firms are practically without resources, the employee must sometimes compromise in order to recover any part of the award given him.' (iii) *1938 Note*: 'In Bengal, Madras and Bombay difficulties were experienced in recovering decretal amounts in some cases because the judgement-debtors either had hardly any means to satisfy the decrees or were prone to adopt unscrupulous ways and means for avoiding payment as long as possible.

[2] I.L.O., *I.L.O. and Social Insurance*, p. 42.

the employers who have not chosen to insure against their liability for industrial accident with an insurance institution, approved and supervised by the public authorities, on behalf of all persons employed by them, should be required to contribute to a guarantee fund which would undertake the payment of benefits in case of the insolvency of any uninsured employer.

The Indian Workmen's Compensation Act makes some provisions regarding guarantee against the insolvency of the employer. Important provisions are briefly as follows: (i) if an employer who is insured in respect of any liability under the Workmen's Compensation Act goes insolvent, the liability is transferred to the insurer; and (ii) the amount due in respect of any compensation is to be included among the debts which under section 49 of the Presidency Towns Insolvency Act, 1909, or under section 61 of the Provincial Insolvency Act, 1920, or under section 230 of the Indian Companies Act, 1913, are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts. However, in India, insurance of the liabilities under the Workmen's Compensation Act is purely voluntary and though there has been an increasing tendency on the part of the employers to insure,[1] there is no statutory guarantee against an insolvent employer, who is not insured. This method of insurance will be studied later, when the various agencies, which help the workers in securing compensation, will be reviewed.

The Employees' State Insurance Act accepts the principle of insurance and thus is an improvement on the Indian Workmen's

[1] The following extracts, taken from *Annual Notes on the Working of the Workmen's Compensation Act*, are relevant in this respect, (i) *1926 Note*: 'In Bengal and Bombay the larger employers of labour are insuring their liabilities to an increasing extent with insuring companies and this has facilitated to a considerable extent the settlement of claims under the Act, as the insurance companies have shown a special anxiety not to contest claims unless they have clear and strong grounds for doing so.' (ii) *1927 Note*: 'The Calcutta Claims Bureau, representing the majority of insurance companies settled numerous *bona fide* claims without litigation and with promptness and care. The Bombay Report refers to the systematic co-operation on the part of the Bombay Bureau and a large number of insurance companies representing the employers.' (iii) *1932 Note*: 'The number of claims settled through insurance companies in Bombay was 275, that is about 45 per cent of the total number as against 50 per cent in 1931. The Commissioner observes that insurance companies as a rule contest only cases involving questions of law or principle, and considers that insurance benefits all concerned.' (iv) *1936 Note*: 'The Calcutta Claims Bureau which handles the claims from almost all insured labour in Bengal continued to render assistance in the settlement of claims. Other insurance companies such as the New India Assurance Co., Ltd., and the Hukumchand Insurance Co., Ltd, which are not members of the Calcutta Claims Bureau, also worked satisfactorily. In Bombay, the working of the Act was greatly facilitated by insurance companies who represented the employers in about 58 per cent of the cases. The majority of contested cases were handled by two claims agencies

Compensation Act in matters of guaranteeing the benefits to workers.

Settlement of Disputes. The International Labour Conference adopted a special Recommendation concerning jurisdiction in disputes on workmen's compensation. This Workmen's Compensation (Jurisdiction) Recommendation of 1925 lays down the principle that disputes relating to workmen's compensation should preferably be dealt with by a special court or board of arbitration, comprising, with or without the addition of regular judges, an equal number of employers' and workmen's representatives. However, the Recommendation further lays down that where disputes relating to workmen's compensation are dealt with by the ordinary courts of law, such courts should be required, on the request of either of the parties concerned, to hear employers' and workmen's representatives as experts in any case where the dispute involves a question of an occupational character, and in particular, the question of the degree of incapacity for work. The Havana Code also recommends similar provisions and further adds that the courts which deal with disputes concerning workmen's compensation should hear the opinion of a medical committee consisting of medical specialists competent to assess the incapacity caused by the different injuries.

The principles mentioned above have been overlooked in India, where the competent judicial authority is the Workmen's Compensation Commissioner, appointed by the Provincial Government to administer the Workmen's Compensation Act. He has all the powers of a civil court. Workers' and employers' representation on the body competent to settle disputes is absent. The Employees' State Insurance Courts, to be constituted under the Employees' State Insurance Act to decide claims and settle disputes, also lack workers' and employers' representation.

Equality of Treatment for National and Foreign Workers. The International Labour Conference adopted in 1925 a Convention and a Recommendation to make provision for equality of treatment for national and foreign workers as regards workmen's compensation for accidents. The Equality of Treatment (Accident Compensation) Convention asks each member, which ratifies this Convention, to grant the nationals of any other ratifying member, who suffer personal injury due to industrial accidents happening in its territory, or to their dependents, the same treatment in respect of workmen's compensation as it grants to its own nationals. This equality of treatment is to be guaranteed without any condition as to residence. This is one of the two social security Conventions which India has ratified. In India the protection afforded to foreign workers is equality *de jure*. The Indian Workmen's Compensation Act covers all workers, coming within its scope,[1] without reference to their nationality or residence. The Equality

[1] See pp. 56-70

of Treatment (Accident Compensation) Recommendation, 1925, deals with measures which are calculated to facilitate the application of the principle advocated in the Convention; these facilities relate to payment of such compensation, ensuring the observance of the conditions governing such payment, proceedings in the competent courts of law, any advantage in respect of exemption of duties and taxes, free issue of official documents or other privileges granted by law, etc.

Administration. For administration, the Act makes provision for the appointment of 'Commissioners for Workmen's Compensation'. Through these Commissioners the Act is administered on a local basis. Except in Bombay, where the Commissioner has been appointed for more important areas, the appointment of special Commissioners for the administration of the Act seems to be practically absent. In Bengal, Bihar and Madras, Labour Commissioners act as the *ex officio* Workmen's Compensation Commissioners, while in other states, either District Magistrates or District and Sessions Judges perform the duties expected from the Commissioners for Workmen's Compensation

Mere provisions appointing the Commissioners and guaranteeing the workers' right to compensation against accidents are of little use, unless they are properly and adequately enforced. It has been observed that a bad law administered well often proves better than a good law badly administered. There is no unanimous opinion about the success of the Workmen's Compensation Act in India. The Royal Commission on Labour in India have paid a tribute to the smooth working and success of the Act and have thought that the comparative measure of this success is due to the extreme precision of the Act and to the special machinery set up for its administration.[1] B. P. Adarkar, on the other hand, is of the opinion that the administration and operation of the Act has been a comparative failure.[2] The Labour Investigation Committee also think that the working of the Act leaves much to be desired, especially in small establishments and mofussil areas where attempts are commonly made to avoid payment of compensation to the workers by one means or another. The inquiries made by the Bihar Labour Enquiry Committee also revealed that the full benefits of the Act were not being enjoyed by workers in many concerns.

Prior to the passing of the Workmen's Compensation Act, considerable doubt was felt regarding the possibility of an Act of this kind working smoothly in India. 'The migratory habits of the workers, their general illiteracy and the paucity of medical men, give rise to difficulties that are absent in the Western countries on which legislation of this type is necessarily modelled, and the

[1] *Report of the Royal Commission on Labour in India*, pp. 295-6.

[2] *Report on Health Insurance for Industrial Workers*, Appendix XXVI, p. 214.

distinctive features of the Act designed to meet these difficulties were admittedly experimental in character. Further, Acts of this kind have been associated in some other countries with extensive litigation, and there was an obvious danger that this weakness would appear in India.'[1] All these defects seem to have persisted and very few attempts have been made to remove them.[2] Added to these defects are many other evils, such as failure to enforce the Act adequately, inability to pay compensation in case of small employers with limited resources, fear of victimization and lack of any legal aid to workers. Some of these defects have been already discussed in the previous sections. The defects and the remedies suggested to remove them may be briefly stated as follows.[3]

Defects	Remedies suggested
Non-payment of compensation awarded to workers	(i) In case of employers, who are able to pay but who evade payment, proper enforcement of the Act. (ii) In case of employers, who are unable to pay, introduction of insurance principle.
Illiteracy and ignorance of the workers of the law	(i) Proper display of the abstract of the Act and also giving a copy of the abstract to each worker. (ii) Assistance by trade unions, Factory Inspectors and even by employers in the dissemination of the knowledge of the provisions of the Act. (iii) Periodical educative meetings by the Labour Welfare Officers.
Fear of victimization	(i) Provision of standing orders. (ii) Proper enforcement of laws prohibiting victimization.

[1] *Note on the Working of the Workmen's Compensation Act for the year 1924-25*, p. 2.

[2] The *1930 Note* on the working of the Act says : 'Though the Act is becoming more widely known among workers, there are still certain factors which retard the full attainment of the objects underlying its enactment. Thus, it is recorded in the Central Provinces Report that the Commissioners of Nagpur, Saugor, Hoshangabad and East Berar report that the workmen are still as a class ignorant of the extent of their rights under the Act. The Burma report records that there is still a tendency among some employers, especially small employers, to evade their obligations, while the Punjab report mentions a greater tendency on the part of the workers to accept whatever amount is offered to them by their employers. This is attributed to the desire to avoid prolonged proceedings before Commissioners, and in the case of minor accidents to anxiety to retain services with the employers. The Bombay Report records that litigation connected with claims under the Workmen's Compensation Act was during 1930 on a more extensive scale than in any of the previous years.'

[3] See the Tablular statement on pp 74-5 For details of these defects and also for remedies suggested, see B P. Adarkar's *Report on Health Insurance for Industrial Workers*, Appendix XXVI, p 214, and Labour

Defects	Remedies suggested
(i) Costly and dilatory litigation	(i) Evolving a simple and speedy procedure.
(ii) Lack of legal aid to the worker.	(ii) Not saddling the judicial authorities with a lot of work; preferably the appointment of special Workmen's Compensation Commissioners.
	(iii) Assistance by Claims Agencies, Factory Inspectors and trade unions.
	(iv) Free legal advice at the cost of the State.

The Bhore Committee received representations, that cases under the Act have a tendency to drag on in some states in which Compensation Courts sit only twice a year, and that the amount of compensation sanctioned in certain cases is inadequate, for instance, a sum of Rs. 900 for the loss of a right arm. The Bhore Committee believe that there is a case for simplification of the procedure laid down in the Act.[1]

The success of the administration of the Workmen's Compensation Act primarily depends upon the organization through which the compensation is paid. In India, many of the big employers have recognized the principle of insurance and have insured their liabilities under the Act with insurance companies. This action on the part of the employers has facilitated to a considerable extent the settlement of claims under the Act, as the insurance companies have shown a special anxiety not to contest claims unless they have clear and strong grounds for doing so.[2] In Bombay and Bengal, claims bureaux have been successfully working on behalf of insured employers for the last so many years.

The principle of insurance may be applied in one of the following ways:[3] (a) insurance companies and mutual insurance associations; (b) State establishment of a mutual fund with which any employer can insure his risk; or (c) control by the State of the premium rates charged by Companies. Of these three methods, the second, i.e., State Mutual Fund, is gaining ground as the most appropriate type of carrier of accident risks. Its justification is (a) necessity of compulsory insurance; (b) lack of commercial

Investigation Committee, *Main Report*, pp 51-2 and 376-7. See also the *Annual Notes on the Working of the Indian Workmen's Compensation Act*. There are some more minor defects such as difficulties arising in disposing of claims promptly because the relatives of deceased workmen could not be traced.

[1] *Report of the Health Survey and Development Committee*, Vol. I, p 77.

[2] *1926 Note* on the working of the Act. See also *1932* and *1936 Notes*.

[3] I. L. O., *Approaches to Social Security*, p 24

insurance; and (c) the inability of some (especially small) employers to find an insurance company. The advantages of a State Mutual Fund are: (a) attainment of objectives unattainable by private insurance companies; (b) automatic insurance; (c) guarantee of payment of admitted claims; (d) economy in administration; (e) elimination of friction between claimant and his employer; and (f) co-operation of employer, employee and the State. In India, insurance is not compulsory under the Workmen's Compensation Act, with the result that only some employers, mostly big undertakings, have insured against the liabilities.[1] Compulsory insurance as a remedy to this defect has been suggested to the Labour Investigation Committee by some states' Governments and most of the big employers' organizations like the Bombay Millowners' Association, the Indian Jute Mills Association and the Indian Engineering Association. However, as we have seen above, the best method is to establish a State mutual fund, which insures employers against the risk of employment injury. The Employees' State Insurance Act adopts this method.

The success of the administration of the Act also depends upon the co-operation of the various agencies—the State, the employers and the employees. The Factory Inspectors, as the representatives of the State, may assist the workers to get their legitimate benefits under the Act.[2] The employers and their Labour Welfare Officers, instead of unnecessarily contesting all cases, may take a liberal and sympathetic view and admit all legitimate claims of the injured workers.[3] The greatest responsibility in this field of compensation is upon employees and their organizations. The *Annual Notes on the Working of the Act* make mention of some workers' organizations, which assisted the workers in getting compensation under the Act.[4] The most notable organization in this field is the

1 The Labour Investigation Committee have observed, 'The majority of the bigger concerns insure their liability for payment of workmen's compensation and some others have their funds to meet these liabilities. The Millowners' Association, Bombay, has its Millowners' Mutual Insurance Association. It is generally the small employers who do not insure. The number of cases where workmen have not been able to secure compensation due to the insolvency of the employers is fairly large.' *Main Report*, p 53.

2 For illustrations, see *1927* and *1930 Notes* on the working of the Act.

3 The annual *Notes on the Working of the Act* give a number of examples of the generosity of employers in the award of compensation, even in cases where it was not legally admissible. See *Notes* for the years 1930, 1931, 1932, 1934 and 1936

4 The annual *Notes on the Working of the Act* mention the following trade unions, assisting the workers to get compensation: Ahmedabad Textile Labour Association, Ambernath Labour Union, B B. & C I. Railway Employees' Association, Bengal Mariners' Union, Calcutta Port Trust Employees' Association, Indian Seamen's Association (Calcutta), National Seamen's Union (Bombay), and Press Employees' Association (Bengal). The *Notes* also mention some other workers' organizations, specially founded for assisting workers to get compensation, such as the Kharagpur Claims Bureau, (Bengal) Workers' Claims Bureau, (Bombay) Workmen's Claims Bureau and Bombay Claims Agency.

Ahmedabad Textile Labour Association, which takes up gratis cases not only for members, but also for other workers. The extent of the assistance rendered by the Ahmedabad Textile Labour Association can be seen from the following figures, which show for some years the number of compensation cases handled, the number of cases for which compensation was obtained and the amount of compensation paid in these cases.

AHMEDABAD TEXTILE LABOUR ASSOCIATION

Workmen's Compensation Cases[1]

Year	No. of cases handled	No. of cases for which compensation was paid	Amount of compensation paid
			Rs.
1935 ..	*	184	18,445
1936 ..	200	146	29,930
1937 ..	241	*	21,915
1938 ..	188	*	19,776
1940 ..	119	99	*
1941 ..	138	95	16,817
1942 ..	174	*	*
1943 ..	138	71	20,230

*Figures not available.

Generally, however, it can be said that only a few unions assist their members in getting compensation under the Act. An average trade union, with unsound finances, rarely takes up this work.

The failure of the administration of the Indian Workmen's Compensation Act is particularly marked in cases of occupational disease. Under the Act, the injured workman is entitled to compensation in case of either industrial accidents or occupational diseases. In practice, however, the Act seems to apply only in case of industrial accidents and very few cases of occupational diseases are compensated for. The following table prepared from the facts and figures given in the *Annual Notes on the Working of the Workmen's Compensation Act,* may prove this statement:

[1] Statistics taken from *Annual Notes on the Working of the Workmen's Compensation Act, 1923.*

COMPENSATION FOR OCCUPATIONAL DISEASES

Year	Cases for which compensation was paid	Compensation paid	Remarks
		Rs.	
1927	1	2,730	This case was of lead poisoning in Bengal. In addition, cases of lead colic, plumbism and lead poisoning were noticed in Burma mines.
1928	14	6,983	This compensation was paid for 3 cases of lead poisoning in Bengal. In addition, there were minor cases.
1929	15	2,730 7,313	For one case of lead poisoning in Bengal. For 14 cases in Burma.
1930	..	..	One case of lead poisoning was disallowed.
1931	1	2,310	Case of lead poisoning in Bengal.
1932	1	*	Of the two cases of lead poisoning in Bengal one was rejected.
1933	5	*	Three cases in Delhi and one each in Bombay and Bengal—all of lead poisoning.
1934	3	*	Two cases in Burma and one in Bengal, all the three of lead poisoning.
1935	1	*	The case was of compressed-air illness in Bombay.
1936	7	6,355	In all there were 8 cases (3 in Bengal, one in Delhi, 3 in Burma and one in Bombay), all of lead poisoning.
1937	7	4,644	This compensation was only for 6 cases, though there were 8 cases (5 in Delhi and one each in Bengal and Bihar), all of lead poisoning.

*Figures not available.

Year	Cases for which compensation was paid	Compensation paid	Remarks
1938	3	3,106	Two cases in Delhi and one in Bihar, all of lead poisoning.
1939 and 1940*			
1941	1	*	Lead poisoning to a S.I. Railway employee.

* Figures not available.

This table shows that very few occupational diseases are compensated for; almost all the cases of occupational diseases are of lead poisoning; some cases of lead colic and plumbism were noticed in early years, while only one case of compressed-air illness was discovered (in Bombay in 1935); and the amount of compensation was inadequate and a number of cases were left uncompensated.

Workmen's Compensation Statistics. Under section 16 of the Indian Workmen's Compensation Act, the State Governments are empowered to ask for returns from employers in prescribed forms. The returns which are thus obtained by the State Governments relate to (a) number of cases and compensation paid; (b) proceedings before the Commissioner of Workmen's Compensation; and (c) registration of agreements. The Central Government collects these annual returns, summarizes them in a consolidated note and publishes them under the title *Workmen's Compensation Statistics: Together with a Note on the Working of the Workmen's Compensation Act, 1923.*[1] The statistics collected from these returns are often inadequate.[2] However, they give a general trend of the progress in the field of accidents and compensation paid for them. The following table is compiled from the statistics furnished by the *Annual Notes* and the *Workmen's Compensation Statistics*:

[1] These Statistics and Notes have been published regularly for the years 1924 and 1938, in small annual brochures. The data for 1939 and 1940 are not available, while those for subsequent years (till 1946) have been published in the *Indian Labour Gazette.*

[2] The *1926 Note*, for example, states, 'The figures in Statement I do not cover all the classes of workmen who are protected by the Act; but they include the more important classes, namely workers in factories, mines and docks and on railways and tramways; the number of claims that could be put forward by the other classes to which the Act applies is comparatively small. The other statements cover all compensation proceedings.' The *1926 Note* also states, 'In most provinces returns were not received from some of the employers and in spite of the attempts made to prevent mistakes in the preparation of this return by the addition of foot-notes many of the returns submitted are far from being accurate.' These complaints of inaccuracy and inadequacy are made even in recent years; for example, the statistics of 1943 exclude the Bombay data, those for 1944 exclude the Bombay and Madras figures, while in 1946 no figures from the Punjab could be had.

Table V

INDIAN WORKMEN'S COMPENSATION ACT, 1923

Number of Cases and Compensation Paid

Year	A=Adults M=Minors	Number of cases resulting in: Death	Permanent disablement	Temporary disablement	Total number of cases	Compensation paid for: Death	Permanent disablement	Temporary disablement	Total compensation paid	Average sum paid per case of disablement or death
						Rs.	Rs	Rs	Rs	Rs.
1924	A	249	98	3,800	4,147	82,085	18,401	47,847	148,333	36
(July-December)	M	2	1	18	21	375	1,050	466	1,891	
1925	A	583	624	10,127	11,334	345,995	150,574	144,961	641,530	57
	M	7	9	21	37	200	2,220	171	2,591	
1926	A	661	832	12,555	14,048	425,935	211,616	182,770	820,321	58
	M	3	4	41	48	460	321	374	1,155	
1927	A	777	969	13,428	15,174	581,400	317,153	210,831	1,109,384	73
	M	6	9	27	42	840	568	462	1,870	
1928	A	819	1,105	14,793	16,717	521,510	352,210	217,531	1,091,251	65
	M	9	8	34	51	2,494	1,786	199	4,479	
1929	A	886	1,339	16,604	18,829	587,190	395,570	275,003	1,257,763	67
	M	2	6	28	36	200	1,607	594	594	
1930	A	867	1,421	21,235	23,523	559,302	424,978	260,772	1,245,052	53
	M	4	3	44	51	1,100	316	296	1,712	
1931	A	696	1,266	15,498	17,460	444,246	390,344	230,541	1,065,131	61
	M	3	5	21	29	600	436	189	1,225	
1932	A	600	1,106	12,535	14,241	360,164	296,201	165,892	822,257	58
	M	1	2	17	20	200	387	301	888	
1933	A	526	1,037	12,978	14,541	331,357	299,910	182,567	813,834	56
	M	..	..	18	18	.	.	115	115	

Table V (*Contd*)

Year	A=Adults M=Minors	Number of cases resulting in: Death	Permanent disablement	Temporary disablement	Total number of cases	Compensation paid for: Death	Permanent disablement	Temporary disablement	Total compensation paid	Average sum paid per case of disablement or death
1934	A	597	1,284	14,987	16,868	371,562	293,585	202,852	867,999	51
	M	1	3	18	22	200	546	102	848	
1935	A	692	1,278	21,005	22,975	522,331	360,914	277,469	1,160,714	51
	M	4	1	19	24	200	427	124	751	
1936	A	1,036	1,539	25,905	28,480	740,331	405,859	317,084	1,463,274	52
	M	2	1	27	30	150	543	213	906	
1937	A	768	1,740	27,134	29,642	546,242	439,420	303,084	1,288,746	43
	M	..	..	3	3	..	10	8	18	
1938	A	802	1,987	32,233	35,022	610,436	471,391	350,338	1,432,165	41
	M	1	3	39	43	200	204	154	558	
1939/1940	Figures for these two years have not been published.									
1941	A	817	2,268	35,773	38,858	588,298	562,097	431,300	1,581,695	41
	M	2	2	46	50	700	807	180	1,687	
1942	A	921	2,187	39,474	42,582	765,819	587,006	466,219	1,819,044	45
	M	2	..	19	21	400	..	61	461	
1943	A	1,114	2,435	41,236	44,785	971,886	801,253	510,032	2,283,171	51
	M	9	1	31	41	400	240	180	820	
1944[1]	A	870	1,376	29,313	31,559	791,326	492,150	412,297	1,695,773	54
	M	1	..	21	22	600	..	121	721	
1945	A	1,251	3,941	62,113	67,305	1,329,394	2,030,140	863,335	4,222,869	63
	M	2	2	81	85	1,250	436	784	2,470	
1946[2]	A	1,152	3,536	50,491	55,179	1,367,631	1,303,113	953,051	3,623,795	66
	M	2	..	60	62	1,050	..	963	2,013	
1947[3]	..	1,018	3,240	49,155	53,413	1,179,087	1,309,974	936,824	3,425,885	64

[1] Excluding Bombay and Madras. [2] Excluding Punjab and Sind. [3] Excluding Punjab.

CHAPTER IV

SICKNESS INSURANCE

INTERNATIONAL LABOUR CONVENTIONS AND RECOMMENDATIONS

THE tenth Session of the International Labour Conference (Geneva, 1927) adopted two Conventions and one Recommendation concerning sickness insurance. These Conventions and Recommendations, which are the only international regulations relating solely to the problems of sickness insurance are:[1] (i) Sickness Insurance (Industry, etc.) Convention (No. 24) concerning sickness insurance for workers in industry and commerce, and domestic servants; (ii) Sickness Insurance (Agriculture) Convention (No. 25) concerning sickness insurance for agricultural workers; and (iii) Sickness Insurance Recommendation (No. 29) concerning the general principles of sickness insurance.

India has not ratified either of the Conventions; in fact the Employees' State Insurance Act, 1948 proposes to be the first enactment in this field of sickness insurance.

Another International Recommendation, which partly concerns sickness insurance, is the Income Security Recommendation (No. 67), 1944. The first contingency covered by this Recommendation is sickness, which means 'loss of earnings due to abstention from work necessitated on medical grounds by an acute condition, due to disease or injury, requiring medical treatment or supervision'. The Inter-American Social Insurance Code (Havana Code) recommends that every country should establish and maintain sickness insurance legislation based on the principle of compulsory insurance.

The I.L.O. Conventions of 1927 first raised the problem of sickness insurance in India, as the question of their ratification had to be considered by the Central Legislature, which subsequently decided in 1928 not to ratify them. Since then, the problem has occasionally come up for discussion, but no appreciable progress was achieved, till B. P. Adarkar, an Officer on Special Duty, appointed by the Government of India to draft a health insurance scheme, submitted his *Report on Health Insurance for Industrial Workers* in 1944.[2] The Adarkar scheme was considered by the

[1] There is also the Sickness Insurance (Sea) Convention, 1936, which applies to seafarers See Chapter VII.

[2] For an excellent summary of the history of health insurance proposals in India for the period 1927-44, see B P. Adarkar's above-mentioned *Report* (Appendix VII, pp 163-4) See also Appendices VIII to X for the various schemes suggested by the Royal Commission on Labour in India, the Labour Department of the Government of India, and the Bombay Textile Labour Enquiry Committee Appendix XI is a Note by Mr Thomas, former Superintendent of Insurance, who gives some suggestions on sickness insurance.

Tripartite Labour Conference in October 1944 and later by the Standing Labour Committee in March 1945. It was further examined by two experts, Messrs Stack and Rao, from the International Labour Office, who suggested certain important modifications particularly as regards the extension of the scope of insurance provisions.[1] Based upon these suggestions, the Government of India modified the original health insurance scheme of B. P. Adarkar and published 'a Unified Scheme of Social Security, to cover Health Insurance, Maternity Benefit and Employment Injury'.[2] The Employees' State Insurance Act, 1948 embodies the provisions enunciated in the Unified Scheme.[3]

The Act covers the three risks—sickness, maternity and employment injury. In the previous two chapters, which studied the latter two risks, various provisions of the Act came up for occasional reference in a study of insurance, either against maternity or accidents. The primary risk covered by the Act, however, is sickness, which is defined as 'a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds'. In this chapter, relevant provisions of the Act have been studied in the light of internationally approved standards.

Scope. Limitations relating to the scope of sickness insurance provisions mainly arise from two factors: (i) those arising out of the occasional or temporary character of employment, and (ii) those arising out of the personal qualifications of workers.[4] Under the first category are included occasional employment or employment of a casual nature, subsidiary employment and temporary employment (including seasonal employment). Under the second category come the age-limits, the wage-limits, working capacity and political and civil conditions. The International Convention (No. 24) concerning sickness insurance lays down that 'the compulsory insurance system shall apply to manual and non-manual workers, including apprentices, employed by industrial undertakings, out-workers and domestic workers'. The Convention, however, allows certain exceptions, such as temporary, casual, occasional or subsidiary employment, workers earning more than a specified income limit, workers not paid in cash, outworkers, workers below or above specified age-limits and members of the employer's family. The Recommendation

[1] For the suggestions of these two experts see *Indian Labour Gazette*, April 1945, pp. 329-39.

[2] *Indian Labour Gazette*, June 1945, pp 395-401.

[3] For 'Statement of Objects and Reasons' of the Bill, see *Indian Labour Gazette*, December 1946, pp. 226-7.

[4] For a detailed study of the various limitations in these two categories, see I. L O, *Compulsory Sickness Insurance* (Studies and Reports, Series M. No. 6), pp 42-55.

(No. 29) concerning the general principles of sickness insurance appears to have a wider scope; it says, 'sickness insurance should include, within its scope, without discrimination as to age or sex, every person who performs work by way of his occupation and under a contract of service or apprenticeship'. The Havana Code also extends the application of compulsory sickness insurance to all employed and self-employed persons, including agricultural workers as soon as the conditions, prevailing in the rural areas of each country, allow. Under the Income Security Recommendation, social insurance should afford protection to all employed and self-employed persons, in respect of whom it is practicable (a) to collect contributions without incurring disproportionate administrative expenditure; and (b) to pay benefits with the necessary co-operation of medical and employment services and with due precautions against abuse.

In contrast to these internationally approved provisions, the scope envisaged in the Employees' State Insurance Act appears to be very narrow. The Act provides for compulsory insurance of persons employed for remuneration in or about perennial factories (as defined in clause 2(j) of the Factories Act, 1934) by or on behalf of the owner for the purposes of his trade or business. The term 'employee' includes an outworker and also a worker employed by a contractor in connexion with work of a perennial factory; it excludes, however, any member of the nation's naval, military or air forces, and any person employed on remuneration which in the aggregate exceeds Rs. 400 per month. The Act thus excludes all non-factory employees and even among the factory employees all those working in seasonal factories, and those, manual or non-manual, getting more than Rs. 400 a month. As for the other exceptions allowed by the Convention, though the Act does not explicitly lay them down, its provisions indirectly provide for most of them. For example, the condition of qualifying period for cash benefit excludes casual workers. Unpaid apprentices are excluded, because the Act covers only persons employed for remuneration. The age-limit, laid down by the Factories Act, for entrance into a factory, automatically becomes the lower age-limit in the Act, while the age at which a worker retires mainly because of old age can be said to be the upper age-limit.

Cash Benefits. The insurance institutions in granting benefits may follow two alternative policies :[1] (i) grant of cash benefits so that the insured person may himself obtain the goods and services he requires; and (ii) organizing the provision of whatever is needed by the insured. Neither of these policies is exclusively followed by the sickness insurance law, but the recent tendency is to attach more importance to benefits in kind than to benefits in cash. The Indian Act provides for both 'sickness cash benefit' and 'medical benefit'.

[1] I. L. O., *Compulsory Sickness Insurance*, pp. 169-70

The value of a system of cash benefits depends chiefly on three factors: the conditions on which benefit is granted, the amount of benefit and the period of benefit.[1]

(a) *Conditions of Payment.* The first natural condition is that the insured person must be unable to continue carrying on his occupation owing to sickness. The Convention lays down that an insured person who is rendered incapable of work by reason of the abnormal state of his bodily or mental health shall be entitled to a cash benefit. The Havana Code details the 'right to benefit' in the same terms. The Income Security Recommendation allows sickness benefits for 'loss of earnings due to abstention from work necessitated on medical grounds by an acute condition, due to disease or injury requiring medical treatment or supervision'. Under the Indian Act an insured workman, 'if certified by a duly appointed medical practitioner to be incapable of working by reason of sickness', is entitled to receive sickness cash benefit.

Two other conditions relate to qualifying period and waiting period.[2] According to the Convention, 'the payment of cash benefit may be made conditional on the insured person having first complied with a qualifying period and, on the expiry of the same, with a waiting period of not more than 3 days'. The Havana Code does not recommend either of these periods, while the Income Security Recommendation merely says that benefit need not be paid for the first few days of a period of sickness, but if sickness recurs within a few months, a fresh waiting period should not be imposed. The waiting period, provided by the Indian Act, is two days—a period neither too burdensome for the sick person nor too short to prevent abuse.[3] As for the qualifying period, the Indian Act provides that a workman shall be qualified to receive the sickness cash benefits if, during the corresponding contribution period, weekly contributions in respect of him were payable for not less than two-thirds of the number of weeks during which he is available for employment, subject to a minimum of twelve contributions. Messrs Stack and Rao considered that the high rate of labour turnover in industrial undertakings in India necessitates laying down of a qualifying period in order to winnow out from the scheme persons who are not identified with industry and rely on factory employment only as a casual means of earning a living. The provision of qualifying period also keeps the cost within acceptable limits. The 'period of protection' provides that even after passing out of insurance, a person may retain his rights for a relatively short period.[4] There is no provision of protective period

[1] I. L. O., *I. L. O. and Social Insurance*, p. 48.

[2] For *raison d'etre* of these 'periods', see I. L. O., *Compulsory Sickness Insurance*.

[3] I. L. O., *I. L. O. and Social Insurance*, p. 49. This remark by the I. L. O. is for the period of 3 days.

[4] I. L. O., *Compulsory Sickness Insurance*, p. 181.

in the Indian Act except in case of medical benefit.[1] However, the arrangement of contribution periods and corresponding benefit periods itself assures a protective period for the duration of the benefit period after a person ceases to be an employee under the Act and ceases to pay contributions. The Act is also not clear about the 'linking-up' rules. The only 'linking-up' it provides appears to be of sicknesses not separated by more than 15 days. The factory conditions in India, where insecurity of employment is not infrequent, the absence of 'linking-up' rules may debar a number of workers from getting benefits under the scheme.

In addition to the above conditions for payment of cash benefits, there are some other miscellaneous conditions. For example, the patient must obey the instructions of the institution as to procedure during sickness.[2] Under the Indian Act a person in receipt of sickness cash benefit is (a) to remain under medical treatment at a dispensary, hospital or other institution provided under the law, and to carry out the instructions given by the medical officer in charge thereof; and (b) not to do anything which might retard or prejudice his chances of recovery, and to allow himself to be examined by any duly appointed medical officer or sick visitor. Then there are the residential conditions, a sick person wishing to claim benefit must not leave the area in which medical treatment provided by law is being given, without the permission of the medical officer, or of such other authority as may be specified in this behalf by regulations.

The Convention allows the cash benefit to be withheld partially or wholly in the following cases : (i) where in respect of the same illness, the insured person receives compensation from another source to which he is entitled by law. The Indian Act prohibits a person who is entitled to any of the benefits provided by the Act, to receive any similar benefit admissible under the provisions of any other enactment; (ii) as long as the insured person does not by the fact of his incapacity suffer any loss of the normal product of his labour, or is maintained at the expense of the insurance funds or from public funds. In India, sickness benefit is allowed to an insured person, if he is certified by a duly appointed medical practitioner to be incapable of working by reason of sickness; and (iii) as long as the insured person while ill refuses, without valid reason, to comply with the doctor's orders. The Convention also allows the cash benefit to be reduced or refused in the case of sickness caused by the insured person's wilful misconduct.

(b) *Amount of Benefit.* The payment of cash benefit has been considered as compensation for the loss of wages due to sickness. There are, however, different conceptions as to the fixation of the rate of the cash benefits. If the aim is to enable a sick person to

[1] *Vide* Section 56(3) of the Act.

[2] I. L. O., *Compulsory Sickness Insurance*, p. 170.

retain his social status, then the rate should be fixed with reference to his earnings; on the other hand, if the benefit is intended mainly for the strict minimum subsistence during periods of inactivity, it should be at a flat rate. Because of this divided opinion, the Convention is silent on this point. The Recommendation, however, shows the views of the majority,[1] when it states that the cash benefit should be adequate and should ordinarily be a substantial proportion of the insured person's wages, regard being had to his family responsibilities. In countries, however, where the workers have adequate facilities, of which they are accustomed to take advantage to procure for themselves additional benefit by other means, a uniform scale of benefit may be appropriate. The Havana Code also prefers a rate 'fixed in relation to the normal wage which is taken into account for purposes of compulsory insurance; it should not be less than half such wage and should be increased in respect of the family responsibilities of the sick person'. The Income Security Recommendation, which studies this problem more carefully, lays down the following three guiding principles: (i) benefits should replace lost earnings, with due regard to family responsibilities, up to as high a level as practicable without impairing the will to resume work where resumption is a possibility, and without levying charges on the productive groups so heavy that output and employment are checked; (ii) benefits should be related to previous earnings of the insured person on the basis of which he has contributed: provided that any excess of earnings over those prevalent among skilled workers may be ignored for the purpose of determining the rate of benefits, or portions thereof, financed from sources other than the contributions of the insured person; and (iii) benefits at flat rates may be appropriate for countries where adequate and economical facilities exist for the population to procure additional protection by voluntary insurance. Such benefits should be commensurate with the earnings of unskilled workers. The Recommendation provides for cash benefits, in the case of unskilled workers, at not less than 40 per cent of the previous net earnings of the insured person if he has no dependents, or 60 per cent thereof if he has a dependent wife or housekeeper for his children; for each of not more than two dependent children, an additional 10 per cent of such earnings, less the amount of any children's allowances for these children, should be payable. In the case of workers with high earnings, the proportions of benefit to previous earnings may be somewhat reduced. The minimum rates suggested by the Recommendation may be regarded as a compromise between those of the Beveridge Report, which provides for subsistence benefits representing nearly 30 per cent of the average male wage and about 60 per cent of the average female wage, and those of the Wagner-Murray-Dingell Bill, which proposes

[1] I. L. O., *I. L. O. and Social Insurance*, pp. 49-50.

a rate varying from 50 per cent to 30 per cent of the basic wage for the lowest to the highest wage-earners respectively.[1]

These considerations weighed with Messrs Stack and Rao, when they recommended that all cash benefits should be fixed at the same percentage of the basic earnings of the beneficiary, being neither less than 50 per cent nor more than 75 per cent of his actual earnings. Accordingly they suggested the following scale of wage-classes and benefits:

Class	Range of daily earnings						Basic earnings		Benefit (six days a week)	
	Rs.	as.		Rs.	as.		Rs.	as.	Rs.	as.
I	0	8	to	1	0		0	12	0	8
II	1	0	to	1	8		1	4	0	13
III	1	8	to	2	4		2	0	1	4
IV	2	4	to	3	8		3	0	1	13
V	3	8	and over				4	0	2	7

In contrast to these provisions, the rate of sickness cash benefit under the Employees' State Insurance Act is fifty per cent of the assumed average daily wages.

(c) *Duration of Benefit.* The main consideration in determining the length of the period of benefit is that the insured person, who falls ill, should obtain benefit until his recovery.[2] Hence though the Convention lays down that the benefit is to be paid for at least the first 26 weeks of incapacity, this minimum period is to be acceptable only when the prolongation of cover is secured by the existence of an invalidity insurance scheme.[3] The Recommendation makes this point clear when it states that the period should be extended from 26 weeks to one year, 'in case of serious and chronic illness and for insured persons who will not receive any invalidity benefit on the expiry of their right to sickness benefit'. The Havana Code

[1] I L O, *Social Security: Principles and Problems arising out of the War*, Part I, pp. 23-4 'The commonest rates of sickness benefit are 50 per cent and 66⅔ per cent of the basic wage, the benefit being invariable with respect to family responsibilities or sex.'

[2] I.L.O., *Compulsory Sickness Insurance*, p. 202.

[3] I.L.O., *I L O. and Social Insurance*, p. 50.

also follows the Recommendation in this respect. The Income Security Recommendation states that the benefit should preferably be continued until the beneficiary is fit to return to work, dies or becomes an invalid. 'If, however, it is considered necessary to limit the duration of benefit, the maximum period should not be less than 26 weeks for a single case and provision should be made for extending the duration of benefit in the case of specified diseases such as tuberculosis, which often involve lengthy, though curable, sickness'.

The Indian provisions in regard to the period of cash benefit fall far short of the international standards. B. P. Adarkar recommended a cash benefit for 90 days to a permanent worker and for 45 days to a temporary worker. Messrs Stack and Rao recommended a *maximum* duration of only 13 weeks, to be extended to 26 weeks if and when experience so justifies. The Indian Act still reduced the maximum period to only eight weeks. The legal maximum should not be generally fixed and it should be allowed to vary with the period of membership of the insured, with the age and financial stability of the fund or with the nature of sickness.[1]

Medical Benefits. The function of restoration has slowly gained in importance over that of compensation. Restoration of health and working capacity necessitates the provision of medical, surgical and pharmaceutical benefits. The Convention provides for an insured person free medical treatment by a fully qualified medical man, and the supply of proper and sufficient medicines and appliances, from the commencement of his illness and at least until the period prescribed for the grant of sickness benefit expires. Medical benefit thus does not allow any qualifying period or even a waiting period.[2] The Recommendation goes still further, when it recommends 'facilities for specialist services, as well as dental treatment, and for treatment in hospital, where his family circumstances necessitate it or his illness requires a mode of treatment which can only be given in hospital'. The Havana Code goes into more details and recommends to an insured sick person, (a) treatment by a duly qualified general practitioner; (b) the supply of proper and sufficient medicines and appliances; (c) necessary surgical operations and the service of specialists; (d) dental treatment; (e) treatment and care in a hospital, where rendered necessary by the nature of the illness, family circumstances, or the conditions under which he is housed; and (f) treatment and maintenance in sanatoria and similar establishments.

The Indian Act provides for medical treatment and attendance; medical treatment includes medical, surgical and obstetric treatment. Messrs Stack and Rao recommended special consideration to convalescence benefit in view of the fact that the housing

[1] I L O , *Compulsory Sickness Insurance*, p 203.
[2] I.L O , *I L O. and Social Insurance*, p 51.

conditions of industrial workers are often such as to preclude restoration of health after serious illness. The whole question of scale and standard of medical benefit, however, is to be decided by the State Governments, in consultation with the Employees' State Insurance Corporation and the Medical Benefit Council.

Medical Benefits for the Insured Person's Family. When the family members of a worker fall ill, the worker has to incur additional expenses and hence there arose a tendency to extend medical benefit to the worker's family. Sickness insurance has thus become a family matter. The Convention merely states that national laws may authorize or prescribe the grant of medical benefit to members of an insured person's family living in his household and dependent upon him, and should determine the conditions under which such benefit shall be administered. The Recommendation goes a step further and recommends, 'with a view to ensuring good conditions for the maintenance in health of the insured person and his family, members of the insured person's family living in his home and dependent upon him should be furnished with medical benefit, as and when it may be possible and practicable to do so'. The Havana Code also recommends the provision of medical and pharmaceutical benefits to an insured person's family, particularly the wife or husband and young children. The Indian Act provides that the Employees' State Insurance Corporation may, at the request of the appropriate Government, subject to certain conditions, extend the medical benefits to the family of the insured person.

Funeral Benefit. Funeral benefit provided by the sickness insurance schemes is merely intended to cover the burial expense and is not meant to meet the cost of maintaining dependents of the deceased. The latter function is of the survivors' insurance or the widows' and orphans' pensions. The function of sickness insurance in this field is clear from the following article of the Recommendation: 'In countries where burial expenses are not customarily by law, covered by some other insurance, sickness insurance institutions should, on the death of an insured person, pay a benefit in respect of the cost of decent burial; they should also be empowered to pay such a benefit in respect of the burial expenses of the insured person's dependents.' Section 15(4) of the Income Security Recommendation, 1944, provides for a lump sum to be paid on the death of an insured person, or of the wife, husband or dependent child of an insured person, towards the cost of burial.

Additional Benefits. The Recommendation allows a financially sound insurance institution to increase the scale of benefits, and to prolong the benefit period. B. P. Adarkar gives a long schedule of additional benefits, which an Indian insurance institution may profitably follow.[1] The Indian Employees' State Insurance Act provides for the enhancement of

[1] *Report of Health Insurance for Industrial Workers*, Appendix XII, p. 171.

certain benefits and for the extension of medical benefit to the members of the insured person's family, in case there is a surplus. However besides these provisions, there is hardly any mention of additional benefits.

Other Provisions regarding Sickness Insurance. There are other important provisions such as the administration of the Fund, financial resources, organization of medical services, sickness prevention, etc. However, these are the problems common to all branches of social insurance and hence to be faced jointly. The second part of this book, which deals with such problems, will include a study of all the aspects, from the viewpoints of their effects on, and relations with, social insurance as a whole.

CHAPTER V

INVALIDITY, OLD AGE AND WIDOWS' AND ORPHANS' INSURANCE

International Labour Conventions and Recommendations. The 1933 session of the International Labour Conference adopted six Conventions and one Recommendation on invalidity, old age and widows' and orphans' insurance or what may be called by the omnibus term—pension insurance. These international regulations are: (i) The Old Age Insurance, (Industry, etc.) Convention, (No. 35); (ii) The Old Age Insurance (Agriculture) Convention, (No. 36); (iii) The Invalidity Insurance (Industry, etc.) Convention, (No. 37); (iv) The Invalidity Insurance (Agriculture) Convention, (No. 38); (v) The Survivors' Insurance (Industry, etc.) Convention (No. 39); (vi) The Survivors' Insurance (Agriculture) Convention, (No. 40); (vii) The Invalidity, Old Age and Survivors' Insurance Recommendation, (No. 43).

Later in 1945, the International Labour Conference adopted one more Convention, namely, Maintenance of Migrants' Pension Rights Convention (No. 48) concerning the establishment of an international scheme for the maintenance of rights under invalidity, old age and widows' and orphans' insurance.

Thus each of the risks of invalidity, old age and death is the subject of two Conventions: one for persons employed in industry and commerce and the other for persons employed in agriculture. The Recommendation consolidates the general principles of the three risks.

Provident Funds, Gratuities and Pensions in India. The need of some provision against the risks of invalidity, old age and death in India cannot be denied. Because of the limited period of benefit under sickness insurance and also because of the inadequacy of workmen's compensation, the necessity of some provision against the risk of invalidity becomes urgent. The adult worker needs some insurance against old age, because his labour power, which has been utilized from the tender age of twelve, gets exhausted prematurely, leaving to him the only alternative of starvation. The inadequacy of wages and indebtedness do not permit an industrial worker to save for the future and on his death his widow and orphans are often left unattended and uncared for.

Some enlightened employers have attempted to solve this problem by means of the system of provident funds, gratuities and pensions; however, these attempts are few and far between.[1]

[1] For details of these systems see (i) *Proceedings of the Third Conference of Labour Ministers* (Bulletin No. 73 of Indian Industries and Labour), pp. 80-3; (ii) I.L.O., *Problems of Social Security*, pp 33-8; and (iii) Labour Investigation Committee, *Main Report*, pp. 360-1. The various *ad hoc* survey reports of the Labour Investigation Committee also give the details of the provident fund systems in different industries.

The defects briefly are that the schemes are not liberal; and the employer has a predominant control over the granting of benefits. Often provident funds, gratuities and pensions are payable only to 'deserving' employees and the sole judge of the deservedness is the employer himself. The conditions laid down for eligibility by the worker for getting the employer's contributions are often severe; the Labour Investigation Committee observed that in almost all cases, the worker must have served for at least fifteen years (or more in some cases), and to the entire satisfaction of the employer before he is eligible to receive the employer's contribution to the provident fund. Lastly, a large number of workers, who are in real need of some insurance in old age, are excluded from the benefits; workers who are not secure in their employment and workers who earn less than the lower income limit (usually placed between Rs. 20 and Rs. 30 per month) are excluded from the scope of the fund.

The Provident Funds Act, 1925, which applies to railway and Government provident funds, lays down rules for the protection of compulsory deposits and the repayment of sums standing to the credit of a subscriber, with deductions therefrom, where he has incurred liabilities to the Government or railway administration, has been dismissed for any of a number of specified reasons, or has resigned employment within five years of entering it.[1]

Most of the provident funds are contributory and voluntary. The rates of employee's contribution vary, ranging between 5 and 12½ per cent of his wages. In a large number of cases, the rate is either 6¼ or 8⅓ per cent. The employer contributes an equal amount, placing the whole sum to the credit of the employee, who also gets the benefit of the interest on the total amount. To be entitled to the full amount contributed by the employer, the worker must put in approved service for a minimum specified period (usually fifteen years). Some of the funds grant a part of employer's contributions (in graded proportion), if the employee has to leave the service because of no fault of his own.

The Indian Income Tax Act, 1922, grants exemption from taxation to provident funds, which satisfy certain conditions laid down by the Act. Such a fund, consisting of the total amount accruing from the employer's and employee's contributions and interest thereon, must be vested in two or more trustees or in an official trustee in a trust which is irrevocable except with the consent of all the beneficiaries. The employee is to contribute a definite fraction of his earnings and the employer's contribution is to be credited to the employee's account at least once a year. The accumulated balance to the credit of the employee must be paid to him when he leaves his employment after a specified period's approved service. In any case, the employee is entitled to claim

[1] I.L.O., *Problems of Social Security*, (Report I, Asian Regional Labour Conference, 1947), pp. 33-4.

his own contributions and the interest thereon. Most of the provident funds are recognized, though not registered. The Labour Investigation Committee are of the opinion that all provident funds should be compulsorily registered and treated as trusts.

Coal Mines Provident Fund Scheme. As an illustration of the provident fund system prevalent in India, some details of the Coal Mines Provident Fund Scheme, set up under the Coal Mines Provident Fund and Bonus Schemes Act, 1948 may be given. This scheme applies to all coal mines in West Bengal, Bihar, Madhya Pradesh and Orissa and is administered by a Board of Trustees, consisting of representatives of the Government, colliery owners and coal miners. Contributions are to be payable in respect of every member, employed directly or indirectly in any coal mine covered by this scheme at the prescribed rates. Separate rates are laid down for monthly-rated employees, and 'other' employees. The monthly-rated employees have been divided into fourteen wage groups and the member's monthly contribution varies from 10 as. for the lowest wage group to Rs. 15 for the highest wage group. In the case of other employees, those who get up to Re. 1 per week are excluded from the scope of the scheme and the rest are divided into seven wage groups. A member's weekly contribution varies from 2 as. for the lowest wage group to 12 as. for the highest wage group. In all cases, the employer contributes an amount equal to the employee's contribution. Contributions are payable by affixing stamps in the contribution cards of the members. An account is opened in the name of each member and therein his contributions, the contributions made by his employer and interest on these contributions are to be credited. A member is allowed to withdraw the full amount standing to his credit in the Fund: (a) on permanent retirement from service after attaining the age of 50 years, provided that if at the time of the withdrawal he has not completed five years as a member of the Fund, the employer's contribution and interest thereon is to be forfeited to the Fund; or (b) on retirement on account of permanent and total incapacity for work in the coalfields due to bodily or mental infirmity. In certain other cases, withdrawal of the amount standing to a member's credit is allowed, but in such cases, the employer's contribution and interest thereon is forfeited to the Fund, if the period of membership is less than 10 years.

Workers' Provident Fund Bill, 1948.[1] The Provident Funds Act, 1925 is not applicable to workers employed in factories or labourers in industrial establishments such as house-building, quarrying, docks and other such establishments. No doubt under section 58B(1) of the Income Tax Act, 1922, the Commissioner of Income-tax may accord recognition to any provident fund which,

[1] For the Statement of Objects and Reasons of this Bill, which was introduced by Mr R. K. Sidhwa in the Constituent Assembly (Legislative) on 11 February 1948, see *Indian Labour Gazette*, April 1948, p. 704.

in his opinion, satisfies the condition prescribed in section 58C and the rules made thereunder. However, the first move under section 58B(1) to obtain recognition of a provident fund, for employees in factories and in other industrial establishments, should be made by the employer; and rarely does an employer take the initiative in this respect. The Workers' Provident Fund Bill, 1948, therefore, was introduced in the Assembly by a non-official member to make it compulsory for every employer in industrial concerns to establish provident funds for the betterment of his employees and their families. This Bill was later withdrawn on an assurance that Government would introduce a comprehensive Bill in 1950, after considering all aspects in the matter.

Gratuities. Gratuity schemes are in operation in very few concerns. The rate of gratuity generally paid is half a month's wage for every complete year of approved service. Often this rate is progressively reduced if the period of service is less than twenty years. The lower limit is placed usually at ten or fifteen years and gratuity is not paid unless the worker puts in approved service for this minimum period. The gratuity is sometimes awarded to employees, who are not eligible for the provident fund.

Pensions. Pensions are rarer still, and wherever they exist, they are granted entirely at the discretion of the employer, and the amount is small and often arbitrary.

It will thus be seen that the provision against old age or death of the breadwinner in India is often inadequate and mostly ill-planned. In this respect, the Labour Investigation Committee rightly observed that 'the whole problem of provision against old age or death of the breadwinner legitimately falls within the sphere of social security and it is a matter for consideration whether either the initiation or management of schemes of provident fund, gratuities and pensions should be left to employers themselves.'[1]

Scope of International Regulations

Risks Covered. Pension insurance covers the three risks namely, invalidity, old age and death of breadwinner. However, the risks of invalidity and death of breadwinner (as also the risk of sickness), if due to an employment injury, are, by legislative practice resting on a long tradition, distinguished from the corresponding contingencies due to other causes.[2] The employer is made directly liable for these risks, which are then covered by legislation relating to workmen's compensation for industrial accidents and occupational diseases.

An idea of the contingencies, which are covered by pension insurance, can be had from the general guiding principles, enunciated in the Income Security Recommendation, 1944. Accord-

[1] Labour Investigation Committee, *Main Report*, p. 360.

[2] I.L.O., *Social Security* (Report IV(1), 26th Session of International Labour Conference), Part I, p. 5.

ing to this Recommendation invalidity benefit should be paid in case of inability to engage in any substantially gainful work by reason of a chronic condition, due to disease or injury, or by reason of the loss of a member or function; old age benefit should be paid on attainment of a prescribed age, which should be that at which persons commonly become incapable of efficient work, the incidence of sickness and invalidity becomes heavy, and unemployment, if present, is likely to be permanent; and survivors' benefits should be paid on account of loss of support presumably suffered by the dependents as the result of the death of the head of the family.

Persons Covered. The Pension Insurance (Industry, etc.) Conventions of 1933 apply to 'manual and non-manual workers, including apprentices, employed in industrial or commercial undertakings or in the liberal professions, and for outworkers and domestic servants'. The Recommendation on the subject goes a step further and recommends inclusion, irrespective of age, sex or nationality of every person who is ordinarily engaged in employment for remuneration and, where economic, social and administrative conditions permit, also of a person of small means working on his own account in industry, commerce and agriculture. The Havana Code recommends the coverage of all employed persons, including agricultural workers as soon as the conditions prevailing in the rural areas of each country allow. 'The scope of compulsory insurance should also comprise persons working on their account whose income is not such that they may reasonably be expected to make their own provision against invalidity, old age and death.' Compulsory pension insurance for the small independent worker is advocated because of the inadequacy of his earnings and his inability to save. There are, however, grave obstacles to the realization of such a scheme, for it is difficult to determine earnings or income, to collect contributions and to verify the materialisation of the risk of invalidity.[1]

The Conventions, however, provide a long list of exceptions which the national laws or regulations may make, if deemed necessary. These exceptions, just as in case of sickness insurance, relate to upper income-limit, age-limits, remuneration, outworkers, members of employer's family, etc. The Recommendation on the subject, though it recommends inclusion, irrespective of age, sex or nationality, of all persons employed for remuneration, allows certain exceptions by means of fixation of minimum and maximum age-limits for entry into insurance and of maximum wage-limit.

Nature of Risks

Invalidity.[2] Invalidity as covered by insurance is usually taken

[1] I L O , *Compulsory Pension Insurance* (Studies & Reports, Series M, No. 10), pp 12, 24 and 120-3

[2] For the conception of incapacity and also for the evaluation of permanent incapacity under invalidity insurance schemes, see Chapter I, pp 14-15.

to mean incapacity to earn a living by labour or in the case of schemes applying to special categories of workers (salaried employees, miners, etc.) incapacity to exercise a specified occupation.[1] The two Invalidity Conventions (Nos. 37 and 38) guarantee an invalidity pension to any insured person 'who becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration'. The Conventions, however, emphasize the principle of occupational incapacity (instead of that of general incapacity) when they state that 'in the case of special schemes of non-manual workers, an insured person who suffers from incapacity which renders him unable to earn an appreciable remuneration in the occupation in which he was ordinarily engaged or in a similar occupation shall be entitled to an invalidity pension'. The Recommendation on the subject lays down more strict conditions particularly with regard to the minimum degree of incapacity.[2] It awards a pension 'to an insured person who by reason of sickness or infirmity is unable to earn an appreciable remuneration by work suited to his strength and ability and his training; remuneration which is less than one-third of the ordinary remuneration of a fit worker of similar training and experience should not be deemed to be appreciable'. The Recommendation too stresses the principle of occupational risk, when it prescribes that 'reduction of capacity for work should be assessed solely with reference to the occupation hitherto followed or to a similar occupation'. The Havana Code, in its definition of invalidity, also follows the International Labour Conventions and Recommendation on invalidity insurance. The Income Security Recommendation too entitles an insured person to the right to benefit, if, by invalidity, he is unable 'to earn by ordinary effort as much as one-third of the normal earnings in his previous occupation of able-bodied persons having the same training'. Thus it seems that all these regulations follow the classic German formula, according to which invalidity is regarded as present if the claimant has lost as much as two-thirds of his earning capacity.[3]

Old Age. Old age is considered either as entitling the worker concerned to repose or as justifying the presumption of incapacity to work.[4] From the social insurance standpoint, old age is considered as a special case of invalidity.[5] 'It is the age at which unemployment, if it occurs, is likely to be permanent, and invalidity becomes so prevalent that to prove it in individual cases is superfluous'. It is the age at which a person is presumed to be incapable of work and hence he is entitled to retire, after proving

[1] I.L.O., *I.L.O. and Social Insurance*, p. 65

[2] I.L.O., *Compulsory Pension Insurance*, p. 16

[3] I.L.O., *Social Security* (Report IV(1), 26th Session of the International Labour Conference, 1944), Part I, p. 7

[4] I.L.O., *Compulsory Pension Insurance*, p. 15.

[5] I.L.O., *Social Security* (Report IV(1) 26th Session, 1944), Part I, p. 8

his inability to earn his living. One of the problems in old age pensions is to fix this age. A review of national laws shows that the most common age-limit for men is 65 and there is an increasing tendency to set the minimum age for women at 60.[1] In addition to this variation on account of sex, the variation is also caused by the extent of hazard of the occupation pursued. In some countries, miners can claim pensions at the age of 60 or even 55, provided they have been employed on mining work for 25 or 30 years.[2] The two Old Age Insurance Conventions allow national laws and regulations to fix an age at which an insured person shall be entitled to an old age pension, but lay down that in the case of insurance schemes of employed persons, the age shall not exceed sixty-five. The Recommendation, however, expresses the desirability of lowering the age-limit to 60, 'as a means of relieving the labour market and for ensuring rest for the aged', and 'in so far as the demographic, economic and financial situation of the country permits and, if necessary, by stages'. The Income Security Recommendation, 1944, is more definite on this point and in the light of the conditions observed earlier in this paragraph, fixes the minimum age 'at not more than 65 in the case of men and 60 in the case of women; provided that a lower age may be fixed for persons who have worked for many years in arduous or unhealthy occupations'. The Havana Code places the limit 'at the age of sixty-five at latest' but recommends its reduction as soon as possible to sixty years for the same reasons as given above by the Pension Insurance Recommendation. This Recommendation and the Havana Code further recommend that insured persons who have for a certain number of years been engaged in a particularly arduous or unhealthy occupation (or who have been employed in an unhealthy region) should be entitled to claim a pension at a less advanced age than workers in other occupations. In India there is no compulsory system of old age pensions and hence no age-limit is fixed. Because of low wages, indebtedness and insecurity of employment, an Indian worker has little provision against old age, with the result that very often old persons, poor in health and vitality have to work in factories to earn their living, till competition in the labour market or invalidity or death compels them to terminate their employment. The Labour Investigation Committee have found it 'distressing that a worker who has toiled for 20 to 30 years in a factory should become destitute in his old age'.[3]

Death. Widows' and orphans' insurance undertakes to compensate to some extent for the economic consequences of the death

[1] I.L.O., Social Security (Report IV (1) 26th Session, 1944), Part I, p.8. Owing to permanent unemployment of a large number of workers, the pensionable age has been a subject of debate in several countries.—I.L.O., *Compulsory Pension Insurance*, p. 16.

[2] I.L.O., *I.L.O. and Social Insurance*, p. 56.

[3] *Main Report*, p. 378. 'There is seldom any upper limit. Workers drag on even beyond the age of 55 and retire voluntarily, or are discharged mostly without earning pensions.'

of the breadwinner.[1] The Income Security Recommendation, 1944, also states: 'The contingency for which survivors' benefit should be paid is the loss of support presumably suffered by the dependents as the result of the death of the head of the family'. The contingency is thus practically defined by determining the survivors or the dependents to whom benefits are to be paid. According to the Conventions, the survivors' pensions should be conferred 'on widows who have not remarried and the children of a deceased, insured or pensioned person'. The Income Security Recommendation lays down that 'survivors' benefits should be paid: (a) to the widow of an insured man; (b) for the children, stepchildren, adopted children and, subject to their previous registration as dependents, illegitimate children of an insured man or of an insured woman who supported the children; and (c) under conditions to be defined by national laws, to an unmarried woman with whom the deceased cohabited'. The Havana Code includes among the persons entitled to survivors' pensions, any unmarried woman with whom the deceased has cohabited as man and wife, and any illegitimate children, the conditions of recognition and of economic dependency being determined by national legislation'. All the regulations thus broadly include the widow and children as principal beneficiaries and hence the survivors' insurance divides itself into two parts as widows' pensions and orphans' pensions.

The granting of a widow's pension is often subject to certain conditions as regards age, incapacity to earn, or family responsibilities which show that she was actually dependent on the insured person and is unable to maintain herself.[2] The Survivors' Insurance Conventions allow restriction of the right to a widow's pension (a) to widows who are above a prescribed age or are invalid; (these provisions, however, are not to apply in the case of special schemes for non-manual workers); and (b) in cases where the marriage has lasted for a prescribed period and was contracted before the insured or pensioned person had reached a prescribed age or become invalid. The Recommendation on the subject is broader in scope: 'If a pensioner or insured person dies after completing the qualifying period and leaves a widow, the widow should be entitled to a pension as long as she does not remarry. If, however, the award of the pension is subject to the fulfilment of other conditions, pensions should nevertheless be awarded to widows unable to earn their living by reason of age or invalidity, and to widows with a dependent child who is of school age or who, being under the age of seventeen, is continuing his general or vocational education.' The Recommendation also awards a pension to an invalid widower, who by reason of his invalidity was dependent on an insured woman who died after completing the qualifying

[1] I.L.O., *I.L.O. and Social Insurance*, pp. 70-1.
[2] ibid., pp. 70-1.

period. All these three provisions embodied in the Recommendation have been copied by the Havana Code. According to the Income Security Recommendation, 'widow's benefit should be paid to a widow who has in her care a child for whom child's benefit is payable or who, at her husband's death or later, is an invalid or has attained the minimum age at which old age benefit may be claimed'.

Regarding orphans, the Conventions lay down, 'Any child who has not reached a prescribed age which shall not be less than fourteen shall be entitled to a pension in respect of the death of either parent: provided that the right to pension in respect of the death of an insured or pensioned mother may either be made conditional upon her having been a widow at the time of her death'. Lastly, the Conventions allow the national laws or regulations to determine the cases in which a child other than a legitimate child shall be entitled to a pension. The Recommendation widens the scope by providing that the pension of every child of school age who was dependent on a pensioner or insured person, who died after completing the qualifying period, should continue to be paid until the age of 17, if the child is continuing his general or vocational education and even beyond this age if the child cannot because of infirmity earn his living. This same provision occurs in the Havana Code, which further provides pensions for unmarried partners and illegitimate children. The Income Security Recommendation, which takes note of the current tendency towards including, not only stepchildren, but also adopted and legally recognized illegitimate children, also subscribes to another tendency of raising the age up to which children are deemed to be dependent. The Recommendation provides that child's benefits should be paid for a child who is under the school-leaving age, or who is under the age of 18 and is continuing his general or vocational education.

Conditions of Benefit

Qualifying Period. The purpose of a qualifying period may be either to prevent persons from becoming insured by obtaining employment for the sole purpose of receiving a pension at an early date, or to establish some degree of proportion between benefits and contributions.[1] The purpose of the qualifying period in old age insurance is slightly different from that in insurance against invalidity or death. 'In the former case the object is to relate benefit to the amount contributed; in the latter it is to exclude from insurance persons whose sole aim is to obtain benefit in the immediate future by adopting or pretending to adopt an insurable occupation.'[2] Whatever may be the purpose, all the Pension

[1] I.L.O., *I.L.O. and Social Insurance*, p. 73. See also the provision of the Pension Insurance Recommendation, cited below.

[2] I.L.O., *Compulsory Pension Insurance*, p. 17.

Insurance Conventions have a provision to the effect that 'the right to a pension may be made conditional upon the completion of a qualifying period, which may involve the payment of a minimum number of contributions since entry into insurance, and during a period immediately preceding the happening of the event insured against'. The Pension Insurance Recommendation further suggests that this qualifying period 'should be restricted to a contribution period which shall not be longer than is strictly necessary to preclude persons from entering insurance with intent to take undue advantage of it and to ensure some consideration for the benefits afforded'. Both these provisions (in the Conventions and the Recommendation) have been copied down by the Havana Code.

As for the length of the qualifying period, the Conventions lay down that in the case of invalidity and widows' and orphans' pensions, 'the duration of the qualifying period shall not exceed 60 contribution months, 250 contribution weeks or 1,500 contribution days'. The Recommendation lays down that the qualifying period for old age pensions should not exceed twice this minimum. The Havana Code accepts all these provisions. Roughly thus the maximum qualifying period is five years for invalidity and survivors' insurance and ten years for old age insurance. The Income Security Recommendation allows the inclusion of the requirement that contributions shall have been paid in respect of at least two-fifths of a prescribed period, such as five years, completed before the contingency occurs; payment of contributions in respect of not less than three-quarters of a prescribed period, such as ten years or of any longer period which has elapsed since entry into insurance, should be recognized as an alternative qualification for benefit.

Maintenance of Rights. The Conventions decided that 'an insured person who ceases to be liable to insurance without being entitled to a benefit representing a return for the contributions credited to his account shall retain his rights in respect of these contributions'. The national laws or regulations, however, may terminate these rights on the expiry of a term (a) which shall be reckoned from the date when the insured person so ceased to be liable to insurance, and (b) which shall be either variable or fixed. Where the term is variable, it shall not be less than one-third (less the periods for which contributions have been credited) of the total of the periods for which contributions have been credited since entry into insurance. Where the term is fixed, it shall in no case be less than 18 months, provided a minimum number of contributions have been credited in virtue of either compulsory or voluntarily continued insurance. The principle is reiterated in the Recommendation, which further says that 'in reckoning this term, periods during which the insured person was incapable of work by reason of sickness, was not available for work by reason of

childbirth or was involuntarily unemployed or engaged in military service should not be considered as periods for which contributions have not been credited'. Any further retention of rights in respect of contributions may be made conditional either upon resumption of payment of contributions in virtue of compulsory or voluntarily continued insurance or upon the payment of a moderate continuation fee. The Recommendation also allows a person formerly insured to recover rights already expired by the payment of a prescribed number of contributions in virtue of compulsory or voluntarily continued insurance. Most of these provisions regarding maintenance of validity of contributions are followed by the Havana Code. The Conventions, Recommendation and the Havana Code also have some provisions about the maintenance and enforcement of rights of unemployed.

Rate of Benefit

Minimum Rate of Pension. None of the Conventions lays down the minimum rate of pension either for old age or invalidity or for widows or orphans. The Recommendation, however, provides that the pension paid to aged persons, invalids and survivors should be sufficient to cover essential needs and that the minimum should accordingly be fixed with due regard to the cost of living.[1] In old age insurance schemes, the rate provided for insured persons, who have completed thirty years of actual contribution, is not to be less than half the remuneration of the insured. In invalidity insurance schemes, the minimum invalidity pension should not be less than 40 per cent of the remuneration. In survivors' insurance schemes, the widow's (or invalid widower's) pension should not be less than half the pension to which the deceased was entitled. Nevertheless, where such schemes determine the rights of survivors without regard to the rate of pension to which the deceased was or would have been entitled, a widow's (or invalid widower's) pension should not be less than 20 per cent of the remuneration of the deceased. In these two sets of circumstances the rates of a child's pension are (a) not less than one-quarter, (in the case of orphans, one-half), and (b) not less than 10 per cent (in the case of orphans, 20 per cent). The Recommendation also provides for a maximum for the total of the survivors' pensions which may be awarded in respect of one deceased person; such maximum should not, where survivors' pensions vary with the pension of the deceased, be less than the pension, including bonuses for family responsibilities, or where survivors' pensions vary with the remuneration of the deceased, be less than half such remuneration. The Havana Code more or less follows the provision laid down by the Recommendation. The Income Security Recommendation, however, lays down slightly different rates. According to it, basic invalidity and old age benefits should not be less than 30 per cent of the

[1] I.L.O., *I.L.O. and Social Insurance*, p. 83.

current wage commonly recognized for male unskilled workers in the district in which the beneficiary resides, if the beneficiary has no dependents, or 45 per cent thereof if he has a dependent wife, who would be qualified for widow's benefit, or a housekeeper for his children, for each of not more than two dependent children, and additional 10 per cent of such wage, less the amount of any children's allowances for these children, should be payable. Widow's benefit should not be less than 30 per cent of the current minimum wage; for each of not more than three dependent children, child's benefit at the rate of 10 per cent of such wage, less the amount of any children's allowance for these children, should be payable. In the case of an orphan, a child's benefit should not be less than 20 per cent of the current minimum wage, less the amount of any child's allowance payable in respect of the orphan. The Recommendation also provides that a portion of every contribution additional to those paid as a qualification for basic invalidity, old age and survivors' benefits may be credited to the insured persons for the purpose of increasing the benefits provided for above; also in every case in which retirement is deferred beyond the minimum age at which old age benefit could have been claimed, basic old age benefit should be equitably increased.

Supplement to Pensions. The Recommendation and the Havana Code provide for a bonus or a supplement to a pensioner for each dependent child who is of school age or, being under the age of seventeen, is continuing his general or vocational education or, who cannot by reason of invalidity, earn his living. The Recommendation further provides that an old-age pensioner should be paid a bonus when his wife is aged or infirm and is not herself on this account entitled to pension. Both the Recommendation and the Havana Code also lay down that a pensioner who needs the constant attendance of another person should be awarded a special supplement.

Benefits in Kind. The Invalidity and Survivors' Insurance Conventions authorize insurance institutions, under conditions to be determined by national laws or regulations, to grant benefits in kind for the purpose of preventing, postponing, alleviating or curing invalidity, to persons who are in receipt of or may be entitled to claim a pension on the ground of invalidity. In this connexion, certain guiding principles for curative and preventive action by invalidity, old age and widows' and orphans' insurance were adopted by a Meeting of Experts held at the International Labour Office in 1932. The Income Security Recommendation lays more stress on the aspect of rehabilitation than that of cash benefit for invalidity.

Other Provisions regarding Pensions Insurance. Other important provisions such as financial resources, administration, settlement of disputes and position of foreigners are problems common to all

branches of social insurance and hence will be studied jointly for social insurance as a whole.

NON-CONTRIBUTORY PENSIONS

The Pension Insurance Conventions, 1933, also make certain 'transitional provisions' relating to non-contributory pensions. In countries which, at the time the Conventions first came into force, have no laws or regulations providing for compulsory invalidity, old age or widows' and orphans' insurance, an existing non-contributory pension scheme guarantees an individual right to a pension under the conditions defined in the Conventions.[1] The non-contributory pensions cover one or more of the three risks, namely, old age, invalidity, and death. Old age pensions are to be awarded at an age to be determined by national laws and regulations, but not exceeding 65 years. An invalidity pension should be payable to any person who becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration. To a survivors' pension are entitled every widow who has not remarried and who has at least two dependent children and every orphan, that is to say, every child who has lost both parents. The conditions of award are as follows: The claimant must be a resident in the territory of the country in which the claim is made (a) for 10 years in case of old age pension, and (b) for 5 years for an invalidity pension. The right to a widow's pension is made conditional upon the residence (a) of the deceased husband during a period immediately preceding his death; and (b) of the widow during a period immediately preceding the making of her claim for pension. The right to an orphan's pension is conditional upon the residence during a period immediately preceding death, of whichever of the parents died the more recently. The pension schemes authorize national laws to prescribe an income-limit beyond which no pensions are granted. The rate of the pension should be an amount which is at least sufficient to cover the essential needs of the pensioner. Lastly, the Conventions also provide for forfeiture or suspension of pension under certain circumstances.

[1] I.L.O., *I.L.O. and Social Insurance*, p. 95.

CHAPTER VI

UNEMPLOYMENT INSURANCE

INSURANCE against unemployment is the least developed and hence perhaps the most neglected branch of social security. In its *International Labour Organisation and Social Insurance*, the I.L.O. has not considered the problem of unemployment insurance at all. According to another I.L.O. study, unemployment is generally the last branch of social insurance to be developed in any country.[1]

The primary object of unemployment insurance is to alleviate the distress caused by involuntary unemployment. The benefit is to be given to persons who are willing and able to work but who do not find any work. The Income Security Recommendation adopted by the International Labour Conference in 1944 clearly lays down that 'the contingency for which unemployment benefit should be paid is loss of earnings due to the unemployment of an insured person who is ordinarily employed, capable of regular employment in some occupation, and seeking suitable employment, or due to part-time unemployment'. Unemployment benefit, however, should merely be the means to lessen the risk of unemployment and can never be the aim, which is full employment. The problem of unemployment insurance thus is of secondary importance though it is closely linked with other problems of employment and unemployment.

INTERNATIONAL REGULATIONS AND STANDARDS

Unemployment Convention, 1919. The Unemployment Convention, 1919, recommends the establishment of free public employment agencies under the control of a central authority. The members ratifying this Convention should also make arrangements whereby workers belonging to one Member Association and working in the territory of another are to be admitted to the same rates of benefit of such insurance as those which obtain for the workers belonging to the latter. India ratified this Convention in 1921 but subsequently denounced it in 1938.[2]

Unemployment Recommendation, 1919. The Unemployment Recommendation of 1919 discourages the establishment of employment agencies which charge fees or which carry on their business for profit. It also recommends the co-ordination of the execution of all work undertaken under public authority, with a view to reserving such work as far as practicable for periods of unemployment and for districts most affected by it. A third article of this Recommendation advises the establishment of an effective system

[1] I.L.O., *Approaches to Social Security*, p. 23.

[2] For the reasons leading to the denunciation of the Convention, see I.L.O., *International Labour Code*, pp. 11-13n.

of unemployment insurance, either through a Government system, or through a system of Government subventions, to associations whose rules provide for the payment of benefits to their unemployed members.

The first provision can best be fulfilled by the establishment of free public employment agencies under the control of a central authority. The network of employment exchanges, created by the Government of India, serves this purpose. As for the second provision of the Recommendation about the planning of public works to suit the unemployment periods, it may not be possible and even desirable to defer a utility work, such as construction of roads or dams, till the calamity of unemployment or of famines takes place. A proper national planning not only of public works but of all industries and services may ensure regular employment and thus remove the risk of periodical unemployment.

Unemployment (Agriculture) Recommendation, 1921. This Recommendation adopted by the International Labour Conference in 1921 requests the Members to consider measures for the prevention of, or providing against, unemployment amongst agricultural workers, suitable to the economic and agricultural conditions. In India, there are over 5½ million paid farm workers in about 5 lakhs of villages. So as far as both the quality and the space are concerned, agricultural labour presents a very vast problem, far more complicated than that created by industrial labour. The problem needs an urgent solution, as India's economy is mostly agricultural.

Fee-charging Employment Agencies Convention, 1933. This Convention was adopted to kill the profit-motive of such agencies as are set up for that purpose. The Convention classifies the agencies into (a) employment agencies conducted with a view to profit, and (b) employment agencies not conducted with a view to profit, though they may levy an entrance fee from either employer or worker, for their services, a periodical contribution or any other charge. Agencies of class (a) are to be abolished within three years from the date of ratification of this Convention by a Member. Certain restrictions are placed on agencies in class (b), such as: (i) they shall be authorized and supervised by the competent authority; (ii) they shall not charge in excess of the scale of charges fixed by the competent authority with strict regard to the expenses incurred; and (iii) they shall only place or recruit workers abroad if permitted to do so by the competent authority. This Convention was later revised by the Fee-Charging Employment Agencies Convention (Revised), 1949.

Employment Agencies Recommendation, 1933. This Recommendation reiterates the principles of free public employment offices. These offices should be specialized for particular occupations and as far as possible, persons familiar with the characteristics, usages and customs of the occupations concerned, should be

attached to such offices. Persons and undertakings which either directly or through any intermediary derive any profit from certain activities, such as the keeping of public houses, hotels, second-hand clothes shops or money-changing, should be forbidden to engage in placing.

Unemployment Provision Convention, 1934. This Convention ensures to all persons habitually employed for wages or salary and who are involuntarily unemployed, (a) an unemployment benefit (a payment related to contributions paid in respect of the beneficiary's employment whether under a compulsory or voluntary scheme), (b) an unemployment allowance (remuneration for employed on organized relief works), or (c) a combination of benefit and an allowance. The scheme may be compulsory, voluntary, a combination of compulsory and voluntary schemes, or any of these alternatives combined with a complementary assistance scheme. Exceptions are allowed in case of certain specified categories of workers, such as domestic servants, home-workers, permanent Government employees, non-manual workers getting above a prescribed income-limit, workers outside prescribed age limits, persons engaged in occasional or subsidiary employment and members of the employer's family. The Convention does not apply to seamen and agricultural workers.

The conditions laid down for the receipt of benefit or allowance are that the beneficiary is capable of and available for work, that he has registered at a public employment exchange or at some other office approved by the competent authority, and that he complies with such other requirements prescribed by national laws. The right to receive benefit or an allowance may be made conditional upon the completion of a qualifying period and of a waiting period, upon attendance at a course of vocational or other instructions and also upon the acceptance of employment on relief works organized by a public authority.

The right to receive benefit or an allowance may be limited in duration to a period which shall not normally be less than 156 working days per year, and shall in no case be less than 78 working days per year. Benefit is to be payable irrespective of the needs of the claimant, while the right to receive an allowance may be made conditional upon the need of the claimant being proved. Benefit is to be payable in cash, but supplementary grants to facilitate the re-employment of an insured person may be in kind; allowances may be also in kind. Foreigners are to be entitled to benefit and allowances on the same conditions as nationals.

Unemployment Provision Recommendation, 1934. This Recommendation by the International Labour Conference in 1934 advises the creation of a system of compulsory insurance, and maintenance of a complementary assistance scheme to cover persons who have exhausted their right to benefit and in certain cases those who have not yet acquired the right to benefit. The latter scheme

should be on a different basis from the ordinary arrangements for the relief of destitution. Unemployment insurance and assistance schemes should be applied as soon as possible to all persons who are employed under a contract of service, and to persons employed under a contract of apprenticeship with money payment. Such persons would be covered either by insurance or assistance until they reach the age at which they are entitled to an old age pension.

While fixing the upper income limit, care should be taken to exclude only those workers who are in receipt of remuneration sufficiently high for them to ensure their own protection against the risk of unemployment, the ultimate object being to include all workers, manual or non-manual, irrespective of income. The qualifying period should not exceed 26 weeks' employment or the payment of 26 weekly contributions or the equivalent, within twelve months preceding the claim of benefit, or alternatively 52 weeks' employment, or 52 weekly contributions or the equivalent, within twenty-four months preceding the claim of benefit. The period of benefit should be as long as is consistent with the solvency of the scheme. The waiting period should not exceed eight days per spell of unemployment.

The Unemployment Provision Convention and Recommendation thus present a working scheme of unemployment insurance and assistance. Broadly, the Convention enunciates the principles, whereas the Recommendation lays down specific provisions. The scheme thus presented is not perfect; however, it provides basis for introduction of unemployment insurance in any country, which, while adopting the principles and provisions, should take into account its particular social and economic conditions.

Unemployment (Young Persons) Recommendation, 1935. This Recommendation deals mainly with establishment of placing services for juveniles and of vocational training schools or employment centres for young persons. The Recommendation lays down in detail provisions relating to education (vocational and general) of juveniles and young persons. One interesting suggestion of the Recommendation is to promote re-employment by a reduction in ordinary hours of work in respect of employment in which young persons are engaged.

Public Works (National Planning) Recommendation, 1937. This Recommendation lays down certain provisions regarding public works policy and national development schemes in relation to employment. The recruitment of workers for employment on public works should be effected for reference through the public employment exchanges. Suitable timing of public works should be achieved; this timing should involve an increase in the volume of such works in periods of depression, and for this purpose it is desirable to provide for the preparation in advance, during periods of prosperity, of works capable of being held in reserve, or exceeding ordinary requirements and which should be ready for execution

as the need is felt. The financial measures (reserves, balance and loans) necessitated by the policy should also be adjusted accordingly.

Income Security Recommendation, 1944. One of the risks covered by the Income Security Recommendation of 1944 is unemployment. The provisions regarding unemployment benefit laid down in this Recommendation, are mostly the same as in the Unemployment Provision Convention and Recommendation, 1934. Modifications have, however, been effected in two respects, namely, the duration of benefit and the waiting period. The 1944 Recommendation lays down that benefit should continue to be paid until suitable employment is offered to the insured person. In advising the abolition of the time limit, the Recommendation follows the *Beveridge Report.* Such a provision, however, pledges the State to pursue a vigorous employment policy and establish a highly organized employment service.[1] The Income Security Recommendation also excludes a fresh waiting period if unemployment recurs within a few months. Such a provision already exists in some national laws, for example, in the Canadian Act and in the Wagner-Murray-Dingell Bill.[2] A third point of difference is about the definition of suitable employment. In consideration of the abolition of the time limit, the Income Security Recommendation of 1944 thought it reasonable that re-employment in one year's former occupation should no longer be rigidly insisted upon, when the prospects of such a job appear remote.[3]

The Income Security Recommendation further lays down that in the case of unskilled workers, the unemployment benefit should not be less than 40 per cent of the previous net earnings of the insured person if he has no dependents, or 60 per cent thereof if he has a dependent wife or housekeeper for his children. For each of not more than two dependent children, an additional 10 per cent of such earnings, less the amount of any children's allowances for these children should be payable. In the case of workers with high earnings, the foregoing proportions of benefit to previous earnings may be somewhat reduced. As for the qualifying period, the Recommendation lays down that the contribution conditions for unemployment benefit may include the requirement that contributions shall have been paid in respect of at least a quarter of a prescribed period, such as two years, completed before the contingency occurs.

The Income Security Recommendation is an improvement over the previous regulations, in as much as it lays down certain specific standards. At the same time, this Recommendation is a composite piece, as it covers, besides unemployment, a number of

[1] I.L.O., *Social Security: Principles and Problems arising out of the War,* Part I, p. 10.

[2] ibid., p. 11.

[3] ibid., p. 10.

other risks, e.g., sickness, maternity, invalidity, old age, death of breadwinner, and employment injury.

Employment Service Organisation Convention and Recommendation, 1948.[1] The XXXIst session (San Francisco, 1948) of the International Labour Conference adopted a Convention and a Recommendation concerning the organization of employment services. The Convention sets out the main principles on which an employment service should be based, while the Recommendation contains detailed guidance on the means for providing an efficient service. The Convention calls for the maintenance of a free public employment service whose essential duty is to ensure, in co-operation with other public and private bodies concerned, the best possible organization of the employment market as an integral part of the national programme for the achievement and maintenance of full employment, and the development and use of productive measures. The employment service should consist of a national system of local and regional employment offices under the direction of a national authority. Suitable arrangements should be made through advisory committees for the co-operation of representatives of employees and workers in the organization, and operation of the employment service, and in the development of employment service policy. The employment service should be responsible for assisting workers to find suitable employment, and employers to find suitable workers, and accordingly to develop rules for registering workers seeking employment and analysing their qualifications, for obtaining details concerning job vacancies, for referring workers to available employment, and for organizing an effective system of clearance. The service should also take up measures to facilitate any movement of workers from one country to another, approved by Government, and for the collection and analysis of information on employment market conditions and trends; lastly, the Convention provides for the co-operation of the employment service in the administration of unemployment insurance and assistance, and also for assistance to be given by the employment service to other public and private bodies in social and economic planning, so as to ensure a favourable employment situation.

The Recommendation supplements the Convention, gives detailed rules amplifying the principles and provides methods for their application.

Fee-charging Employment Agencies Convention (Revised) 1949. The 1933 Convention on the same subject provided for the abolition of fee-charging agencies conducted for profit and the regulation of other fee-charging agencies not conducted for profit. Revision of that Convention was felt necessary in order to overcome difficulties of application experienced by several countries, in particular

[1] For a summary, see *International Labour Review*, October 1948, pp. 447-53.

the restrictions laid down for recruiting workers from abroad and the rigid time limit fixed for abolishing profit-making, fee-charging agencies. Serious disagreement, however, arose when the employers' delegates and a considerable number of Governments strongly opposed the maintenance of the principle of abolishing fee-charging agencies operating for profit and were in favour of provisions for their regulation and control rather than for their abolition. The revised Convention now allows Members ratifying the Convention to accept either Part II, relating to the progressive abolition of profit-making agencies and the regulation of other fee-charging agencies, or Part III, relating to the regulation of all fee-charging agencies, including those conducted for profit. The Convention also provides that a Member ratifying it and accepting the provisions of Part III may later indicate that it accepts the provisions of Part II; in that case, it becomes bound by the provisions of Part II, and Part III ceases to apply.

Inter-American Social Insurance Code. The First Labour Conference of American States (Santiago de Chile, 1936) adopted a resolution concerning employment offices, unemployment provision and public works policy. The Conference noted that the various measures adopted by the American States to combat unemployment failed in many cases to yield their full results owing to the absence of a permanent organization of the labour market, 'which is an important element, not merely for the immediate struggle against unemployment, but in general for the proper development of production and the better organization of the economic system in its human aspects in each country. The Conference, therefore, emphasized the necessity for developing a complete system of free public employment agencies, as provided for by the Unemployment Convention, 1919, with due provision, so far as is possible, for the association of the workers' and employers' organizations concerned in the management of such agencies, and the necessity for strict supervision of the activities of fee-charging employment agencies, not merely in order to prevent the exploitation of the workers to which employment-finding on a commercial basis is liable to give rise, but also in order to secure the uniform co-ordination of supply and demand on the labour market. The resolution further advised those American countries, which have not instituted a system of compulsory unemployment insurance, and do not consider that the time has come to institute a more or less complete system of compulsory insurance, to stimulate the development of voluntary unemployment insurance by granting adequate financial assistance to the workers' mutual funds, the joint funds or other institutions for provision against unemployment, and at the same time organizing a national system of relief, which, in accordance with the 1934 Convention ensuring benefits or allowances to the involuntarily unemployed, may take the form of remuneration for employment

on relief works organized for the purpose, for the relief of unemployed persons falling within the categories covered by the voluntary unemployment insurance.

The Second Labour Conference of American States (Havana, 1939) adopted a resolution concerning certain aspects of social insurance. Chapter IV of this resolution relates to unemployment insurance. This part of the resolution says, 'Every country should establish and maintain a general system of compulsory unemployment insurance applying to all employed persons exposed to the risk of unemployment. In countries, where it is not possible to establish immediately a general system of compulsory unemployment insurance, such a system should be introduced by stages, beginning with those classes of workers for whom insurance is most urgent and most practicable.'

Employment Policy of the State

The extent of the problems arising out of unemployment mainly depends upon the employment policy of the State. A sound and far-sighted employment policy, vigorously enforced, may kill the giant of unemployment, as is the case in Soviet Russia. Such a policy may have to take into account several factors, such as, the extent of industrialization, public works policy, the rise or fall in the general level of prices, imports and exports, state finances and what is most important, the state of the employment market, i.e., the demand for and supply of manpower. Such measures to maintain employment and to prevent mass involuntary unemployment bring in the problem of 'full employment'.

Full Employment. The methods to attain full employment are not strictly part of social security; they are, however, measures of general application to make the economic conditions of a society as a whole healthy,[1] and hence may be briefly studied here. Full employment does not mean complete elimination of involuntary unemployment. It is not possible to eliminate in any country, what Lord Beveridge calls 'frictional unemployment', which arises because the labour force is not sufficiently interchangeable or mobile always to adjust itself to the demand for it, qualitatively if not quantitatively. The meaning given to full employment in Lord Beveridge's Report on *Full Employment in a Free Society* is as follows: 'It means having always more vacant jobs than unemployed men, not slightly fewer jobs. It means that the jobs are at fair wages, of such a kind, and so located that the unemployed men can reasonably be expected to take them; it means, by consequence, that the normal lag between one job and finding another will be very short.'[2]

[1] Lord Beveridge, *Full Employment in a Free Society*, Preface, p. 11. In his *Report on Social Insurance and Allied Services*, Lord Beveridge names the maintenance of full employment as one of the three assumptions of the Plan of Social Security.

[2] Ibid., p 18.

The definition given by Lord Beveridge indicates the various measures, which should be adopted to attain full employment. As stated elsewhere in his *Report*, action against unemployment must be taken on three lines—maintaining at all times adequate total outlay; controlling the location of industry, and securing the organized mobility of labour.[1] The first measure, which means spending of the money on the products of the industry, is the most important of the three measures. If the total outlay is always high enough to set up a demand for products of industry which cannot be satisfied without using the whole manpower of the country, then the number of vacant jobs would be always as high as or higher than the number of men looking for jobs. Such a measure would naturally involve a long-term programme of planned outlay—spending both by the State and private citizens. However, before this planning is undertaken, it is desirable to develop both our agriculture and industry on a planned structure, so that the problems of unemployment may be more easily solved.[2]

The problem of unemployment is more clearly manifest, when the question of industrial development is taken up. This planning of industry may be considered in the various aspects, some of which are:

(i) *Development of Existing and New Industries.* This development may fulfil the first and the most important condition suggested by Lord Beveridge for securing full employment, namely, 'of maintaining at all times adequate total outlay'. India at present can claim to have a number of organized industries such as textiles, engineering and sugar mills. However, even the products of these industries are not sufficient to satisfy the growing needs of the country. To remedy this defect, it is necessary to develop the existing industries and to start, wherever possible, new industries.[3]

(ii) *Dispersal of Industries.* The second condition to secure full employment, according to Lord Beveridge, is to control the location of industries. In India, there seems to be a haphazard growth, with the result that some industries have concentrated in a few specific areas. Various factors, such as the availability of raw materials and labour, transport facilities, climate, etc., have been responsible for the location of these industries. However, taking into account all such factors, it is possible to work out a plan for an even dispersal of industries.

(iii) *Creation of a Stable Class of Industrial Workers.* The industrial labour market in India has not yet established itself and the indus-

[1] Sir William Beveridge, *Full Employment in a Free Society*, p. 29

[2] For a study of full employment *vis-a-vis* agricultural workers in India, see Dr. N. Das, *Unemployment, Full Employment and India*, pp 47-51 and T N. Ramaswamy, *Full Employment in India*, Chapter II, pp. 52-108

[3] On p. 160 of his *Full Employment in India*, T. N. Ramaswamy gives a list of new industries which can be effectively started in this country

trial worker, who works in the mill or the factory, often retains his contact with his village.[1] A trained, stable labour force may enable India to organize the labour market to avoid misdirection of labour and the accumulation and maintenance of needless reserves of labour. The third condition suggested by Lord Beveridge for securing full employment is organized mobility of labour. This can be achieved only with a trained, stable, industrial labour force.

There are some other factors like the supply of raw materials, transport facilities, conditions of the money market and of foreign trade, etc., which may also affect employment conditions.

Employment Policy in India

In India, no definite employment policy has so far been laid down, though its need was often felt in times of emergency, such as the declaration of war or the sudden cessation of hostilities, and consequent mobilization or demobilization. A lot of discussion on the formulation of an employment policy, however, has taken place and a brief review of the Government's plans in this field is given below.[2]

As early as March 1941, the Government of India began to consider the question of the transition from war to peace in industry and appointed in June 1941 an inter-departmental committee for the investigation of reconstruction problems. At its first meeting, the Committee set up four sub-committees to deal with labour and demobilization, disposal of stocks and contracts, public works policy and trade, international trade policy and agricultural development. After two years, in March 1943, this Committee was replaced by a Committee of the Viceroy's Council, which was set up to deal with all matters of policy, exercise initiative and co-ordinate and sanction plans. Policy committees were set up to deal with various policy questions concerning *inter alia* resettlement and re-employment. A General Policy Committee was also constituted to advise the Government on major matters of policy and also on matters which did not fall within the purview of one or the other of the various policy committees. The results of all this planning for planning were two reports, published in 1944.[3] These reports describe the Government's policy and proposals with regard to planning. According to these reports, 'the ultimate object of all planning must be to raise the standard of living of the

[1] *Report of the Royal Commission on Labour in India*, pp. 12-14. This report was published in 1931, but even now the conditions have not much changed.

[2] For the proposals of the Government of India during 1941-4, see I L O., *War-time Labour Conditions and Reconstruction Planning in India*, (Studies & Reports, New Series, No. 2, Montreal, 1946) pp. 69-95.

[3] Government of India, Reconstruction Committee of Council: *First Report on the Progress of Reconstruction Planning* and *Second Report on Reconstruction Planning*, (New Delhi, 1944)

people as a whole and to ensure employment for all,' and to that end, the purchasing power of the people must be increased by improvement in the efficiency and consequently the productivity of labour on one hand, and a simultaneous development and reorganization of agriculture, industries and services on the other. Both short-term and long-term objectives are considered in the reports. The short-term objectives include among others the resettlement and re-employment of defence service personnel and of labour displaced from war industry, military works, etc. The long-term objectives mainly relate to development of industry, communications, irrigation, electric power, agriculture, etc.

The employment policy as stated in the reports aims at full employment of all those seeking work, though it is recognized that employment policy is in effect determined by industrial, agricultural, public works and financial policy. In October 1946, the National Government appointed an Advisory Planning Board to review the planning that had already been done; and to make recommendations regarding co-ordination and improvement of planning, objectives and priorities, and the future machinery of planning.[1]

As for the labour planning already done, the plans of the Central Government include only schemes for the training, resettlement and employment of ex-service personnel and discharged war workers; and a few other schemes mainly of the nature of labour welfare schemes, e.g., insurance, and subsidised building of houses for labourers. These schemes were estimated by the Board to cost Rs. 20 crores. Following a request by the Central Government in May 1944, all State Governments also prepared plans for the development of their economy. These plans vary considerably in merit. Labour, however, received little attention and the only planned schemes which may directly affect industrial labour are those which provide for technical training and the development of cottage and small-scale industries.

In spite of this lack of labour planning, the Advisory Planning Board have not made any specific recommendations except for the supply of trained personnel. In fact, Professor K. T. Shah, one of the Members of the Board, in his note of dissent says that the Board, appointed with specific reference to review all planning work hitherto done by official agencies, should have considered more fully than has been done in the main Report the capital and labour requirements of the Plan.

The lack of labour planning has been further illustrated by a recent Government Report, *Provincial Development Programmes* by Dr Gyan Chand. In this Report, the only planning relating to labour matters in the states' spheres refers to some housing programmes in Bombay and West Bengal. The President of the Indian Republic in his first address to the Indian Parliament

[1] *Report of the Advisory Planning Board*, (Delhi, 1947), p. 2

referred to the appointment of the Central Planning Commission. It is hoped that labour planning will receive the due attention of this Commission.

Directorate-General of Resettlement and Employment. The employment policy of the Government of India, resulting out of all their planning, is reflected mostly in the activities of the Directorate-General of Resettlement and Employment and hence a brief study of this organization is appropriate.[1]

The necessity to set up an Employment Exchange Service was felt when the problem of demobilization first arose during 1918-21. Nothing, however, was done at that time. The end of the second World War made the necessity urgent and inevitable, and the Government of India set up in July 1945 the Directorate-General of Resettlement and Employment. The origin of the activities taken up by this organization was, however, in 1943-4, when nine employment exchanges had been established. These exchanges had been controlled and supervised by the National Service Labour Tribunals until 1945. Technical training schemes had also been in operation under the Labour Department since 1941.

During the last four years, the organization has expanded considerably and has at present a wide net-work spread all over the country. It consists at present of three main branches, (a) Directorate of Employment Exchanges; (b) Directorate of Training; and (c) Directorate of Publicity. The Indian Dominion has been divided into eight regions, each in charge of a Regional Director of Resettlement and Employment.

Directorate of Employment Exchanges. Of the three Directorates, the Directorate of Employment Exchanges is by far the most important. In fact, the work done by these exchanges seems to be the primary function of the Directorate-General of Resettlement and Employment. The Directorate of Employment Exchanges supervises, integrates and directs the Employment Exchanges; collects and maintains data regarding the number of persons likely to be demobilized and the employment opportunities likely to be available; arranges training and refresher courses for the managerial and office staff of Employment Exchanges; and taps all available resources and explores new avenues of employment for demobilized persons. Each Regional Employment Exchange acts as Provincial Clearing House and has set up an Appointments Branch to deal with the needs of men and women having scientific, professional, administrative, managerial or other qualifications of a high standard, and also with the needs of employers seeking such persons, and a women's section to deal particularly with women's problems.

[1] See *Indian Labour Year Book, 1946*, (Labour Bureau, Government of India), pp. 27-37; and various reports published by the Directorate-General of Resettlement and Employment.

In some of the States, such as Madras and Punjab, District Employment Offices have been set up in districts in which exchanges could not be opened.

The Directorate has also set up Employment Information Bureaux to establish contact with ex-servicemen in widely scattered rural areas and bring them into touch with the Exchanges. Mobile sections have been attached to Exchanges for visits to more remote areas periodically, for registration of applicants and their submission to available vacancies.

At present, there are 54 Employment Exchanges, consisting of one Central Employment Exchange in New Delhi, 7 Regional Exchanges and 46 Sub-Regional Exchanges.[1] There are in addition 22 District Employment Offices, 132 Employment Information Bureaux and 21 Mobile Sections.

The main work of the Employment Exchanges divides itself into two parts: (a) registrations of persons for employment; and (b) placing them in suitable vacancies, especially in vacancies notified by employers. The success so far achieved by the Employment Exchanges may be seen from the following figures:

REGISTRATION AND PLACINGS

Year	Average number of registrations per month	Average number of applicants placed in employment per month	Average number of applicants on Live Register per month
1946 (July-December)	51,889	9,270	...
1947	53,022	13,448	3,10,027
1948	72,399	21,648	2,24,900
1949	88,863	21,401	2,93,044

The Directorate of Employment Exchanges has many other schemes. As most of the labour force (demobilized soldiers) belong to the rural areas, the schemes of 'land colonisation' have been undertaken and various States have settled a number of persons in rural co-operative colonies. Schemes for co-operative employment in motor transport, workshops and cottage industries, civil construction, market gardening, etc., have also been put into operation.

Directorate of Training. The training schemes of the Directorate-General have taken various forms, most important of which are (a) Technical Training Scheme; (b) Vocational Training Scheme;

[1] Before partition there were 70 Exchanges; of these, 53 remained in India and 17 went to Pakistan.

(c) Apprenticeship Training of ex-Servicemen; (d) Scheme for the Rehabilitation and Resettlement of Disabled Services Personnel; and (e) Vocational Training Scheme for ex-Servicewomen. The Directorate-General also supervises the Higher Technical Training Scheme of the Ministry of Labour.[1] Recently, a Central Training Institute for training instructors has been opened at Koni-Bilaspur in Madhya Pradesh. As all these training schemes only indirectly affect the employment market, they need not be studied here in detail. Similar is the case of the Employment Advisory Committees and of Resettlement Advice Service, which are subsidiary bodies set up for discussion on employment and resettlement.

The Directorate-General of Resettlement and Employment thus seems to have securely laid down the foundations of a public Employment Service. However, from the point of view of unemployment insurance, this organization suffers from certain limitations. First, Employment Exchanges have come out as a post-war emergency measure for the resettlement and employment of demobilized soldiers. Since 1947-8, another emergency has arisen. Millions of persons, because of political and other reasons, were on the move, from Pakistan to India and vice versa. Facilities had to be accorded to these displaced persons and as the following figures show, the Employment Exchanges took up the job with creditable success.

DISPLACED PERSONS REGISTERED AND PLACED IN EMPLOYMENT BY EMPLOYMENT EXCHANGES

Year	Registrations	Placings
1947 (October-December)	64,224	10,566
1948	2,71,540	72,144
1949	1,63,452	43,737

Secondly, the Directorate-General has proved to be a costly organization as can be seen from the following questions and answers in the Indian Dominion Parliament on 11 March 1948:

Questions	Answers
The year and month of the starting of the Employment Exchanges.	The 54 Employment Exchanges and 22 District Employment Offices at present functioning in the Dominion of India were started at different dates between December 1943 and

[1] In this respect, see a special article on 'Training Schemes of the Ministry of Labour' in the *Indian Labour Gazette*, April 1948, pp. 684-6.

Questions	Answers
	November 1947. The Employment Exchanges at Bombay, Nagpur, Delhi, Kanpur, Ahmedabad, Dhanbad, Madras and Calcutta, which were started before the setting up of the Resettlement and Employment Organization in July 1945 deal with technical personnel only and were merged in that organization.
The up-to-date total expenditure incurred on this Department.	The total expenditure incurred on Employment Exchanges from July 1945 (the date on which the Resettlement and Employment Organization came into existence) to 31st December 1947, is approximately Rs. 59,28,500 out of which the Central Government's share is Rs. 41,36,000 and the State Governments' contributions about Rs. 17,92,500.
The number of persons at present employed there.	The total number of persons employed in the Employment Exchanges at present is 1,271 (Gazetted—172 and Non-Gazetted—1,099).
The present monthly expenditure.	Approximately Rs. 1,82,800; the Central and State Governments' shares being roughly Rs. 1,14,500 and Rs. 68,300 respectively.
The monthly average of persons for whom employment was found during the year 1947.	The average monthly number of persons placed in employment by the Employment Exchanges during 1947 was 13,448.

(From Constituent Assembly (Legislative) *Debates*; see also the *Indian Labour Gazette*, April 1948, pp. 722-3.)

Another starred question about Employment Exchanges was asked on 12 August 1948, and in reply to this question the following information was furnished: (a) there are at present 54 Employment Exchanges in the country; (b) the total number of registrations effected at Employment Exchanges from the inception of the scheme of Resettlement and Employment upto 30 June 1948, is 16,48,445 and the total number of placements is 3,93,824; and (c) the total monthly expenditure on all Employment Exchanges is approximately Rs. 2,80,000. There has been an increase in the monthly expenditure due to the work of finding

employment for displaced persons from Pakistan.[1] All these replies show that about Rs. 14 are being spent for securing employment for one man.[2] Criticism has been made that if the money spent on this organization had been utilized for India's industrialisation policy, we should have increased our employment opportunities and our national wealth. Employment Exchanges themselves cannot create employment and their function is only to find out jobs for men by bringing employment-seekers and employers together. The difficulty arises, and it has often arisen in India, when, because of lack of industrialisation or of nationalisation, the jobs are few or are not decently paid.

A third question asked in December 1949 elicited the following information: (i) The staff employed in the 54 Employment Exchanges and the 54 District Employment Offices, functioning under the Ministry of Labour on 1 November 1949 was 1,557 (Gazetted officers, 235, Non-Gazetted, 866 and Class IV, 456). (ii) The total expenditure incurred up-to-date on the Employment Exchange Organization was Rs. 12,302,500 of which the Central Government's share was Rs. 7,812,600. (iii) For the period January-October 1949 at a monthly average, 11,450 ex-servicemen, 14,731 displaced persons and 65,540 others were registered for employment assistance. Out of them, on an average about 2,000, 4,000 and 16,000 respectively secured employment every month.

Future of Employment Exchanges. Because of all these difficulties, Employment Exchanges have so far not been able to achieve the best results. The success or failure of such Exchanges mainly depends upon the Government's employment policy and its implementation. The declaration of such a policy is essential, even before a scheme of unemployment insurance is drafted. Employment Exchanges, properly developed, play an active part in unemployment insurance systems. These Exchanges and the machinery of training and rehabilitation might well be attached to the unemployment insurance department,[3] when the limited insurance scheme, proposed by the Employees' State Insurance Act, 1948, is fully developed into a comprehensive plan of social security. A Convention and a Recommendation concerning Employment Service Organization were adopted by the International Labour Conference in 1948; these two international labour regulations, which have been already studied earlier in this chapter, lay down the fundamental principles, and give detailed rules amplifying these principles, which an employment service

[1] *Indian Labour Gazette*, September 1948, pp 182-3.

[2] The average monthly placings in 1947 were 13,448, whereas the approximate monthly expenditure at that time was stated to be Rs. 1,82,800. For the first half of 1948, the average monthly placings have risen to 19,410; at the same time the average monthly expenditure also rose to Rs. 2,80,000. It is not clear whether the expenditure incurred on publicity has been included in the figures given above.

[3] B. P Adarkar, *Planning of Social Security in India*, p. 37

organization should observe and as such should prove of great value to the Directorate-General of Resettlement and Employment in planning the future development of our Employment Exchange Organization.

Conclusions. In a recent broadcast talk on 'a war on unemployment', B. P. Adarkar stated that the problem of unemployment has its social and political consequences. Increase in unemployment leading as it does to poverty and destitution, affects the society as a whole, bringing about social degeneration. This manifests itself in vice, crime, squalor and disease—evils which no society can afford to ignore. Apart from this, unemployment gets at the very root of the political stability of a country. Besides, unemployment is a costly proposition. B. P. Adarkar has calculated that the annual loss due to unemployment in India even at the present level of efficiency can be of the order of more than a thousand crores of rupees per annum, i.e., greater than all the budgets of the Government of India and the State Governments put together. To avoid this waste and to remedy the evils of unemployment, he suggests a policy of full employment. Such a policy is also necessary, if Employment Exchanges are to function properly and adequately. Employment Exchanges by themselves are helpless to solve the problem of unemployment, because they are 'only a medium and an instrument of employment, but not a source'. If registrations at Employment Exchanges go on increasing owing to widespread unemployment, and there are no corresponding placings, the prestige of Employment Exchanges begins to suffer and the morale of workers begins to deteriorate. Such a contingency may not arise when the ideal of full employment is achieved. However, till it is achieved, recourse must be made to unemployment assistance and insurance.

CHAPTER VII

SOCIAL SECURITY FOR SEAFARERS

THE Commission on International Labour Legislation of the Peace Conference of 1919 adopted a resolution to the effect 'that the very special questions concerning the minimum conditions to be accorded to seamen might be dealt with at a special meeting of the International Labour Conference devoted exclusively to the affairs of seamen'. In consequence of this resolution, it has been customary for maritime questions to be considered at special maritime sessions of the International Labour Conference and for the Governing Body to be advised upon maritime questions by a Joint Maritime Commission consisting of representatives of the shipowners' and seamen's organizations designated by the shipowners and seamen's representatives at maritime sessions of the Conference.[1] The first maritime conference (Genoa, 1920) discussed the possibility of establishing an International Code for Seamen and recommended that the preparation of such a Code should be undertaken gradually by the adoption of Conventions and Recommendations dealing with particular maritime subjects, which included *inter alia* the problem of social security for seafarers. So far five Conventions and three Recommendations relating to social security of seamen have been adopted by the International Labour Conference. These are (i) Unemployment Indemnity (Shipwreck) Convention, 1920; (ii) Unemployment Insurance (Seamen) Recommendation, 1920; (iii) Shipowners' Liability (Sick and Injured Seamen) Convention, 1936; (iv) Sickness Insurance (Sea) Convention, 1936; (v) Social Security (Seafarers) Convention, 1946; (vi) Seafarers' Pensions Convention, 1946; (vii) Seafarers' Social Security (Agreements) Recommendation, 1946; and (viii) Seafarers (Medical Care for Dependents) Recommendation, 1946.[2]

The above list shows some interesting features. All the Conventions and Recommendations are the result of the three maritime sessions, held in 1920, 1936 and 1946, of the International Labour

[1] I.L.O., *International Labour Code*, p. 394n. The maritime sessions of the International Labour Conference held so far have been the 2nd (Genoa, 1920), 9th (Geneva, 1926), 13th (Geneva, 1930), 21st (Geneva, 1936), 22nd (Geneva, 1936) and 28th (Seattle, 1946).

[2] In addition to these, there are a number of Conventions and Recommendations, which though strictly outside the field of social security, have an indirect bearing on that subject. These are: (*i*) Placing of Seamen Convention, 1920; (*ii*) Seamen's Articles of Agreement Convention, 1926; (*iii*) Repatriation of Seamen Convention, 1926; (*iv*) Hours of Work and Manning (Sea) Convention, 1936; (*v*) Seamen's Welfare in Ports Recommendation, 1936; (*vi*) Food and Catering (Ship's Crew) Convention, 1946; (*vii*) Paid Vacations (Seafarers) Convention, 1946; and (*viii*) Wages, Hours of Work and Manning (Sea) Convention, 1946. None of these Conventions has been ratified in India.

Conference. Of the various risks covered by social security, the risks of unemployment, sickness and old age are covered by special Conventions. A unified provision for all risks is covered by one Convention, and two Recommendations all adopted in 1946.

Need of Social Security for Indian Seafarers. India has ratified none of the above-mentioned Conventions.[1] In fact only in recent years, since 1945, the problems of Indian seamen have attracted some attention. Some of these problems arise out of the fact that the majority of Indian seafarers are employed on foreign ships. The total number of Indian seamen employed on seagoing ships is estimated at 65,000; of these, a major proportion (about 85 per cent, i.e., about 55,000) are employed on ships of non-Indian (mainly British and Dutch) registry.[2] Indian seamen employed on non-Indian ships are not covered by insurance in the ships' countries, as they are not resident in those countries. However, they accrue certain rights either under certain statutes or because of the agreement of service between the shipowner and seamen at the time of engagement. The majority of Indian seamen are employed on British ships and as both the Indian and British laws are based upon the same interpretation of shipowners' liability in regard to seamen and the extent of that liability, the rights that accrue to seamen in regard to wages, medical care and maintenance in case of illness and injury, and compensation in case of disablement under the law in the two countries are more or less the same.[3] By virtue of the Articles of Agreement, the Indian seafarer is entitled to medical care, maintenance and repatriation at the expense of shipowners. In case of death, the expenses of burial are also to be defrayed by the shipowner. Under the Indian Workmen's Compensation Act, the seafarer employed on a British ship is entitled to workmen's compensation; in fact, he can invoke the British Compensation Act, which gives him better protection; but generally under the Articles of Agreement, the non-Indian employers of Indian seamen bind themselves to pay compensation according to the provisions of the Indian Act. Further under a voluntary agreement, the Indian seafarers receive full wages until return to India and the wages accrue even for the period they are left ill abroad, even though under the Merchant Shipping Act wages cease to be payable when a seafarer is left ashore.

In spite of these provisions the lack of a social insurance scheme for Indian seafarers is keenly felt. Firstly, the facilities and amenities he gets are the results mainly of voluntary

[1] For reasons given for non-ratification, see Chapter I.

[2] B. P. Adarkar, *Social Insurance for Indian Seamen—A Scheme* (Government of India, Department of Commerce, New Delhi, 1946), p. 1.

[3] ibid., p. 3. The position as regards the seafarer's right regarding wages, repatriation, medical aid and maintenance and compensation is also given on pp. 3-4 of Professor Adarkar's *Scheme.*

agreements, without any statutory obligation behind them. Secondly, Indian seamen, except in the case of certain accidents, are left entirely insecure, and unprotected in spite of the fact that unemployment is very severe amongst them, that the incidence of sickness is alarmingly high and that their wages are extremely low.[1] Indian seafarers are not insured against sickness nor are they insured against benefit in old age; while awaiting recruitment in port, they depend on their own resources and usually have to borrow money for their maintenance.[2] Indian seafarers on British ships lose their right to wages as soon as they are put ashore by reason of shipwreck. Thereafter, the British seamen come under the protection of the Unemployment Insurance Scheme of the United Kingdom, but Indian seamen, who do not have a domicile or place of residence in the United Kingdom, are left unprotected.[3] In the absence of any social insurance scheme in their home country, it is not possible to have any reciprocal arrangements in this respect.

The Seamen's Special Fund. Mention may be made here of an interesting controversy regarding what is known as 'the Seamen's Special Fund'.[4] The British employers of Indian seamen under section 135(4) of the British National Health Insurance Act, 1936, pay contributions in respect of all the employees whether British or foreign and whether resident in the British Isles or elsewhere. But while the employers' contributions are paid in respect of lascars, i.e., Indian sailors, they are not entitled to any benefits, because under the Act persons not resident in the United Kingdom are not covered by the scheme. Under section 137 of the National Health Insurance Act (U. K.), all contributions paid in respect of Indian seamen not resident in the United Kingdom and also those paid in respect of masters and seamen serving on foreign-going vessels, even if the latter have a place of residence-domicile in the United Kingdom are, after statutory deductions, carried to what is known as 'Separate Account'. This Account is used for the payment of administrative expenses and for the satisfaction of the claims of approved societies which administer benefits to such of the foreign-going British seamen as are their members. The residue, subject to two reciprocal agreements, with the Isle of Man and the Irish Free State, is carried to Seamen's Special Fund from which old age pensions are paid to British seamen. Various attempts were made by the Government of India to obtain such part of this Fund as was represented by contributions paid in respect of lascars by British employers.[5] However, the best that could

[1] Dinkar Desai, *Maritime Labour in India*, p. 171.

[2] Dr Bodmer and B. P Adarkar, *Report on the Scheme of Social Insurance for Indian Seamen*, p. 34.

[3] B. P. Adarkar, *Social Insurance for Indian Seamen—A Scheme*, p. 4.

[4] Dinkar Desai, *Maritime Labour in India*, pp. 181-2 and B. P. Adarkar, *Social Insurance for Indian Seamen—A Scheme*, pp. 2, 4-5 and 22-4.

[5] B. P. Adarkar, *Social Insurance for Indian Seamen—A Scheme*, pp. 4-5 and 23-4.

be secured was an assurance from the British Government that they would be prepared to enter into reciprocal agreement with the Government of India, if and when the latter introduced a contributory and compulsory sickness insurance scheme for workers in general, or for any well-defined groups among them, providing benefits corresponding broadly with the benefits payable under the British scheme. Then under a reciprocal arrangement, the British Government may transfer from the British Social Insurance Fund to the Indian Fund that part of the British shipowners' contributions as would have been payable at the rates imposed by the Government of India upon Indian shipowners.

Adarkar-Bodmer Scheme of Social Insurance for Indian Seamen. The introduction of a social insurance scheme for Indian seafarers is thus beneficial from more than one point of view. It is, therefore, gratifying to note that this question has attracted for some time past the attention of the Government of India. The question was considered at some length by the *ad hoc* Advisory Committee on Maritime Labour which met at New Delhi on 4 August 1945. After discussion in the Committee, a draft scheme of social insurance was prepared by B. P. Adarkar of the Ministry of Labour in September 1945.[1] Immediately thereafter Dr Laura Bodmer, a social security expert of the International Labour Office, came to India to assist in the elaboration of the scheme. The *Joint Scheme of Social Insurance for Indian Seamen* by B. P. Adarkar and Dr Bodmer was submitted to Government in December 1945. The Adarkar-Bodmer scheme, which may serve as the right foundation on which a social security structure for seafarers in India may be built, deserves special study. It is essential also to compare this scheme with the provisions of the social security Conventions and Recommendations adopted by the International Labour Conference in the Seattle Session (1946).

The Adarkar-Bodmer scheme falls into two sections: (i) Shipowners' Liability; and (ii) Seafarers' Social Insurance.

(i) *Shipowners' Liability.* The owners of ships registered in India and other shipowners employing persons covered by the scheme should undertake to provide medical care, maintenance and wages in case of illness, and/or incapacity of seafarers employed on their ships, until the seafarer returns to his port of recruitment, in accordance with certain provisions laid down in the scheme. Medical facilities should include the appointment of a duly qualified medical practitioner on every ship having at any time 100 persons or upwards on board; every ship of over 2,500 tons gross should be fitted with a hospital (a separate cabin with bed and bedding and

[1] This scheme was later on published as a brochure: *Social Insurance for Indian Seamen—A Scheme.*

other necessary equipment). Other ships, i.e., those not carrying a duly qualified medical practitioner, should have on board a person who has had training in first-aid and compounding. This arrangement ensures medical care on the ship. Where the seafarer's condition is such as to require medical care which cannot be given on board the master is to leave the seafarer ashore at the next port at which suitable medical care is available. If the port is other than his port of recruitment, the seafarer should be entitled to medical care at the shipowner's expense as long as such care is needed or until, being fit to travel, he is returned to his port of recruitment. Under similar circumstances, the seafarer is entitled to maintenance at the shipowner's expense, during the period of incapacity. Where a seafarer is left ashore by reason of illness or incapacity outside his port of recruitment, he should be conveyed to his port of recruitment at the expense of the shipowner. Where a seafarer abstains from work or is left ashore by reason of illness or incapacity, not brought about deliberately, or by his serious and wilful misconduct, he shall be entitled to payment of his full wages during such incapacity or till he is repatriated. Lastly the shipowner's liability also includes the funeral expenses in case a seafarer dies while he is under agreement. The scheme recommends that the shipowner's liability to provide medical care, maintenance and wages should be continued until the seafarer returns to his port of recruitment and that this liability should be made statutory also as regards payment of his wages, which at present are paid voluntarily by the shipowner. The liability should be included among provisions of lascar agreements with British and foreign shipowners on the basis of bilateral treaties between the Indian Government and the shipowner's country.

(ii) *Seafarers' Social Insurance.* The social insurance part of the Adarkar-Bodmer scheme provides for the coverage of the risks of illness, incapacity due to employment injury or sickness, death, unemployment (i.e., availability of the insured person in his port of registry, for suitable employment as a seafarer) and old age. It is a unified scheme for sickness, employment injury and old age and survivors' insurance for seafarers, *plus* insurance for 'waiting pay' on condition that measures are taken to organize recruitment and employment in sea service. The scheme provides both medical and cash benefits. Medical care would, at the outset, be provided only at the seafarer's port of registry, unless or until medical facilities become available at or near his residence, which is mostly in rural areas. During a free insurance period following discharge, medical care is to be provided at seafarers' clinics and local hospitals.

The cash benefits provided by the Adarkar-Bodmer scheme are as follows:

Nature of risk	Cash benefit	Rate of benefit
1. Incapacity due to employment injury		
(i) Temporary incapacity	At full rate in case of the non-residential beneficiaries and at reduced rate for seafarers receiving medical care in hospitals (as in (c) of the next column)	The rates of the temporary cash benefit are: (a) free maintenance at the approved hostel and payment of a fixed amount not exceeding 25 per cent of basic earnings; or (b) payment of an amount of not more than 2/3rds of basic earnings; or (c) medical care in hospital and payment of not more than 1/3rd of the basic earnings.
(ii) Permanent total incapacity	Cash benefit at full rate as long as disability continues.	The rate is 50 per cent of basic earnings.
(iii) Permanent partial incapacity	At such percentage of the full cash benefit corresponding to the reduction in his earning capacity. To be granted as long as the disability continues.	Proportionate rate corresponding to the rate for total permanent incapacity.
2. Incapacity not due to employment injury.	Sickness cash benefit at full rates for 13 weeks, if the seafarer has to his credit four monthly contributions. The benefit will be at reduced rates if he does not fulfil the qualifying condition, or during his period of hospitalization.	The rate of sickness cash benefit as in 1(i) above ('temporary cash benefit').
3. Death due to employment injury	The dependent widow is entitled to 2/5ths of the cash benefit payable in case of total incapacity; each dependent child under 14 years of age is entitled to 1/5th of such	Funeral benefit equal to one month's earnings is also provided.

Nature of risk	Cash benefit	Rate of benefit
	benefit, upto a maximum of 3/5ths of the full rate for all children.	
4. Availability for employment (waiting pay)	The seafarer who has at least four monthly contributions to his credit is entitled to 'waiting pay', while he is available in his port of registry for employment as a seafarer and admitted to recruitment, for a period not exceeding x days in the 6 months following his discharge, where x denotes the number of days for which the seafarer is required on an average to be available in port for recruitment.	
5. Old age pension	The pension should be granted after a minimum qualifying period of 10 years of sea service with contributions on attainment of the age of 55 and retirement from sea service.	The rate is 1½ per cent of the basic earnings for each year of service with contributions.
6. Refund of contributions and survivors' benefit	Where a seafarer has only 5 to 10 years' service, he is entitled to a refund of his own contributions *plus* one-half of those paid by shipowners on his behalf. If a seafarer, who has not less than 5 years' sea service dies before attaining the age of 55, his dependents are entitled to a refund of contributions as mentioned above.	

Financial Aspects. The scheme is to be primarily financed by contributions of shipowners and seafarers and subsidized by the Central Government and the States concerned. Very roughly on the basis of approximation to conditions in other countries and the assumption of employment of two seafarers in one man-year of employment at sea, and a system of rotation, the total cost has been estimated at 20 per cent of earnings. The shipowner alone would be liable to pay the contribution in respect of employment injury insurance, superseding workmen's compensation. The Central Government would pay the cost of administration and guarantee any deficiency incurred by the scheme. States would assume responsibility for one-third of the cost of medical care or 0.33 per cent of wages in the form of provision of medical care at hospitals and clinics. The remainder of the cost, namely, some 16 per cent of wages would be shared equally by shipowners and seafarers.

Administration. B. P. Adarkar and Dr Bodmer recommended collaboration, in administration of insurance, of all agencies and departments concerned and utilization of Government and other approved hostels, clinics, etc. The scheme of social insurance for seamen should, therefore, form a part of the general scheme for industrial labour and should not be independent of the latter. It should be administered on a tripartite basis under the supervision of a Central Social Insurance Board, which will be responsible for the administration. As for the accounts, audit and policy, the two funds (seafarers' and factories') may be separate.

Lastly, a non-resident seafarer employed or engaged on board a ship registered in India, in addition to being entitled to full benefits in case of employment injury should also be entitled to (a) all benefits provided for by this scheme in case of illness, while he is in an Indian port of registry, to waiting pay in such port and to old age benefit, provided that his old age pension may be commuted for a lump sum corresponding to the capital value of the pension; or (b) a transfer of contributions on his behalf to the insurance scheme of his country of residence of which he is a beneficiary, subject in either case to reciprocity of treatment for residents in India employed or engaged in any capacity on board ships of the seafarer's country of residence.

Reorganization of Recruitment System. This is broadly the outline of the Adarkar-Bodmer scheme. For the proper implementation of this Scheme, however, the authors have very strongly pleaded for the reorganization of the system of recruitment and have stated that if this was not done, it would not be possible to work out the scheme, which they had prepared. At present, there are far too many men for the available volume of employment and hence the necessity of bringing down the number of persons eligible for employment at least to maximum of twice the number of full time jobs available. It is estimated that against the demand for 50,000

men, there is a supply of 300,000 seafarers, holding discharge certificates. Such a state of affairs gives rise to the attendant evils of corruption at the time of recruitment and indebtedness, although it is true that many seamen when not employed on ships turn to agriculture or go out in fishing crafts. To lessen the excess of supply over demand for seamen, the Government of India issued orders in April 1947, stopping the issue of fresh continuous discharge certificates for an initial period of six months. Besides, restrictions have been placed on re-registration of seamen and Government also propose to introduce a system of medical examination of seamen by Government doctors once in two years. Lastly, by amending the Indian Merchant Shipping Act in 1949, the Government of India have provided for the regulation of the supply of maritime labour. The Act now authorises the Central Government to establish at such ports as they think fit Seamen's Employment Offices for the purpose of engaging or supplying seamen for merchant ships. At any port, where such an office has been established, no person shall receive or accept to be entered on board any ship any seaman unless such a seaman has been engaged through or supplied by such office.

Adarkar-Bodmer Scheme and International Standards. The living and working conditions of seafarers are inherently different from those involved in the exercise of other employments.[1] The seafarer, for example, is in the service of the ship and at the orders of its master, not only during hours of actual work, but during the whole of his voyage. He is often away from his family and his country for days together. His calling is arduous and dangerous. These facts necessitate that a social security scheme, provided for the protection of a seafarer, must cover (a) the period of his total employment (not only the hours of actual work), (b) the risks both while he is at sea and while he is ashore, and (c) more liberal benefits as an inducement to undergo the hardships and risks of seafaring. Any injury received or illness suffered during the voyage must be regarded as risks inherent in the seafarer's employment; at the same time, the seafarer while he is ashore should be assured protection against illness and loss of income through disease, employment injury, unemployment, old age and death.

In regard to a national social security scheme, seafarers as an international class of wage-earners, have been classified into three groups: (a) resident national seafarers, (b) resident foreign seafarers, and (c) non-resident seafarers. All maritime countries have taken steps to afford their national seafarers protection against illness and loss of income suffered during the voyage and to make

[1] I.L.O., *Social Security for Seafarers*, (Montreal, 1945), p. 1. This study was prepared as a technical report for a maritime session of the I.L.O. Important features of this report are: (*a*) monographs on seafarers' social security systems for 9 maritime countries; (*b*) comparative analysis of these systems, bringing out the essential features of seafarers' social security; and (*c*) a model scheme of seafarers' social security.

this provision as continuous as possible.[1] Everywhere, the shipowner is primarily liable at least for providing medical care, maintenance and repatriation if the seafarer is left ashore during the voyage. Social insurance or assistance schemes have been superimposed on this older liability and adopted with more or less success, to the particular conditions of sea service. The first step in this direction was the extension of employment injury insurance to include such part of shipowners' liability as related to employment injuries of accidental origin; the costs of such insurance was borne as a rule by the employer alone. The next risk covered was illness abroad not due to accident. Protection against other, chiefly long term, risks, such as old age or invalidity and death not due to employment injury, is usually afforded under social insurance, assistance or public service schemes, either general or special.

Position of Foreign Seafarers. There is no uniformity regarding protection of resident foreign seafarers under the provisions of the ship's country.[2] Illness or injury occurring during the voyage, the risk peculiar to the seafarer's employment and connected with life on the ship rather than with residence in the ship's country, is usually treated without regard to residence. In many countries, the foreign resident is entitled to the benefits granted in case of risks common to all employed people, such as ordinary sickness, invalidity, old age, death or unemployment, where such risks are insured. On the other hand, the protection granted to a non-resident foreign seafarer under the maritime law governing shipowner's liability is limited either to his return to the country of residence or of shipment, or to temporary illness and/or incapacity. Social security schemes in the ship's country are frequently reserved to resident seafarers or extend their benefit to non-resident seafarers in event of employment injury only. Reciprocity agreements have, however, considerably improved the position of the non-resident foreign seafarer by granting him the same rights as those of national seafarers under shipowners' liability provisions and employment injury insurance.

International Social Security Charter. According to the I.L.O. Report, *Social Security for Seafarers*, the time has now come to frame an international social security charter. For this charter, three essential pre-requisites seem to be necessary,[3] namely, integration of shipowners' liability provisions and the social insurance, assistance or public service schemes in the seafarer's country of residence; collaboration between the seafarer's country of residence and the ship's country where the seafarer is not resident in the latter; and the establishment in the more important ports outside the ship's country and outside the seafarer's country of residence, of agencies which would be responsible for procuring

[1] I.L.O., *Social Security for Seafarers*, pp. 38-9.
[2] ibid., p. 42.
[3] ibid., p. 48.

to the seafarer, left ashore at such ports, the medical care, and for ensuring the payment of compensation, to which he would be entitled at the expense of the social security institutions of the ship's country. To fulfil these three 'assumptions', the Report suggests that each maritime country should adopt an international charter, comprising: (i) a resident seafarers' social security code, containing recommendations concerning social security measures for resident seafarers of whatever nationality, and serving as a model framework for national laws and regulations; (ii) a corresponding code for the protection of non-resident seafarers of whatever nationality and the maintenance and increase of their insurance rights; and (iii) an agreement between countries having adopted the charter to set up post-medical care services and port committees, and to arrange for the clearing of financial transactions connected with the protection of non-resident seafarers. Of the pre-requisites mentioned above, in India there exists only a vague recognition of some rights under shipowners' liability. There will thus be the necessity of building almost completely a new foundation of social security for Indian seafarers.

The Report further lays down some general principles, which might be taken into consideration in framing an international seafarers' social security charter. These principles are :[1]

(1) As there is no clear dividing line between the seafarer's working hours and his hours of leisure, all risks incurred during a voyage might justifiably be regarded as employment risks.

(2) Protection should be granted by the competent social security institution of the ship's country to the seafarer who is left ill ashore, outside his country of residence, until he returns to that country or until he is re-engaged on reasonable conditions of employment.

(3) Where the seafarer returns ill or incapacitated to his country of residence, financial liability for care and compensation should continue to lie with the social security institution of the ship's country, whether the seafarer resides or does not reside in that country.

(4) The seafarer must be protected against the risks of illness and loss of income during the whole span of his working and not only against the risks incurred during sea service. He should, therefore, be a member of the general medical care and income security schemes of his country of residence.

(5) The seafarers' insurance fund in each maritime country would carry all employment risks both of resident and non-resident seafarers sailing on that country's ships, including all illness and death arising during the voyage and the consequences of illness thus arising.

[1] I.L.O., *Social Security for Seafarers*, pp. 52-6.

(6) During the interval between two voyages, the seafarer should be continued to be protected against illness, incapacity or death. The general schemes providing sickness, invalidity and survivors' benefits and medical care may be expected to take account of such normal non-employment in fixing conditions for free insurance period.

(7) The seafarer would also be covered by the general unemployment and old age benefit schemes of his country of residence like any other employed person. However, because of hard sea service, a lower pensionable age than that appropriate to a general old age scheme would be justified. A seafarer's special pension would be payable from the age of 55, at the full rate, until the old age pension becomes payable under the general scheme, and thereafter at an amount reduced by that of the general pension.

(8) The general medical care service for employed persons in the country of residence, of which the resident seafarer would be a beneficiary, would be responsible for granting all medical care required by the seafarer during his stay in the country.

Resident and Non-resident Seafarers. The application by any country of these principles would require two sets of regulations: one applying to seafarers residing in the country and the other to seafarers not residing in the country though serving on its ships.[1] Resident seafarers would be covered by all general social security schemes for employed persons with the exception of the employment injury scheme and, at the same time, be insured with the insurance fund established for the purpose of carrying seafarers' employment injury insurance, absorbing shipowners' liability, paying supplementary benefits in respect of certain risks now covered by sickness, invalidity and survivors' insurance and of granting special seafarers' pensions. The non-resident seafarer would also have the same rights as those of a resident seafarer under the laws of the ship's country in respect of illness occurring during the voyage and incapacity or death resulting from such illness, as well as in case of death occurring during the voyage. All risks incurred while he was under agreement with the owner of a ship registered in a country other than his country of residence would be covered by the compensation provisions of the ship's country.

A Model Scheme of Seafarers' Social Security. The Report also gives 'A Model Scheme of Seafarers' Social Security', embodying the above-mentioned principles. The scheme provides benefits in case of illness or incapacity for work, unemployment, old age, death and maternity. For the sake of illustration, the benefit rates proposed by the International Marine Officers' Association have been inserted in the scheme. These rates are as follows:

[1] I.L.O., *Social Security for Seafarers*, pp. 56-8.

(i) Maintenance allowance for unemployed workers—70 per cent of last earned wages.
(ii) Accidents—Full wages during complete incapacitation until recovery. Upon recovery, followed by permanent incapacitation, a pension of not less than 60 per cent of last earned wages.
(iii) Death due to an accident—Widow's pension equal to 60 per cent of the deceased's wages, plus 10 per cent in respect of each child, subject to a maximum pension of 90 per cent.
(iv) Death or invalidity due to occupational disease should be equated with accident.
(v) In case of sickness, including V. D.—Full wages until arrival of the seafarer in the home port. Medical attention, hospital treatment, maintenance abroad and repatriation shall be a charge on the shipowner. On arrival in the home port, 80 per cent of wages shall be paid as sick pay. In case of sickness in the home port, 80 per cent of wages shall also be paid.
(vi) Retirement (at the age of 55)—Pension shall be *pro rata* of the years of service with a minimum of 60 per cent of wages after 15 years of service.
(vii) Death of a retired seafarer—Widow's pension at 75 per cent of the deceased's pension, plus 5 per cent in respect of each child under 18, subject to a maximum of 90 per cent of the deceased's pension.
(ix) Unemployment following shipwreck—Wages upto 12 months at the owner's expense.

These are rather liberal provisions. However, before India thinks of adopting this international charter, it is first necessary that she should adopt the standards laid down for a national scheme of social security. As detailed in the beginning of this chapter, these standards are embodied in the five Conventions and three Recommendations of the International Labour Conference.

Social Security Conventions and Recommendations

The Unemployment Indemnity (Shipwreck) Convention, 1920. This Convention provides for indemnity against unemployment resulting from loss or foundering of a vessel, on which the seafarer served. This indemnity is to be paid for the days during which the seaman remains in fact unemployed, at the same rate as the wages payable under the contract, but the total indemnity payable to any one seaman may be limited to two months' wages. India has so far not ratified this Convention, as there are no ready means by which shipwrecked seamen could be registered and their claims recorded. It was feared that the application of the Convention could only lead to constant disputes between seamen and shipowners.[1] However, to carry out some of the objects of the

[1] Labour Bureau (Government of India), *Indian Labour Year Book, 1946*, p. 279.

Convention, some suitable amendments were made to the Indian Merchant Shipping Act of 1923. Section 58A, which was inserted by the Indian Merchant Shipping (Amendment) Act, 1931, provides that if the services of a seaman employed on a ship of Indian registry are terminated before the date contemplated in the agreement by reason of the wreck or loss of ship, he is entitled to receive full wages until he is repatriated, and compensation for the loss upto one month's wages.

The Unemployment Insurance (Seamen) Recommendation, 1920. This Recommendation recommends establishment for seamen of an effective system of insurance against unemployment arising out of shipwreck or any other cause, either by means of Government insurance or by means of Government subventions to industrial organizations whose rules provide for the payment of benefits to their workers. However, though the seafarer's employment is one of changing fortunes and most sensitive to fluctuations in world economic conditions, relatively few countries have as yet introduced unemployment insurance for seafarers.[1] In India, the supply is about six times the demand and hence the chronic problem of unemployment cannot be solved unless the whole system of recruitment is reorganized on a rational basis. In fact, before any attempt is made to introduce any social security scheme, it is primarily essential to bring down to manageable proportions the number of persons eligible for service at sea.[2]

The Shipowners' Liability (Sick and Injured Seamen) Convention, 1936. This Convention embodies most of the provisions which had been already accepted as obligations on the part of the owner or the master of the ship, who is expected to provide medical care and maintenance, if the seafarer falls ill or is injured while away from his home. In fact, the Government of India did not ratify this Convention, because they found that the existing Indian law afforded better protection to seamen than the assistance sought to be provided by the Convention.[3] While giving the causes of non-ratification of this Convention, the Commerce Member of the Government of India, in a statement laid on the table of the Legislative Assembly on 29 November 1938, observed that the Indian Merchant Shipping Act already provides for the principal require-

[1] I L O , *Social Security for Seafarers*, pp. 37-8.

[2] While advancing the arguments regarding non-acceptance of this Recommendation, the Government Member said, in the Indian Legislative Assembly on 26 September 1921, that no system of unemployment insurance was practicable in India for two reasons : firstly, Indian seamen combined to a large degree their seafaring profession with the profession of agriculture, so that when they were unemployed they could always go back to their villages and find employment in the fields. Secondly, the Government had no machinery with them by which they could make the insurance system effective. According to Dinkar Desai 'the first cause is imaginary while the second is a lame excuse'.—*Maritime Labour in India*, pp. 170-2.

[3] Labour Bureau (Government of India), *Indian Labour Year Book, 1946*, pp. 282-3.

ments of the Convention, except in the case of Articles 4 and 5. 'The main difference so far as Article 4 is concerned, is that whilst laying down the general principle that a shipowner is liable to provide medical attendance until the sick or the injured seaman is cured or until the sickness or incapacity is declared to be of a permanent character, the Convention limits the duration of the shipowner's liability to a period of not less than 16 weeks from the date of commencement of the illness. The Indian Merchant Shipping Act, on the other hand, makes no reference to any specific period, but makes the shipowner responsible for providing assistance as long as the seaman remains on board or is in a foreign country... On the whole, the existing law affords better protection to the seaman than the limited assistance provided in the Convention for a period of 16 weeks, at the end of which he may still find himself ill in a foreign country without any means of support. Similarly, in regard to the shipowners' liability to pay wages to sick or injured seamen, dealt with in Article 5 of the Convention, there are differences between the provisions of the Indian Merchant Shipping Act, which are based on those of the British Merchant Shipping Act, and the requirements of the Convention.... In view of the decision of His Majesty's Government in the United Kingdom not to amend the relevant provisions of the British Acts, a modification of the Indian Merchant Shipping Act would only benefit a limited number of Indian seamen, the majority of whom are employed on ships registered in the United Kingdom. In these circumstances, the Government of India have come to the conclusion that the Convention cannot be ratified in India.' Before we examine these arguments of the Government of India, it is necessary to compare the facilities granted by the Convention and by the Indian Merchant Shipping Act.

THE SHIPOWNERS' LIABILITY (SICK AND INJURED SEAMEN) CONVENTION, 1936 AND THE INDIAN MERCHANT SHIPPING ACT, 1923

Facilities provided by the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936	Facilities provided by the Indian Merchant Shipping Act, 1923
1. *Liability for Sickness and Injury*	
The shipowner is liable in respect of sickness and injury occurring between the dates specified in the articles of agreement for reporting for duty and the termination of the engagement and death resulting from such sickness or injury; but exceptions may	If a seaman employed on a ship registered in India receives any hurt or injury in the service of the ship, the expenses of providing the necessary surgical and medical advice and attendance and medicine and also the expenses of the maintenance, until he is cured or dies, or is

Facilities provided by the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936	Facilities provided by the Indian Merchant Shipping Act, 1923
be made under the national laws or regulations in respect of injury incurred otherwise than in the service of the ship; injury or sickness due to the wilful act, default or misbehaviour of the sick or injured person; and sickness or infirmity intentionally concealed when the engagement is entered into (Article 2).	repatriated and in case of death, the expense, if any, of his burial shall be defrayed by the owner of the ship without any deduction on that account from his wages (Section 89).
2. *Medical Care and Maintenance*[1]	
Medical care and maintenance continue to be the shipowners' liability until the seafarer is cured or until the illness or incapacity has been declared of a permanent character, within a time-limit of not less than 16 weeks from the day of the injury or commencement of illness (Articles 3 and 4).	See No. 1 above. Besides, all foreign-going British ships and all home-trade ships, of more than 300 tons burden, must have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages (Section 87). The agreement with the crew is to contain a scale of the provisions which are to be furnished to seamen, such scale being, in the case of lascars, not less than a scale fixed by the Indian Government (Section 28(2)(f)). All British ships and all ships upon which seamen have been shipped in India are to have aboard sufficient provisions and water of good quality, on the scale specified in the agreement with the crew (Section 85(1)).
3. *Extent of Shipowners' Liability*	
The shipowners' liability shall cease from the time at which the seafarer becomes entitled	No similar provision exists in the Indian Act.

[1] Medical care and maintenance comprise (*a*) medical treatment and supply of proper and sufficient medicines and therapeutical appliances and (*b*) board and lodging.

Facilities provided by the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936	Facilities provided by the Indian Merchant Shipping Act, 1923
to medical and/or cash benefits under an insurance or a compensation scheme (Article 4(3)).	
4. Cash Payment	
Where the sickness or injury results in incapacity for work, the shipowner is liable to pay full wages as long as the sick or injured person remains on board, and full or part wages if he has dependents from the time he is landed until he has been cured, or the illness or the incapacity has been declared of a permanent character. This liability also may be limited to 16 weeks from the day of the injury or the commencement of illness (Article 5).	(i) See No. 1 above. The injured (not sick) seaman, if he receives injuries in the service of the ship, is entitled to medical care, and/or maintenance, without any deduction on that account from his wages. (ii) Where it is agreed that the services of any lascar shall end at any port outside India, a stipulation should be entered in the agreement with the crew providing him either fit for employment on board some other ship bound to the port at which he was recruited, or to such other port in India as may be agreed on, or a passage to some port in India free of charge, or on agreed terms. (Section 28(2) (h)).
5. Burial Expenses	
The shipowner is liable to defray burial expenses in cases of death occurring on board, or in case of death occurring on shore if, at the time of death, the deceased person was entitled to medical care and maintenance at the shipowner's expense (Article 7).	See No. 1 above. The shipowner is liable to defray burial expenses, if the death is due only to employment injury, and on board the ship.

The Indian Merchant Shipping Act has some additional features. There is, as we have already seen, special provision for shipwrecked lascars, who get full wages (till they are repatriated) and compensation upto one month's wages (section 58A). Further, if a seaman having signed an agreement is discharged illegally before the

commencement of the voyage or before one month's wages are earned, without fault on his part, he is entitled to receive in addition to wages earned, due compensation not exceeding one month's wages (section 61). In addition to the liabilities regarding provisions and medicines, mentioned above, the Act lays down for seamen's accommodation on board, a space of not less than 12 superficial feet and not less than 72 cubic feet for each seaman (section 90). Lastly, the Act creates a class of 'distressed seamen', who receive maintenance and relief under special provisions (sections 71-84). However, in spite of all these provisions, the Act seems to fall short of the international standards laid down by the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936. Firstly, as regards medical care, the Act confines only to employment injury, leaving the other risk of illness. Secondly, the periods of various benefits are not specifically mentioned. The seaman no doubt acquires the right to wages and provisions when he commences work, or at the time specified in his agreement for his commencement of work or presence on board, whichever first happens. This right lasts during the term of agreement; however, according to section 58, where the services of a seaman are terminated before the date contemplated in the agreement by reason of the wreck or loss of the ship, or of his being left on shore at any place outside India, under a certificate granted as provided by the Merchant Shipping Acts of his unfitness or inability to proceed on the voyage, he shall be entitled to wages upto the time of such termination, but not for any longer period. The Convention provides for a time limit of 16 weeks in case of medical care, maintenance or incapacity compensation. The Indian Act has no such provision. Thirdly, the main defect of the Indian Act is the absence of any recognition of the principle of insurance. The Convention provides that the shipowners' liability may cease from the time at which the seafarer becomes entitled to medical and/or cash benefits under an insurance or a compensation scheme. In the absence of any social insurance for Indian seafarers, the Indian Merchant Shipping Act could not incorporate such a provision. Lastly, as has been admitted by the Government of India, there are some important differences between the provisions of the Convention and of the Indian Act regarding shipowners' liability to pay wages to sick or injured seamen.

Thus on the whole, the Indian Act, is hardly an improvement over the Convention. On problems like coverage of sickness, duration of medical care and maintenance, insurance principle and right of sick or injured persons to wages, it falls short of international labour standards laid down in the Convention. On the other hand, it meets the main requirements of the Convention and in some particular cases (such as of a seaman, who, still sick on the expiry of the 16 weeks and in a foreign port, finds himself without any means of support), it may afford better protection. However,

the Convention lays down only the minimum standards and their adoption need not in any way lower the already existing high standards in any country. Suitable features of the Convention, if intelligently adopted, may increase the utility of the Indian law. Another argument that a modification of the Indian Act would only benefit a limited number of Indian seamen does not hold much water. Modifications on the lines indicated by the Convention will not only protect the seamen on Indian registered ships, but will strengthen the claim of the Indian Government for a similar improvement in the lot of Indian seamen employed on ships registered outside India.[1]

The Sickness Insurance (Sea) Convention, 1936. This Convention provides for compulsory sickness insurance for seamen. The Convention applies to all seafarers on board any vessel, other than a ship of war, registered in territory of a ratifying Member. Exceptions, however, are allowed in case of certain specified categories of persons, namely, those employed on board non-commercial vessels of public authorities, those who can earn more than a prescribed income limit, those who are not paid a money wage, persons below or above prescribed age limits, members of employer's family and pilots. After completion of a qualifying period and of a waiting period, an insured person, rendered incapable of work and deprived of his wages by reason of sickness, is entitled to a cash benefit for at least the first 26 weeks or 180 days of incapacity. The cash benefit is to be fixed at a rate not lower than that fixed by the general scheme of compulsory sickness insurance. The insured person is also entitled free of charge to medical treatment by a fully qualified medical practitioner and to the supply of proper and sufficient medicines and appliances. The Convention, however, allows the withholding of cash benefit while the insured person is on board or abroad, while he is maintained by his insurance institution or from public funds, or while in respect of the same illness he receives compensation from another source. When the insured person is abroad and by reason of sickness has lost his right to wages, the cash benefit to which he would have been entitled had he not been abroad can be paid in whole or in part to his dependents until his return. The Convention also allows certain other benefits such as dependents' benefits (in kind—medical aid—or in cash), maternity benefit and funeral benefit. The sickness insurance scheme is to be financed by insurance persons and their employers, and is to be administered by self-governing institutions.

The Convention thus recommends the introduction of a compulsory insurance scheme, in a form which has now become familiar. However, this Convention could not be ratified by the Government of India for the following two reasons : (i) The institution of a compulsory system of insurance in India applicable

[1] Dinkar Desai, *Maritime Labour in India*, p 113.

to all classes of seamen covered by the Convention, and providing for the grant of the different forms of benefits contemplated therein, cannot be undertaken except as part of a comprehensive scheme catering for all classes of labourers; and (ii) in view of the fact that a large number of Indian seamen are illiterate, a compulsory system of insurance is not likely to receive general support.[1] A separate scheme of sickness insurance can be undertaken, and later, if necessary, it can be merged into a general scheme. As for the second reason, the illiteracy of the seamen, even if the allegation is true, shows the justification and the need of a compulsory insurance scheme, rather than a plea to evade it. Whatever might have been the reasons behind these arguments, the times have now changed and a scheme of social security for Indian seafarers is seriously under consideration.

The Social Security (Seafarers) Convention, 1946. This Convention covers every person employed on board or in the service of any sea-going vessel, other than a ship of war, which is registered in the territory of a ratifying Member. Exceptions, however, are allowed in case of certain specified categories of persons (such as members of the shipowner's family, pilots not members of the crew, persons not remunerated for their services, etc.) and vessels (such as those of public authorities not engaged in trade, coastwise fishing boats of less than 25 tons gross register tonnage, *dhows* and junks, etc.). For the ships registered in India, the Convention has a special clause, which allows exceptions in respect of home-trade vessels of a gross register tonnage not exceeding 300 tons; such a special exception, however, is allowed only for a period not exceeding five years from the date of registration of the ratification of this Convention by India.

The social security benefits provided by this Convention are medical benefit (for seafarers and their dependents) and cash benefits in respect of incapacity for work, unemployment, old age, and death. The conditions of award, extent or amount and duration of these benefits shall not be less favourable than those to which industrial workers are entitled. Even in a country, where there is no scheme of social security for industrial workers, seafarers will be entitled in any case to medical care and cash benefits in case of incapacity for work, and their dependents to survivors' pension in the event of the death of the seafarer. Further, if a seafarer is left in another territory, by reason of employment injury or sickness, he is entitled to medical care, maintenance and repatriation and cash allowance equal to 100 per cent of his wages for at least 12 weeks.

All these benefits, however, accrue only to the resident seafarers, who are employed on board or in the service of vessels registered in the territory of the ratifying Member. Non-resident or foreign

1 Statement of the Commerce Member in the Legislative Assembly on 29 November 1938.

seafarers have very limited rights under this Convention. They get equality of treatment in the matter of statutory liability of shipowners in respect of sickness, employment injury and death. Further, even a non-resident seafarer if he is left ill or injured outside his country of residence, is entitled to medical care, maintenance and repatriation to his home country at the expense of the shipowner. These are all the benefits, which a seafarer residing in one country and working on board vessels of another country is entitled to. The majority of Indian seamen (about 85 per cent) fall into this unfortunate category and as far as they are concerned the Social Security (Seafarers) Convention of 1946 is but a repetition of the Shipowners' Liability (Sick and Injured Seamen) Convention of 1936.

The Seafarers' Pensions Convention, 1946. This Convention provides for a scheme for the payment of pensions to seafarers on retirement from sea service. The scope of this Convention is much the same as that of the Social Security (Seafarers) Convention, except that it allows exceptions only in respect of vessels of less than 200 gross register tons as against 25 gross register tons in the latter Convention. The pension provided by the scheme shall be payable to seafarers having completed a prescribed period of sea service on attaining the age of 55 or 60 years as may be prescribed; and shall, together with any other social security pension payable simultaneously to the pensioner, be at a rate not less than the total obtained by computing for each year of his sea service one and a half per cent of the remuneration on the basis of which contributions were paid in respect of him, for that period, if the scheme provides pensions on attaining the age of 55 years, or two per cent of such remuneration if the scheme provides pensions at the age of 60 years. The Adarkar-Bodmer scheme provides for the payment of pension at the age of 55 years and at the rate of 1 per cent of wages for each year of service. Thus in accepting the first provision of the Convention it conforms fully to the standards laid down.

The Seafarers' Social Security (Agreements) Recommendation, 1946. This Recommendation desires that Members should enter into agreements so as to ensure that seafarers belonging to one country and employed on board or in the service of a vessel of another country either remain subject to the schemes of compulsory social insurance or of workmen's compensation of their own country. Such agreements, according to the recommendation, might provide, for example, for Members to act as agents for one another in token claims, obtaining necessary evidence and making payments or providing service as benefit to seafarers, or dependents of seafarers entitled to benefit under the social insurance laws of one Member but present in the territory of another Member; or for the transfer of contributions, or for the application of the provisions of the Maintenance of Migrants' Pension

Rights Convention, 1935; or for a combination of such methods. The reciprocal arrangement, however, works best in case of two countries having similar social standards. India has yet to introduce an effective system of social security for her seafarers and hence if she desires to get adequate benefits for them, she must raise her social security standards before she can have a moral claim on the benefits afforded to her seafarers by other countries. A large majority (about 85 per cent) of Indian seafarers are employed on foreign (mainly British) ships and their interest demands the levelling up of India's standards of social security.

The Seafarers (Medical Care for Dependents) Recommendation, 1946. This Recommendation advises the Members to endeavour to provide proper and sufficient medical care for the dependents of seafarers, pending the development of a medical care service, which would include within its scope workers and their dependents. This Recommendation was adopted to supplement the provisions of the Social Security (Seafarers) Convention, 1946 and hence should form a part of the scheme resulting from the adoption of that Convention.

CONCLUSION

This study of the seafarers' social security Conventions and Recommendations reveals how far India has to go to conform to the minimum international standards laid down in this field. The Adarkar-Bodmer scheme shows a marked step in this direction; but it must be followed soon by social security legislation for Indian seafarers. The Adarkar Report on health insurance for industrial workers led the legislation (the Employees' State Insurance Act 1948) on the subject. A similar lead may be given by the Adarkar-Bodmer Report.

PART II

UNIFIED SCHEME OF SOCIAL INSURANCE

CHAPTER VIII

EMPLOYEES' STATE INSURANCE ACT, 1948

THE Employees' State Insurance Act (No. XXXIV of 1948), which received the assent of the Governor General on 19 April 1948, and was thus placed on the statute book, marks the first important step on the path of a comprehensive plan of social security. It is still a long way for India to reach the cherished objective; the Employees' State Insurance Act has just made a beginning, and a good beginning, by providing to perennial factory employees insurance against sickness, childbirth and employment injury.

A study of a comprehensive unified scheme of social security for India naturally divides itself into many parts—a review of the main provisions of the Employees' State Insurance Act, an examination of its limitations, an analysis of its effects on existing legislation and standards and a study of the various measures necessary to transform the existing limited scheme into a comprehensive plan of social security.

PROVISIONS OF EMPLOYEES' STATE INSURANCE ACT, 1948

Scope. The Act applies, in the first instance, to all factories (including Government factories) other than seasonal factories;[1] in other words, the Act applies to all perennial factories.[2] An 'employee' in a perennial factory, in respect of whom contributions are or were payable under the Act and who is, by reason thereof, entitled to any of the benefits provided under the Act becomes an 'insured person'. The word 'employee', however, has a peculiar meaning under this Act. Its definition under the Act shows that clerical labour, workers who are engaged and/or paid through contractors, and outworkers are covered by insurance. Occasional, temporary, subsidiary, part-time, casual, *badli* or substitute workers, if they are in insurable employment, become liable to be insured. Apprentices and learners, if they are paid, are included. Even members of the employer's family are not excluded on account of their relation with the employer.

On the other hand, the Act makes explicit and implicit exceptions. The upper income-limit of Rs. 400 a month generally excludes the superior supervisory staff in a factory. The definition that an employee is a person employed for wages (which are to

[1] The definitions of a 'factory' and a 'seasonal factory' given in the Factories Act, 1934, have been generally accepted for the purpose of the Employees' State Insurance Act. The changes, which may be effected on account of the enforcement of the Factories Act, 1948, are indicated later on in this chapter.

[2] The Act also provides for the extension of its operation to any establishment or class of establishments, industrial, commercial, agricultural and otherwise (Section 1(5)).

be paid or payable in cash) excludes from the scope of the Act employees who are unpaid or who are paid in kind. The minimum age of entry into a factory under the Factories Act, 1934, namely, 12 years, automatically applies for entry into insurance also.

Risks Covered. The Preamble to the Act says that the Act provides 'for certain benefits to employees in case of sickness, maternity and employment injury'. Of these three risks, sickness is defined as a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds. Such sickness must be 'certified by a duly appointed medical practitioner'. As for the risk of maternity, the Act defines confinement as 'labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead'. This provision rules out any benefit for miscarriage, if it happens within 26 weeks of pregnancy.[1] The third risk 'employment injury' has been defined as 'a personal injury to an employee caused by accident or an occupational disease arising out of, and in the course of, his employment in a factory or establishment to which this Act applies, which injury or occupational disease would entitle such employee to compensation under the Workmen's Compensation Act, 1923 (VIII of 1923), if he were a workman within the meaning of the said Act'. The Act, which thus covers the same ground as that of the Workmen's Compensation Act, provides both for accidents and occupational diseases, if they arise 'out of and in the course of employment'.[2] However, many of the injuries, not arisen in this manner, may be 'certified by duly appointed medical practitioners' as sickness, and thus can come within the scope of the Act. It is a very thin line of demarcation between sickness, incapacity arising out of employment injury, and invalidity caused by injury not resulted in the course of employment.

Administration. For proper administration of the social insurance scheme, the Act has proposed to set up three institutions: (a) Employees' State Insurance Corporation; (b) Standing Committee of the Corporation; and (c) Medical Benefit Council.

The Employees' State Insurance Corporation, which was set up on 1 September 1948,[3] is the most important of the three institutions. It is a body corporate, having perpetual succession and a common seal and can sue and be sued. The Act does not specifically mention the duties of the Corporation, which seems to be in general charge of the administration of the scheme. In addition to the administration of the scheme of benefits specified in the

[1] It may be mentioned here that the U.P. Maternity Benefit Act provides for three weeks' leave, with pay, in case of miscarriage.

[2] The phrase 'out of and in the course of employment' has been responsible for considerable litigation both in the United Kingdom and India. (See B. P. Adarkar's *Report on Health Insurance for Industrial Workers*, p. 214.)

[3] For the personnel of the first Corporation, see the *Government of India Gazette, Extraordinary*, 1 and 6 September 1948.

Act, the Corporation has been empowered to promote measures for the employment of the health and welfare of insured persons, and for the rehabilitation and re-employment of insured persons who have been disabled or injured. The Corporation may be said to be the Parliament of the social insurance administration.

The executive of this administration is the Standing Committee elected from among the members of the Corporation. The first Standing Committee was elected on 6 October 1948. The members of the Standing Committee, with the assistance of the staff of the Corporation, are to see that the decisions arrived at by the Corporation are carried out and that a smooth and efficient working of the administration is ensured.

The Medical Benefit Council is more or less a specialized body, set up to advise on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters; to have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connexion with medical treatment and attendance; and to perform such other duties in connexion with medical treatment and attendance as may be specified in the regulations. The first Medical Benefit Council was set up on 28 December 1948.

If necessary, the Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils for decentralization of administration.

The constitution of the Corporation, Standing Committee and Medical Benefit Council, in regard to the representation given to various interests, may be illustrated as in the Table below:

Bodies	Representation given to							
	Government			Employees	Employers	Medical profession	Central Legislature	Total representation
	Central Govt.	States' Govts.	Chief Commissioners					
Employees' State Insurance Corporation ..	7[1]	9	1	5	5	2	2	31
Standing Committee	4[2]	3	..	2	2	1	1	13
Medical Benefit Council	3[2]	9	..	3		3	..	21

1 Including Chairman and Vice-Chairman, who are respectively Minister for Labour and Minister for Health in the Central Government.

2 Including the Chairman, who is a Central Government official.

The statement shows that Government (Central and States) have received more than 50 per cent representation in each of the three bodies. Section 4(c) of the Act gives representation to the Central Government in the Corporation to the extent of 'not more than five persons to be nominated by the Central Government'. All these five seats have been filled by nomination of Central Government officials.

It has now been recognized that social insurance funds should be administered by self-governing institutions under the supervision of public authority, and that the insured persons, through elected representatives, should be encouraged to play an important part in the management of the insurance system. Employers, Government and medical professions may be represented, but full scope in administration should be given to persons, for whose benefit the social insurance scheme is introduced. In India, employees' representation, as it is at present, comes only to about 16 per cent in the Corporation and the Standing Committee and about 14 per cent in the Medical Benefit Council.

Finance. The Employees' State Insurance Fund will be mainly derived from (a) contributions from employers and employees; (b) subsidy from Government—Central and States; and (c) grants, donations, and gifts from other sources. The contributions from employers and employees will be studied in the next section. The Central Government is to make a grant, every year during the first five years, to the Corporation, of a sum equivalent to two-thirds of the administrative expenses of the Corporation. The responsibility for providing medical benefits rests with States' Governments. The Corporation is to enter into an agreement with the States' Governments in regard to the nature and scale of medical treatment and for the sharing of the cost thereof. Though no definite share has been laid down in the Act, it is intended that by agreement, the States' Governments should bear one-third of the cost of provision of medical care. Thus the Corporation has to bear the cost of sickness benefit, maternity benefit, disablement benefit and dependents' benefit—all in cash; one-third of administrative expenses, and two-thirds of medical treatment and care.

Contributions. The rates of the weekly contributions payable in respect of an employee both by the employer and employee have been fixed under the Act as follows:

Group of employees	Employee's contribution	Employer's contribution	Total contribution
Employees whose average daily wages are	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.
Below Re. 1	Nil	0 7 0	0 7 0
Re. 1 and above but below Rs. 1-8	0 2 0	0 7 0	0 9 0
Rs. 1-8 and above but below Rs. 2	0 4 0	0 8 0	0 12 0
Rs. 2 and above but below Rs. 3	0 6 0	0 12 0	1 2 0
Rs. 3 and above but below Rs. 4	0 8 0	1 0 0	1 8 0
Rs. 4 and above but below Rs. 6	0 11 0	1 6 0	2 1 0
Rs. 6 and above but below Rs. 8	0 15 0	1 14 0	2 13 0
Rs. 8 and above	1 4 0	2 8 0	3 12 0

Employees have been divided into eight groups on the basis of their average daily wages. The employees in the first group (those whose average daily wages are below Re. 1) are 'exempted employees'. This class of employees will be entitled to benefits under the Act, without paying anything in the form of contributions. This exemption may be justified on the ground that employees who are poorly paid should not be taxed. However, a nominal contribution, say, of half an anna per week, should have been fixed for the lowest class for the following reasons: (a) An employee who gets 'free' benefits may take them as charity and would not take an interest in the Fund by right. Even a nominal contribution would make him feel that he has a right to benefits and he can claim them with self-respect. (b) A fair number of employees in Indian factories may belong to this class. After the present inflationary period, this number is likely to increase considerably. (c) Even very low contributions from a large number of people may bring in valuable income to the funds of the Corporation.

The table of rates of contributions reveals one more feature. Except for the first two groups, the employer's contribution is exactly double that of an employee. This may be justified on the ground that maternity benefit and workmen's compensation which had so far been solely the employer's liability, have now been included in the benefits to be given under the scheme.

The upper income-limit for eligibility to insurance is Rs. 400 per month, i.e., a little over Rs. 15 per day. The eighth group, therefore, covers a wide field—employees whose average daily wages are Rs. 8 and above but below Rs. 15.

Benefits. In return for these contributions, the insured employee will be entitled to the following benefits: (a) sickness benefit, (b) maternity benefit; (c) disablement benefit; (d) dependents' benefit; and (e) medical benefit.

(a) *Sickness benefit.* For sickness, certified by a duly appointed medical practitioner, an employee will be entitled to sickness cash benefit in any benefit period,[1] subject to a maximum of 56 days' benefit during any continuous period of 365 days, if during the corresponding contribution period, contributions have been paid on his behalf for not less than two-thirds of the number of weeks for which he is deemed to have been available for employment, subject to a minimum of 12 contributions. A person is deemed to have been not available for employment in any week, if during the whole of such week he is either unable to work on account of duly certified sickness or qualified to receive disablement benefit for temporary disablement. A woman is deemed

[1] Benefit period is a period of 26 consecutive weeks or 6 consecutive months. The right to claim sickness or maternity benefit will depend upon contributions made in a contribution period of 6 consecutive months preceding the benefit period.

to have been not available for employment in any week if during the whole of such week she would have been entitled to the maternity benefit provided under the Act. The daily rate of sickness benefit during any benefit period is to be an amount equivalent to one-half of the sum of the assumed average daily wages for each of the weeks for which contributions were paid. The employee, however, is not entitled to the benefit for an initial waiting period of two days except in the case of a spell of sickness following, at an interval of not more than 15 days, the spell of sickness for which sickness benefit was last paid.

(b) *Maternity benefit.* An insured woman is entitled to receive maternity benefit at the rate of 12 annas a day for all days on which she does not work for remuneration during a period of 12 weeks, of which not more than 6 weeks should precede the date of confinement. Just as in the case of sickness benefit, an insured woman is qualified to claim maternity benefit for a confinement in a benefit period, if during the corresponding contribution period, weekly contributions in respect for her were payable for not less than two-thirds of the number of weeks during which she shall be deemed to have been available for employment, subject to a minimum of 12 contributions; however, an additional proviso is that at least one contribution should have been paid between 35 and 40 weeks before the week in which the confinement takes place or in which notice of pregnancy is given before confinement, whichever is more advantageous to the insured woman. Another condition of benefit is that the woman must be confined after at least 26 weeks of pregnancy.

(c) *Disablement benefit.* For the three kinds of disability due to employment injury, disablement benefit is payable in the form of periodical payments. If sickness benefit is equivalent to half the assumed average daily wages of the person concerned for the weeks he worked during the 52 weeks immediately preceding the injury, the rates of disablement benefit are as follows:

i) For temporary disablement—a cash allowance at the rate of sickness benefit.

ii) For permanent, partial disablement—a cash allowance at percentage of (i) according to the degree of disablement prescribed in the Workmen's Compensation Act, 1923.

iii) For permanent total disablement—cash allowance at (a) for life.

(d) *Dependents' benefit*[1]. Where an insured person dies as a result of an employment injury sustained as an employee under the Act, his widow and children are entitled to dependents' benefit at the following rates: (a) to the widow during life or until remarriage

[1] The definition of 'dependent' as given in the Workmen's Compensation Act has been accepted by the Employees' State Insurance Act. *Vide* Part I, Chapter III, *Workmen's Compensation*, pp. 67-8.

an amount equivalent to three-fifths of the 'full rate'[1] and, if there are two or more widows, the amount payable to the widow as aforesaid shall be divided equally between the widows; (b) to each legitimate adopted son, an amount equivalent to two-fifths of the full rate until he attains 15 years of age; and to each legitimate unmarried daughter, an amount equivalent to two-fifths of the 'full rate' until she attains 15 years of age or until marriage, whichever is earlier. In case the deceased person does not leave a widow or legitimate child, dependents' benefit at such rates as may be determined by the Commissioner of Workmen's Compensation shall be payable as follows: (a) to a parent or grandparent, for life; (b) to any other male dependent, until he attains 15 years of age; and (c) to any other female dependent, until she attains 15 years of age or until remarriage, whichever is earlier or, if widowed, until she attains 15 years of age.

(e) *Medical Benefit.* An insured person is entitled to medical benefit, which may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution. He is entitled to medical benefit during any week for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit or is in receipt of disablement benefit.

About the various benefits mentioned above, the only comment that can be made is their inadequacy.[2]

Adjudication of Disputes and Claims. The Act provides for the setting up of Employees' State Insurance Courts to decide disputes and adjudicate on claims. The matters to be decided by these Courts include eligibility of an employee to insurance, rates of wages and of contribution, right to benefits, etc. The Courts will have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the production of documents and material objects, administering oath and recording evidence. Ordinarily, there would be no appeal from an order of an Employees' State Insurance Court; however, an appeal, if it involves a substantial question of law, may be made to the High Court.

Penalties. Lastly, the Act lays down certain penalties for making a false statement, for failure to pay contributions, for unlawfully reducing the wages or any privileges or benefits admissible, for failure or refusal to submit any return required under the Act, for obstructing an Inspector in the discharge of his duties, etc.

[1] 'Full rate' is generally equivalent to half the assumed average daily wages.

[2] B P. Adarkar has suggested a long list of 'additional benefits'—*Report on Health Insurance for Industrial Workers*, Appendix XII, p. 171 Though the Act does not make any specific provisions in respect of them, the Corporation may consider their inclusion at a later stage.

Effects on Maternity Benefit and Workmen's Compensation Legislation

The inclusion of childbirth and employment injury among the risks covered by the Employees' State Insurance Act would necessarily involve some important changes in the existing legislation. These changes would mainly be of two types:

(1) The changes directly due to and in consequence of the introduction of the Employees' State Insurance Scheme. Many of the provisions of the Employees' State Insurance Act will necessitate changes of commission and omission with regard to a number of provisions in the Indian Workmen's Compensation Act and the various Maternity Benefit Acts. However, as far as the latter are concerned the enactment of the Employees' State Insurance Act—a Central Act—makes the States' Maternity Benefit Acts null and void to the extent that they are repugnant to the provisions of the Central Act relating to maternity benefit.

(2) The other type of changes would arise from the desirability of putting the workers not covered by the State Insurance Scheme (such as the non-factory workers) on a par with those covered by the Scheme (perennial factory workers).

The following paragraphs briefly study the extent to which modifications in the Workmen's Compensation Act and Maternity Benefit Acts are necessary because of the enforcement of the Employees' State Insurance Act. For this purpose, the main differences between the Employees' State Insurance Act on the one hand and the Workmen's Compensation and Maternity Benefit Acts on the other have been indicated. The effects of and on the Factories Legislation have been studied later at the end of this chapter.

Scope. The Employees' State Insurance Scheme provides for compulsory insurance to all employees getting not more than Rs. 400 per month and employed for remuneration in or about perennial factories by, or on behalf of, the owner, for the purposes of his trade or business, including workers detached on temporary jobs outside the factory premises and including workers employed for such purposes under contractors.[1]

The scope of the Maternity Benefit Acts varies, though not very widely.[2] The Acts differ in scope mainly on the following points:

(i) The Mines Maternity Benefit Act applies to mines and the Assam Act applies to plantations. The Bombay,[3] Madhya

[1] The Factories Act, 1934 has been amended by a comprehensive enactment Now a factory means an establishment with more than 9 workers and working with aid of power or with more than 19 workers working on a manufacturing process, with or without aid of power. With this new definition, the Employees' State Insurance Act would cover a large number of workers.

[2] See Part I, Chapter II, *Maternity Protection*, pp. 36-41.

[3] The Bombay Act does not apply to the whole of the State, but to specified towns and districts.

Pradesh, Ajmer-Merwara and Delhi Acts cover both perennial and seasonal factories. In Uttar Pradesh all perennial factories with more than 10 workers in each are covered.

(ii) None of the Maternity Benefit Acts lays down any income limit, unlike the Employees' State Insurance Act, which excludes from the scope employees getting more than Rs. 400 per month. In practice, however, this difference matters very little, because almost all the women employees in factories get less than Rs. 400 per month.

(iii) The Employees' State Insurance Act covers all employees including contract and clerical labour. The Maternity Benefit Acts cover only manual workers, directly paid.

The Workmen's Compensation Act excludes casual workers and workers who are not employed otherwise than for the purposes of the employer's trade or business. However, its scope is very much wider than that of the Employees' State Insurance Act.[1] Of the 28 classes of occupations and services covered by the Workmen's Compensation Act, the following classes may be affected by the Employees' State Insurance Act:

Workers covered by the Workmen's Compensation Act	Employees who may be affected by the Employees' State Insurance Act
(1) Railway servants	(1) Employees in railway workshops, coming under the Factories Act
(2) Workers in factories, having 10 or more workers (clerks excluded)	(2-3) Employees in perennial factories
(3) Workers in factories, not using power, but having more than 50 workers	
(4) Tramwaymen (excluding clerks)	(4) Employees in tramway workshops, coming under the Factories Act
(5) Workers employed on telegraph or telephone lines	(5) Employees in telegraph or telephone workshops, coming under the Factories Act
(6) Labour employed in contract or sub-contract work of railways	(6) Contract labour in railway workshops, coming under the Factories Act
(7) Workers in petroleum or natural gas companies (excluding clerks)	(7) Employees in mineral oil factories

[1] For the scope of the Workmen's Compensation Act, see Part I, Chapter III, *Workmen's Compensation*, pp. 54-7. See also section 2(1) n) and Schedule II of the Workmen's Compensation Act.

Workers covered by the Workmen's Compesation Act	Employees who may be affected by the Employees' State Insurance Act
(8) Workers in electrical generating or transforming stations (excluding clerks)	(8) Employees in electrical workshops and power stations, coming under the Factories Act
(9) Workers in cinematograph pictures	(9) Employees in cine-studios, declared as factories under the Factories Act

The Workmen's Compensation Act covers a number of other industries, which lie practically outside the scope of the Employees' State Insurance Act. Some of these industries, such as mining, plantations, construction work, etc., are important and employ a large number of workers.

Both the Acts have an upper income-limit of Rs. 400 per mensem and persons getting more than this amount are excluded from the scope of the Acts.

Benefits. As seen earlier in this chapter, the Employees' State Insurance Act provides for sickness benefit, maternity benefit, disablement and dependents' benefit (on account of injury or death due to employment injury), and medical benefit. Of these, the Maternity Benefit Acts already grant maternity benefit, while the Workmen's Compensation Act provides for disablement and dependents' benefits. Both these sets of measures make provision only for cash compensation and generally overlook medical care, which is necessary for restoration of working capacity. Only a few Maternity Benefit Acts (Assam, Bihar, U. P. and of Mines) make provision, though inadequate, for medical benefit during the confinement period.

The rate of maternity (cash) benefit, provided by the various Maternity Benefit Acts, varies between 6 as. and 12 as. per day and the average may be considered as at 8 as. per day. This benefit is payable for a period, which varies between 7 weeks and 60 days—the majority of Acts having it as 8 weeks, 4 weeks before and 4 weeks after childbirth. The Employees' State Insurance Act is a definite improvement on these provisions. Maternity benefit under that Act is payable at the fixed rate of 12 as. a day for a total period of 12 weeks of which not more than six can precede the confinement. However, a few of the provisions in some of the Maternity Benefit Acts are absent in the Employees' State Insurance Act. For example, payment of a cash bonus of Rs. 5 is made by the Bihar and U. P. Acts and of Rs. 3 under the Mines Maternity Benefit Act. The U. P. Act also provides for 3 weeks' maternity leave, with pay, in case of miscarriage. The Bihar and U. P. Acts have some more happy features such as the provision for the maintenance of crèches,

appointment of health visitors and additional rest-intervals. Some of these amenities, however, have been provided under the Factories Act, 1948.

The Workmen's Compensation Act does not provide for medical aid. However, it provides cash benefit to a worker in case of disability due to employment injury; and to his dependents in case of death of the worker, due to employment injury. The Employees' State Insurance Act also provides for disablement and dependents' benefits. The disablement and dependents' benefits granted by the Workmen's Compensation Act and the Employees' State Insurance Act are given below for the sake of comparison:

Risk	Benefits granted under the Workmen's Compensation Act, 1923		Benefits granted under the Employees' State Insurance Act, 1948
	For adults	For minors	
Temporary disablement	Half-monthly payments at the rate of half of monthly wages to those having monthly wages of Rs. 10 and less, and at rates varying from Rs 5 to Rs. 30 per fortnight to those getting more than Rs. 10 p. m.	Half monthly payments of half of monthly wages subject to a maximum of Rs. 30.	Weekly payments at the rate of half of average wages.
Permanent total disablement	Lump sum payments at rates varying from Rs. 700 to Rs 6,300 according to the wage group.	Rs. 1,200 in a lump sum payment.	At the rate of half of average wages for life.
Permanent partial disablement	Such percentage of compensation which would have been payable for permanent total disablement as is proportionate to the loss of capacity permanently caused by that injury.		At a percentage of half of average wages as provided in section 4 of the Workmen's Compensation Act, for life.
Death	Lump sum payments at rates varying from Rs. 500 to Rs 4,500 according to wage group.	Rs. 200 in a lump sum	(i) To widow—3/5ths of half of average wages for life or until remarriage. (ii) to each child—2/5ths of half of average wages till the child attains 15 years of age (in case of a daughter till she attains 15 years or till marriage, whichever is earlier). Where the total of the fractions exceeds half of average wages, proportionate reductions are made in benefits.

This statement shows that as far as actual rates are concerned, the Employees' State Insurance Act is hardly an improvement over the Workmen's Compensation Act. Credit may be given to the former Act on two counts: (a) Pensions have been substituted for lump sums in case of benefits to permanently disabled workers and to dependents. Periodical benefits are considered better than lump sum payments, mainly on the oft-repeated supposition that the beneficiary is improvident by nature—a supposition that is not correct in many cases. (b) The other improvement brought about by the Employees' State Insurance Act is that same rates are available both for adults and minors. This Act does not make the compensation dependent on the age of the victim. However, in practice, this improvement matters little, because as the accident compensation figures show, the number of injured minors is very small, compared to that of injured adults.[1]

The definition of 'dependents' given by the Workmen's Compensation Act has been accepted by the Employees' State Insurance Act and hence there is no difference between the two Acts on this point.

Contributions. The Maternity Benefit Acts and the Workmen's Compensation Act are based on the principle of employer's liability and hence do not levy any contribution on the beneficiaries. The Employees' State Insurance Act, on the other hand, is based on the principle of insurance and levies contributions both on employees and employers. In return for these contributions, the Corporation grants cash and medical benefits.

Administration. The greatest contribution of the Employees' State Insurance Act in the social security field is perhaps the administrative and judicial machinery, which is to be set up under the Act. The benefits of the Maternity Benefit Acts and of the Workmen's Compensation Act are inadequate and this inadequacy is felt more keenly because of the lack of proper enforcement of the provisions of the Act. The responsibility of administration of the Maternity Benefit Acts has been placed on the Factory Inspector, who because of his other duties hardly finds time or takes any interest in the administration of the maternity benefits.[2] The administration of the Workmen's Compensation Act has been better, mainly because it has been entrusted to specially appointed Workmen's Compensation Commissioners in some important towns. However, in other cases the District Magistrates or other judicial officers act as Commissioners in addition to their own normal duties, with the result that often workmen's compensation cases are left in arrears.[3]

[1] See Part I, Chapter III, *Workmen's Compensation*, pp. 80-1.

[2] For the defects in the administration of the Maternity Benefit Acts, see Part I, Chapter II, *Maternity Protection*, pp. 46-8.

[3] See Part I, Chapter III, *Workmen's Compensation*, pp. 73-9.

The Employees' State Insurance Act has created a special machinery in the form of the Employees' State Insurance Corporation and its allied and constituent bodies. It is the responsibility of this machinery to see that benefits provided under the Act are being paid to insured employees. The responsibility regarding payment of benefits has been transferred from individual employers to a specially created Corporation and this transfer of responsibility may result in mitigation of such present-day evils, as fear of victimization, collusion between employers and injured employees, non-payment to victims or their dependents, etc.

The Employees' Insurance Courts will be set up under the Employees' State Insurance Act solely for the purpose of deciding disputes and adjudicating on claims. Such a special judicial machinery may ensure speed, efficiency and justice.

Social Security And Factories Legislation

The Employees' State Insurance Act, 1948 applies, in the first instance, to all perennial factory employees. This class of wage-earners, it seems, has received special attention in recent years. The year 1948 also saw the enactment of another important Act concerning factory labour. This Act, called the Factories Act, 1948, not only consolidates the law regulating labour in factories, but also introduces a number of new important features, thereby radically revising the earlier factories legislation. The Act aims to regulate the working conditions of factory employees and thus has a direct bearing on any other legislation designed to better the lot of this class of wage-earners. The working of the Employees' State Insurance Act, which aims to provide for certain social insurance benefits to perennial factory employees, may thus be greatly influenced by the adequate enforcement of the Factories Act. The nature and extent of this likely influence may be seen from a comparative study of these two Acts.

Scope. When the framers of the Workmen's State Insurance Bill, 1946 (which has now become the Employees' State Insurance Act, 1948) laid down that the Act would 'apply to all factories (including factories belonging to the Crown) other than seasonal factories', they had before them the Factories Act, 1934. The unhappy distinction between seasonal and perennial factories has been removed by the Factories Act, 1948, because it was felt both unnecessary and undesirable that a factory which works for a part of the year should get more lenient treatment in respect of provisions relating to health, safety and welfare, than that given to a factory working throughout the year.

The Factories Act, 1948, compared to that of 1934, goes very much further by widening the scope of a 'factory'. According to the 1948 Act, a factory means all industrial establishments employing 10 or more workers where power is used and 20 or more workers in all other cases. As a result of this definition, it is estimated that the number of establishments and the number

of workers, coming within the scope of the Factories Act will be increased by 200 per cent and 40 per cent respectively. The Factories Act, 1948 thus provides a very wide field to the Employees' State Insurance Scheme, which may soon be affording protection to about 32 lakhs of employees in about 35,000 industrial establishments.[1] Contract labour and clerical staff employed in, or in connexion with, the work in these factories will also add to the number of employees to be covered by the Employees' State Insurance Act.

Administration. One of the greatest defects of the working of the Factories Act, 1934 was the inadequate enforcement of its provisions. In 1946 and 1947, for example, the number of factories not inspected came to 19.0 per cent and 14.2 per cent respectively of the total number of factories. The lack of adequate inspection is mainly due to the shortage of trained staff of Factory Inspectors. The Factories Act, 1948, not only increases the number of 'factories' and persons coming within its scope, but also extends the scope of existing provisions and adds a number of new provisions. The extension on all these fronts would naturally necessitate strengthening of the Factory Inspection Service, both as regards quality and quantity. The Central and States Governments have already realized this necessity. The Office of the Chief Adviser, Factories, of the Central Government has conducted some training and refresher courses for the Factory Inspectors. In the States the number of Factory Inspectors has increased from 59 in 1946 to 87 in 1947.[2] The question of Inspection Services also came up for discussion at the Preparatory Asian Labour Conference (New Delhi, 1947) and later at the Technical Conference of representatives of Labour Inspection Services of Asian countries (Kandy, November 1948).

For the proper enforcement of medical provisions, the Factories Act provides for the appointment of qualified medical practitioners as 'certifying surgeons'. The duties of these surgeons relate to the examination and certification of young persons, the examination of persons engaged in factories in dangerous occupations and processes and medical supervision. The Employees' State Insurance Act also provides for the appointment of Inspectors for checking the returns received from employers and for ascertaining whether the provisions of the Act are complied with. The functions of the Inspectors appointed under the Factories Act and under the Employees' State Insurance Act are similar in many respects and both these classes of Inspectors have to deal with the same class of wage-earners, namely, the factory employees. Mutual and active co-operation between these Inspectors will lead

[1] The latest available factories statistics show that about 12,000 factories employing 2,088,422 workers were covered by the Factories Act, 1934, during the year 1948 (second half).

[2] For measures adopted by the Provincial Governments to strengthen the Factory Inspection Service, see *Indian Labour Gazette*, May 1948, pp. 806-8.

to successful enforcement of the provisions of both these Acts and it may even be considered whether, to strengthen the Inspection Service, a joint cadre of Inspectors can be set up. The Inspectors under the Factories Act are appointed by the States Governments, while those under the Employees' State Insurance Act will be the nominees of the Corporation. The States Governments, however, are to administer the medical benefits under the insurance scheme and hence the Corporation may enter into an agreement with them to have a joint Inspection Service, especially of Medical Inspectors. The certifying surgeons appointed under the Factories Act, may easily supervise the enforcement of medical provisions of the Employees' State Insurance Act.

Medical benefits under the Employees' State Insurance Act are to be provided by the States Governments, while the administrative side and the cash benefits are the responsibility of the Corporation, under the supervision of the Central Government. Because of this division of responsibility under one and the same Act, there may be variations in medical standards of different States and to avoid this defect, it has been arranged that the nature and scale of medical benefits and the apportionment of costs should be decided by agreement between the Corporation and the States' Governments.

Health, Safety and Welfare. The Factories Act, 1948 elaborates in great detail the provisions relating to health, safety and welfare. Better working conditions, greater safety precautions and more welfare amenities will result in a less number of accidents and less ill-health, and thus may facilitate the work of the Employees' State Insurance Scheme. Special mention may be made here of two welfare provisions provided under the Factories Act: firstly, every factory wherein 500 or more workers are ordinarily employed, the occupier is to employ in the factory such number of welfare officers as may be prescribed. Benefits provided under the Employees' State Insurance Act can be included among welfare measures, and the welfare officers may see that these are properly granted to factory employees. Secondly, the Act authorizes States Governments to make rules 'requiring in any factory or class or description of factories that representatives of workers employed in the factory shall be associated with the management of the welfare arrangements of the workers'. This provision enabling the workers to take an active interest in the welfare work of their factory may be beneficial to the successful working of the Employees' State Insurance Act.

Employment of Young Persons and Women. The age of entry into employment according to the Factories Act, 1934 was 12. The Factories Act, 1948 raises it to 14, thus excluding the child-workers between 12 and 14 years of age from coming within the scope of the Employees' State Insurance Act. The upper age limit

of adolescents also has been raised from 17 in the 1934 Act to 18 by the 1948 Act. Both the child (of 14 and 15 years of age) and the adolescent (between 15 to 18 years of age) must get medically examined every year by a certifying surgeon and possess a certificate of fitness, declaring him fit to work in a factory.

Leave with Wages. Another set of provisions in the Factories Act, 1948, which may prove beneficial to the working of the Employees' State Insurance Act, is about holidays and leave with wages. In addition to a weekly holiday, the Act provides for every worker, who has completed one year's continuous service, leave with wages at the following rates: (a) to an adult one day for every 20 days of work, subject to a minimum of 10 days; and (b) to a child one day for every 15 days of work, subject to a minimum of 14 days. So an adult worker may get in a year about 70 days of leave, while a child worker will be entitled to about 76 days.

The Employees' State Insurance Act lays down that cash benefits in respect of sickness, maternity and temporary disablement are not to be paid to an employee on any days on which he works and receives wages. The Act, however, is not clear about grant or cash benefits to workers who are on sick leave with wages. If these persons are granted both leave pay and cash benefits, there is the fear of an increase in malingering and collusion between employees and their doctors. At the same time a worker would be reluctant to forego his leave with wages, especially when the Factories Act lays down 'that the total number of days of leave which may be carried forward to a succeeding period shall not exceed fifteen in the case of an adult or twenty in the case of a child'.

Occupational Diseases. The Factories Act, 1948, enumerates in a Schedule a list of seventeen occupational diseases. If any worker in a factory contracts any disease specified in the Schedule, the manager of the factory and the medical practitioner attending upon the person are required to send the intimation regarding the disease contracted to the authorities concerned. The Act empowers any State Government to appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Schedule has been contracted in a factory. Further, a Factory Inspector has been authorized to take a sample of any substance used or intended to be used in a factory, if the Inspector believes that the use of that substance is in contravention of any of the provisions of this Act, or the rules thereunder, or is likely to cause injury to the health of workers in the factory.

The list of occupational diseases in the Schedule to the Factories Act, 1948, is more exhaustive than that in the Schedule to the Workmen's Compensation Act, 1923. The former list enumerates 17 diseases, while the latter has 12. Eleven of these diseases are

common to both the lists. The only disease in the list of the Workmen's Compensation Act, which does not find a place in the list of the Factories Act is 'compressed air illness or its sequelae'. On the other hand, the following six diseases, which are in the Schedule to the Factories Act, are outside the scope of the Workmen's Compensation Act: (i) Manganese poisoning or its sequelae; (ii) Carbon bisulphide poisoning; (iii) Silicosis; (iv) Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series; (v) Toxic anaemia; and (vi) Toxic jaundice due to poisonous substances. It may be mentioned that the Employees' State Insurance Act accepts *in toto* the list of occupational diseases enumerated in the Workmen's Compensation Act; and at the same time that Act applies to factory workers. For the sake of uniform policy and administration, it is essential to have a uniform list of occupational diseases.

CHAPTER IX

MEDICAL CARE SERVICES

ANY insurance scheme covering the risks of sickness, maternity and/or employment injury, provides benefits of two sorts—cash benefits as compensation for the incapacity resulting from the risk, and medical benefits for the purpose of restoring the loss of working capacity or for preventing such a risk. In this chapter, an attempt is made to study the medical side of social insurance in its various aspects, on the background of industrial health conditions in India. Such a study divides itself into many parts: (a) a survey of existing health conditions; (b) a review of existing health services, particularly for industrial workers; (c) an analysis of plans in respect of health services and the medical side of social insurance; (d) an industrial health organization; and (e) social insurance versus public medical service.[1]

EXISTING HEALTH CONDITIONS.

The following statements relating to ill-health and death reveal briefly the existing health conditions in India.[2]

In 1944, the general death rate per 1,000 of the population was 24.1 in India, as against 9.9 in New Zealand, 10.6 in the U.S.A. and 11.9 in England and Wales.

In the same year, India's infantile death rate per 1,000 live births was 169, as against 30 in New Zealand, 40 in the U.S.A. and 46 in England and Wales.

In India nearly half the total deaths are among children under 10 years of age and, of the mortality in this age-group, one half takes place within the first year of life.

A conservative estimate of the annual number of deaths among women in the reproductive ages, from causes associated with pregnancy and childbearing, is 200,000 or about 20 per 1,000 confinements. With such a large mortality, the number of women suffering from varying degrees of disabilty and discomfort as a result of childbearing has been estimated at about four millions.

[1] The Health Survey and Development Committee, under the Chairmanship of Sir Joseph Bhore, published their Report in 1946 in four volumes: Vol. I, Survey; Vol. II, Recommendations; Vol. III, Appendices; and Vol. IV, Summary. These four volumes give a lot of information about the health conditions in India and suggest long-term and short-term programmes for a comprehensive plan of health service in India.

[2] See the Bhore Committee's *Report*, Vol. I. pp. 7-11; and Dr K. C. K. E. Raja, *Health Problems in India* (Paper submitted to the First Asian Relations Conference, 1947), pp. 3-5. The figures given are for undivided India, i. e., before partition.

At least 100 million individuals or one in four of the people suffer from malaria every year. The number of tuberculosis patients is about 2.5 millions and about half a million persons die from this disease every year. About a million persons suffer from leprosy and more than 37 out of every 1,000 persons have venereal diseases.

These statements relate to the general public as a whole. They, however, hold equally good for any particular class of citizens, such as the class of industrial workers. The industrial worker shares with all other citizens the health risks, which are common to all the members of the community. At the same time, there are certain occupational risks which confront him. The conditions of health of the industrial workers must, therefore, be studied from two viewpoints—firstly, from the general community's point of view and secondly, from the view of industrial health hazards, which are peculiar to the occupations of the workers.

Details of general health conditions in India can be found in the first volume (Survey) of the *Report of the Health Survey and Development Committee*. Separate reliable statistics regarding morbidity and mortality among industrial workers are not available. The Labour Investigation Committee, in spite of their all-India survey, could not get from any concern or employer any reliable mortality figures.[1] According to the Bhore Committee, 'the machinery for providing such information does not exist at present. Many factories have no dispensaries and hence a reliable record covering all industrial workers cannot be had. Further, the information available from such industrial establishments as maintain dispensaries or hospitals is incomplete. Reasonably complete morbidity statistics are likely to develop only if there is health insurance for the workers, which provides for the certification of sickness before they become eligible for cash benefit.'[2] The machinery is being set up under the recently enacted Employees' State Insurance Act and it is hoped that the required morbidity and mortality statistics, at least in the case of factory workers, will soon be available.

Some details about the health of workers employed in mines and plantations are also available. The following summary of mortality statistics collected by Dr Lloyd Jones in his survey of medical facilities in plantations may be of some interest.[3]

[1] Labour Investigation Committee, *Main Report*, p. 37.

[2] *Report of the Health Survey and Development Committee*, Vol. I, pp. 73-4.

[3] *Standards of Medical Care for Tea Plantations in India*, A Report by E. Lloyd Jones, p 78.

Tea gardens surveyed	Average mortality rate per 1,000	Average live rate per 1,000	Average infantile mortality rate per 1,000 live births	Average maternal mortality per 1,000 cases
Assam ..	21.5	32.7	190.9	22.3
Bengal ..	20 0	34.2	134.1	14.8
South India	14.0	29 3	122 4	6.5

The existing industrial health conditions of factory workers are described in some detail in the following three recent publications (all published in 1946): *Report of the Health Survey and Development Committee*; *The Health of the Industrial Worker in India*—a report by Dr Thomas Bedford, submitted to the Department of Health, Government of India, after a rapid survey of the industrial areas in the country in the first half of 1946; and *Main Report* of the Labour Investigation Committee. These three Reports bring to light the salient features of conditions under which Indian workers have to work and live. Faulty construction of factory buildings, high temperature in the factories, labour wastage, employment of children and women even for heavy work, lax factory inspection, welfare work 'carried on in a half-hearted fashion', dwellings unfit for habitation, insanitary conditions, lack of nutrition, indebtedness, absence of education, exposure of workers to serious industrial hazards—all these defects, which have repercussions on the health of the factory workers, have been criticized.

These defects show that for better health of factory workers, it is necessary not only to provide an adequate industrial health service, but also to attack evils such as insanitary housing conditions, lack of nutrition, absence of education, etc., which may not lie strictly within the field of health In fact, successful working of social security measures necessitates an all-round progress in the general economic and health standards of the people. The Social Security Resolution, adopted by the Preparatory Asian Labour Conference (New Delhi, 1947), for example, thinks that 'it is necessary that social security schemes should be accompanied by measures providing for an adequate growth and supply of essential foodstuffs sufficient to meet the accepted standards of subsistence and nutrition, a living wage, decent housing and a healthy environment and free and compulsory education'. Among these fundamental conditions, the Bhore Committee include the provision of an environment conducive to healthful living, adequate nutrition, the availability of health protection, preventive and curative, to all members of the community irrespective of their

ability to pay for it and the active co-operation of the people in the maintenance of their own health.[1]

Existing Medical Care Services

As in the case of health conditions, the medical care services may be studied in two parts: (a) those for the community as a whole; and (b) those for industrial workers in particular.

General Health Services

The following facts and figures, taken from the Bhore Committee's *Report* (Vol. 1) reveal the inadequacy of the existing general medical and preventive health services:

(i) *Strength of health personnel.* Some idea of the existing numbers of health workers and of those required, if the Bhore Committee's health plan is implemented, can be had from the following figures:[2] (The figures in columns 2, 3 and 4 are for 1945-6.)

Class of personnel	Number available now	Ratio of numbers in column 2 to the present population in India (300 million)	Existing ratio in the U. K.	Suggested ratio to be attained in 1971 with an estimated population of 370 million	Number required in 1971
Doctors	47,400	1 to 6,300	1 to 1,000	1 to 2,000	185,000
Nurses	7,000	1 to 43,000	1 to 300	1 to 500	740,000
Health visitors	750	1 to 400,000	1 to 4,770[1]	1 to 5,000	74,000
Midwives	5,000	1 to 60,000	1 to 618[2]	1 to 4,000	92,500
Qualified pharmacists	75	1 to 4,000,000	1 pharmacist to 3 doctors	As in col. 3	62,000
Qualified dentists	1,000	1 to 300,000	1 to 2,700	1 to 4,000	92,500

[1] Based on 1935 figure. [2] Based on 1943 figure.

Of the 47,000 doctors, mentioned in the above table, only about 17,500 are medical graduates, while the rest are licentiates.

(ii) *Medical Care in Urban and Rural Areas.* The rural population has suffered from inadequacy of health services to an even greater extent than the people living in cities and towns[3]. The Bhore Committee, for example, found out that in Bengal the doctor to population ratio in urban centres is about three and a half times that in rural areas, while in Sind the corresponding proportion is as high as 49:1. From such estimates the Bhore Committee's *Report* comes to the conclusion that at least 70 to 75 per cent of the total number of available doctors in the country

[1] *Report of the Health Survey and Development Committee*, Vol I, p 11

[2] ibid., Vol. I, p. 13.

[3] Dr. K C.K.E. Raja, *Health Problems in India*, p 11.

must be practising in urban centres. Out of about 7,700 medical institutions (hospitals and dispensaries), about 5,600 are in rural areas and only about 2,100 are in urban areas. However, the institutions in rural areas have to serve a far bigger population than that served by urban institutions. Actual figures collected by the Bhore Committee show that the population to be served by a single medical institution is definitely more in rural than in urban areas.

(iii) *Bed Accommodation.* The number of beds available, including those for the treatment of general and social diseases, is about 73,000 or about one bed to 4,000 of the population. The proportion of beds per 1,000 population is 0.24 in India compared with 7.14 in England and Wales and 10.28 in the U. S. A.

(iv) *Preventive Health Organization.* The Bhore Committee think that the existing staffs engaged in preventive health services are altogether too small to provide adequate service to the whole of the population. The total number of sanitary or health inspectors in India is about 3,000, while according to the Bhore Committee, the number required would be about 12,000. The number of women doctors with special training in maternity and child-welfare work is about 70 or 80 and, of these, only a dozen are women graduates in medicine with adequate special training in maternity and child-welfare work.

(v) *State Aid and Voluntary Effort in the Provision of Medical Relief.* Of the total number of 7,411 medical institutions in the states in 1946, only 566 or 7·6 per cent were maintained wholly by private agencies; of the remaining 6,875 institutions, 94.5 per cent constitute entirely a charge on public funds (States and local body), while the remaining 5.5 per cent receive grants-in-aid from such funds.

These facts cited from the Bhore Committee's *Report* make it clear that the existing provision for medical relief is too inadequate to serve the larger populations of the country. The inadequacy and the inefficiency of the medical services can be gauged from the amount of money spent on these services.[1] From the figures given by the Bhore Committee, it seems that during the year 1939-40, the maximum spent by any State on its health services was 5 as. 9 ps. in Bombay per head of population, the minimum being in Bihar with only 1 as. 7 ps. per head; during 1944-5, the expenditure on the medical and public health departments in the States varied from 2.8 annas to 10.9 annas per head of the population.

Industrial Health Services

The health services at present in existence in different industries ond occupations may be classified into two parts: statutory and voluntary.

[1] 'The Medical Care of Indian Labour' an article by Dr. E. Lloyd Jones in the *Indian Labour Gazette*, Oct. 1947, pp. 217-21.

(i) *Statutory Health Services.* Important legal enactments, which provide for some form of medical care are: (a) the Factories Act, 1948; (b) the Employees' State Insurance Act, 1948; (c) some Maternity Benefit Acts; (d) the Coal and Mica Mines Labour Housing and General Welfare Fund Acts, 1946 and 1947; and (e) the Indian Merchant Shipping Act, 1923. Of these Acts, (a), (b) and (c) restrict their scope to factory workers only, while (d) and (e) cover coal and mica mines workers and seafarers respectively.

Reference to the provisions regarding health, safety and welfare in the Factories Act, 1948 has been made in the previous chapter. As far as actual medical aid is concerned, the Factories Act, 1948 provides for first aid boxes in all factories and for an ambulance room *or* a dispensary in every factory employing more than 1,000 workers. Such an ambulance room or a dispensary is to be of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing supervisory staff as may be prescribed.

The Employees' State Insurance Act, 1948, it is hoped, will provide to factory workers medical care and treatment of high standard. The medical benefit may be given in the form of out-patient treatment and attendance in a hospital or a dispensary, clinic or other institution or by visits to the home of the insured person or treatment as an in-patient in a hospital or other institution. The responsibility of providing medical treatment has been placed on the States Governments who are expected to provide 'reasonable medical, surgical and obstetric treatment'. The standards, i.e. the nature and scale of medical benefit, are to be laid down by an agreement between the Corporation and the States Governments. Such an agreement will also fix the proportion of cost of medical benefits between the Corporation and the States Governments concerned. Where the incidence of sickness (cash) benefit payment to insured persons in any State is found to exceed the all-India average, the amount of such excess is also to be shared by an agreement.

In Chapter II the Maternity Benefit Acts in India have been studied. The study shows that only a few Acts (of Assam, Bihar, West Bengal (Tea Estates), U. P. and of Mines) make some provision for medical aid during the confinement period.[1]

The Coal Mines Labour Housing and General Welfare Fund Act, 1947 has been enacted to make better provision for the financing of activities to promote the welfare of labour employed in the coal mining industry.[2] The Fund is financed by means of a levy of a cess on all coal and coke dispatched from collieries in India at

[1] See Chapter VIII, Employees' State Insurance Act, 1948, p. 154.

[2] The activities of the Coal Mines and Mica Mines Labour Welfare Funds are described on pp. 225-29 of the *Indian Labour Year Book, 1946* and on pp. 183-6 of the *Indian Labour Year Book, 1947-8*. (Labour Bureau, Government of India). Periodical reports of these activities are published in the *Indian Labour Gazette*.

such rate, not less than four annas and not more than eight annas per ton, as may from time to time be fixed by the Central Government. In 1947-8, the cess was levied at the rate of 6 annas and it was provided that not less than 1 as. 4 ps. of the duty collected per ton should be credited to the Housing Account of the Fund and not more then 4 as. 8 ps. should be credited to the General Welfare Account of the Fund. Medical services for coal mines are provided out of this General Welfare Account of the Fund and they have taken the form of hospitals and maternity and child-welfare centres, ambulance and X-ray units, grants-in-aid to employers for dispensary services, tuberculosis and venereal diseases clinics, anti-malaria operations, sanitation, etc.

The Mica Mines Labour Welfare Fund Act, 1946, constitutes a similar Fund for mica miners.[1] The Fund is to be raised by a levy of an *ad valorem* customs duty on all mica exported from India; the rate is to be determined by the Central Government from time to time but is not to exceed 6¼ per cent *ad valorem*. The Fund is to be utilized for the general welfare of the workers employed in mica mines, i.e. for some such measures as improvement of public health and sanitation, prevention of diseases, medical facilities, water supply, educational facilities, etc.

Reference to the medical care provisions in the Indian Merchant Shipping Act has been made in Chapter VII. This Act requires all foreign-going British ships and all home-trade ships of more than 300 tons burden to always have on board a sufficient supply of medicines and appliances required for diseases and accidents likely to happen on sea voyages.

(ii) *Voluntary Health Services.* In 1944-5 the Labour Investigation Committee carried out a survey of labour conditions in about 35 industries. From this survey, the Committee came to the following conclusion: 'Generally speaking the medical organization of the country as a whole is extremely inadequate and correspondingly the special medical facilities provided by employers are also insufficient from both the quantitative and qualitative standards.'[2] The medical facilities provided by the employers vary from mere first-aid boxes to hospitals of first-class type. The Labour Investigation Committee found first-rate medical facilities only in a few undertakings, such as the Tata Iron and Steel Co., the Delhi Cloth Mills, the Buckingham and Carnatic Mills and some concerns in Kanpur. Some more cotton and jute mills, most of the units in the cement and paper industries, a few collieries, some manganese and mica mines and the Kolar Gold Fields provide adequate medical facilities.[3] Indian Railways can claim to have good medical facilities in the form of well-equipped hospitals and dispensaries,

[1] For a summary of the provisions of the Act, see the *Indian Labour Year Book, 1946*, p. 50.

[2] Labour Investigation Committee, *Main Report*, p. 357.

[3] For details, see the *Indian Labour Year Book, 1946*, pp. 240-1.

which generally provide both indoor and outdoor treatment to workers and their families. Recent information about the existing organization and standards of medical care in plantations can be had from the results of a survey conducted by Major E. Lloyd Jones, for some time Deputy Director-General of Health Services (Social Insurance).[1] Major Jones observed enormous variation in the organization and standards of medical care—from almost non-existent medical treatment in some cases to medical standards comparable with medical care in any industry in the world. Some of the defects observed by Major Jones are inadequacy of the standards, out-of-date knowledge about medical care and treatment, unnecessarily costly prescriptions and unorganized medical care.

Proposed Health Services

Various plans for health development have been proposed by committees and States Governments. As in the previous sections, these plans may be divided into two parts: (a) those for citizens; and (b) those for industrial workers.

Health Plans for Citizens

The most important plan in respect of future health development in this country is the one proposed by the Bhore Committee. This plan has been drawn up in two parts—a comprehensive programme for the somewhat distant future (the long-term programme) and the other a short-term scheme covering two five-year periods (the ten-year programme). The main principles underlying the proposals embodied in the plan are:[2]

(i) No individual should fail to secure adequate medical care, because of his inability to pay for it.

(ii) The health services should aim at providing all the consultant, laboratory and institutional facilities necessary for proper diagnosis and treatment.

(iii) Special emphasis must be laid on preventive work. 'The creation and maintenance of as healthy an environment as possible in the homes of the people as well as in all places where they congregate for work, amusement or recreation are essential.'

(iv) As much medical care and preventive work as possible should be provided to the vast rural population of the country.

(v) The health services should be placed as close to the people as possible; and for this purpose the unit of health administration should be made as small as is compatible with practical considerations.

[1] The results of the survey and recommendations of Major Jones have been published in a report entitled *Standards of Medical Care for Tea Plantations in India*, (1947).

[2] *Report of the Health Survey and Development Committee*, Vol. IV (Summary), Foreword, p. v.

(vi) Active co-operation of the people in the development of the health programme should be secured; and for this purpose the health consciousness of the people should be stimulated by providing health education on the widest possible basis.

(vii) For the success of the scheme, its development should be entrusted to popular Ministries of Health.

Bhore Committee's Long-term Programme. In their long-term programme, the Bhore Committee recommend a net-work of hospitals and health centres, providing thereby medical relief and preventive measures. The administrative district (with an average population of about three million) has been taken by the Committee as the basis for the development of health services proposed in the programme. The set-up and functions of the district health organization, with its primary and secondary units, are described in a diagrammatic form:[1]

LONG-TERM PROGRAMME

PROVINCIAL MINISTER OF HEALTH.

Director of Health Services

District Health Organization
(Three million plan)

District Health Board—Officer in charge of District Health Council

District Health Services

District Health Centre

Administration	Environmental Hygiene (Public Health Engineer)	Hospital Service, 2,500-bed hospital, with out-patien-department (Medicine, Surgery, Obstetrics and Gynaecology, etc.). Special provision for research and laboratory service of a high order

SECONDARY UNITS (5)
(Population 6,00,000 each)
Secondary Health Centre

Administration	Environmental Hygiene (Asstt. Public Health Engineer)	Hospital Service, 650-bed hospital, with out-patient department (Medicine, Surgery, Obstetrics and Gynaecology, etc.). Laboratory service for the secondary unit as a whole

[1] *Report of the Health Survey and Development Committee*, Vol. IV (Summary), p. 8.

PRIMARY UNITS (30)
(Population 20,000 each)
Primary Health Centre.

Administration (Each unit divided into four circles)	Environmental Hygiene (Public Health Inspectors, Health Assistants and field staff)	Hospital Service, 75-bed hospital without-patient department. (Medicine, Surgery, Obstetrics and Gynaecology, etc.)	Domiciliary Service, Preventive and Curative. (Home visiting by doctors, public health nurses, midwives for maternity and child-welfare work, school health, tuberculosis work, etc.)

The strength of the staff and hospital accommodation recommended by the Bhore Committee for the three types of units (primary unit, secondary units and district headquarters), are:[1]

	Controlling medical Officers	Other medical Officers	Non-medical staff	Hospital
Primary unit ..	1	5	78	75 bed
Secondary unit headquarters ..	1	139	358	650 ,,
District headquarters	1	268	1,398	2,500 ,,

The annual average cost of the personal health services proposed in the long-term plan has been estimated at about Re. 1 per head.

Bhore Committee's Short-term Programme. Completion of the long-term programme proposed by the Bhore Committee would require about 30 to 40 years. Besides, this comprehensive plan would require vast funds and trained personnel. In view of these facts, the Committee have suggested a short-term programme to be completed in ten years and have recommended it as a modest start.

The general plan of the district health organization is the same in both the short-term and long-term programmes; however, the former programme is less elaborate than the latter. The set-up and functions of the organization proposed under the short-term programme are as shown below: (Reproduced from the *Report of the Health Survey and Development Committee* Vol. IV, p. 12).

[1] *Report of the Health Survey and Development Committee*, Vol. II (Recommendations), p. 24.

SHORT-TERM PROGRAMME

PROVINCIAL MINISTER OF HEALTH

Director of Health Services

District Health Organization
(Three million plan)

District Health Board—Officer in charge—District Health Council of District Health Services

Secondary Units (1 or 2)

Secondary Health Centre

Administrative Medical Officer

Administration	Environmental Hygiene (Asstt. Public Health Engineer)	Hospital Service, 200-bed or 500-bed hospital, with its out-patient department (Medicine Surgery, Obstetrics and Gynaecology, etc.) Laboratory service for the secondary unit as a whole

PRIMARY UNITS (UP TO 25)

(Population 40,000 each)

PRIMARY HEALTH CENTRE

Administration (each unit divided into 4 circles)	Environmental Hygiene (Public Health Inspectors, Health Assistants and field staff)	Hospital service (1) One dispensary with two emergency beds and two maternity beds (2) One 30-bed hospital to serve 4 primary units during first five years, and 2 units during next five years	Domiciliary Service, Curative and Preventive (Home-visiting by doctors, public health nurses, midwives for maternity and child-welfare work, school health, tuberculosis work, etc.)

In the short-term programme the establishment of the organization at the district headquarters is not contemplated. The

administrative and supervisory functions exercised by the staff at the Secondary Health Centre will be on the lines indicated for the long-term programme.

The expansion of the health organization, suggested by the Bhore Committee's short-term programme is expected to be as follows:

	First year	Fifth year	Tenth year
Primary units ..	5	10	25
Dispensaries ..	5	10	25
30-bed hospitals ..	1	2	13
Secondary units ..	1	2	2
200-bed hospitals ..	1	1	1
500-bed hospitals ..	..	..	1

For each primary unit, the staff recommended during the short-term programme is 2 medical officers, 4 public health nurses for outdoor duty, 1 nurse attached to the dispensary, 4 midwives 4 trained *dais*, 2 sanitary inspectors, 2 health assistants, 2 clerks, 1 mistry, 15 servants and 1 pharmacist. The problems of maternity and child-welfare work and of preventible deaths have received special attention of the Committee in this *Report*. To seek active participation of the people in the local health programme, the Bhore Committee suggest the establishment in each village of a Health Committee, with voluntary workers as its members. The expansion of the scheme was expected to be as follows:

SHORT-TERM PROGRAMME

Anticipated Numbers of New Institutions in the Eleven Governors' Provinces

	Dispensaries with 4 beds in each	30-bed hospitals	200-bed hospitals	500-bed hospitals
End of the first six years	2,293	639	216	Nil
End of the ten-year period	3,905	1,990	216	139

In addition there will be separate hospital provision for tuberculosis, mental diseases and leprosy. At present, there are about 73,000 beds and it is estimated that they will be increased to 353,000 when the short-term programme is completed. This increase will raise the ratio of bed to population from the existing 0.24 to 1.03 beds per 1,000 population.

States' Health Plans. Under the Government of India Act 1935, State Governments have been made responsible for health services within their respective areas. The functions regarding these services are generally carried out by the States' Governments through local authorities (local or district boards and village panchayats) and take the form of provision of medical care, establishment of hospitals and dispensaries, sanitation, etc. These services, however, are very inadequate and defective; the Bhore Committee attribute these faults to the limited financial resources available to the health services and also to the delegation of executive power by the local authorities to an elected chairman. To improve the system of medical care, many provinces have drafted health plans. These plans, however, are still not in any final stage and hence their detailed study may not be opportune here.

Health Plans for Industrial Workers

As observed earlier in this chapter, the factors, which influence the health of an industrial worker, belong to two groups : (*a*) those which he shares in common with other citizens, and (*b*) industrial hazards or those which are associated with his working environment. In the case of (*a*), the Bhore Committee recommend that the workers should share the facilities for health protection that the State provides for the general population. For (*b*), the organization of an industrial health service for industrial workers (including within that term those who are employed in factories, docks, mines, plantations, transport services and certain other occupations) has been proposed by the Bhore Committee. For such a service, the Committee have accepted the following aims suggested by the Social and Preventive Medicine Committee of the Royal College of Physicians of London in their *Second Interim Report* (January 1945):

(*a*) To promote the general health of the worker by providing a good working environment and fitting him to the latter.

(*b*) To prevent occupational disease.

(*c*) To assist in the prevention of injuries at work.

(*d*) To organize a service for emergency treatment.

(*e*) To help in restoring the injured and disabled to full working capacity.

(*f*) To educate workers in the preservation of health and promotion of well-being.

(*g*) To promote research and investigation.

According to the Bhore Committee, the general medical needs of the industrial population should be looked after by the health service for the community as a whole. The proposed industrial health service is only to meet the needs of the worker in respect of that group of factors affecting his health which are associated with

the occupation he pursues. These factors are mentioned above in the proposals of the Social and Preventive Medicine Committee of the Royal College of Physicians. To implement these proposals, the Bhore Committee have made a number of recommendations in respect of training in first aid, crèches, maternity benefits, employment of women in coal mines, hours of work, occupational diseases, women doctors, housing, nutrition, zoning and location of industry, drink and drug habits, transport, industrial hygiene, conveniences for workers, rest shelters, certification of adolescent workers, medical examination, employment of children, etc. Indian labour legislation, especially that recently enacted, such as the Factories Act, 1948, and the Employees' State Insurance Act, 1948, makes provision for most of these factors, though not to the extent recommended by the Bhore Committee.

Industrial Health Organization in India

The industrial health organization recommended by the Bhore Committee and proposed under the Employees' State Insurance Act, 1948, is yet to be set up. The short-term and long-term programmes of the Bhore Committee's general health plan are also to be implemented. Both the industrial and the general health services should be co-ordinated as far as possible. A higher standard of general health would mean more economical administration of industrial health. The enforcement of the Employees' State Insurance Act, however, cannot wait till the general health services are developed and hence for some time to come, it seems, industrial health organization will have to grow independently. The lines on which the development may take place are indicated in the paragraphs below.

(i) *Administration.* According to the new Constitution of India, the problems of public health and sanitation, hospitals and dispensaries, and registration of births and deaths are primarily the responsibility of States (i.e. constituent units of the Indian Union), while matters relating to factories and social insurance can form the subject matter of legislation both of the Indian Union and the States. The distribution of medical and administrative aspects makes the active co-operation between the Indian Union and its constituent States essential for the successful working of the Employees' State Insurance Act, 1948. Under this Act, the primary responsibility of providing medical benefit (i.e. reasonable medical, surgical and obstetric treatment) is placed upon States' Governments, who may work in consultation with the Employees' State Insurance Corporation; on the other hand, the administration of the Insurance Fund is entrusted to the Corporation, which will function under the supervision of the Central Government. Besides, the Central Government is responsible for the provision of medical care to Centrally-administered areas. The fullest possible co-operation between the Central and States' Governments

and the Corporation is necessary. Industrial health in each State, moreover, is the joint responsibility of both labour and health authorities and hence another level of co-operation that would be desirable is at the States' Ministries of Labour and Health. For maintenance of uniform social insurance standards, it is also necessary that the work of these Ministries should be co-ordinated. The Central Ministries of Labour and Health and particularly the Chief Adviser, Factories of the Government of India, provide the machinery for such co-ordination through such means as the Conferences of Labour and Health Ministers and of Chief Inspectors of Factories, dissemination of social insurance knowledge and training of medical and factory inspectors. The Chief Adviser, Factories, has under him some technical branches (medical, architectural, etc.), which may prove useful in co-ordinating the relevant activities of the States' Governments. The co-operation needed for the success of an insurance scheme in India should also be extended to the organizations of employers, employees and medical practitioners and to such other associations as the Indian Research Fund Association and the All-India Institute of Hygiene and Public Health.

(ii) *Medical Relief.* To provide 'reasonable medical, surgical and obstetric treatment' the States' Governments, in consultation with the Corporation and the Central Government, will have to set up hospitals and dispensaries. The present arrangements in this respect, as observed by the Bhore Committee, are very inadequate. The long-term programme of this Committee aims to increase the present figure of about 0.24 beds per 1,000 of the population to 5.67 beds per 1,000. The cost of the standard medical benefit to be provided under the Employees' State Insurance Act has been estimated at about Rs. 6 per worker, per annum, as against Re. 1 per capita, per annum, provided by the long-term programme of the Bhore Committee. The medical standard for an insured industrial worker is, therefore, expected to be considerably higher than that recommended for other citizens by the Bhore Committee However, even taking the ratio of 5.67 beds per 1,000 population as the target, the 35 lakhs of insured persons will require about 20,000 beds. If the families of insured persons are also provided medical care under the Act, the number of beds will have to be increased still further. The total number of beds, including those for the treatment of general and special diseases, was estimated at 73,000 for the whole of undivided British India. No separate figures for industrial workers are available; however, it seems that a majority of beds are in rural areas, as can be seen from the fact that out of about 7,700 hospitals and dispensaries only 2,100 are in urban areas. The strength of medical institutions for industrial population will have to be considerably raised both in respect of quality and quantity.

Medical relief to insured persons would generally consist of (*a*) hospital in-patient treatment, (*b*) outdoor treatment in dispensaries, (*c*) domiciliary treatment, i.e. visits by the doctor to the home of the insured person, and (*d*) other ancillary services, such as ambulance service, health visits, etc.

(iii) *Health Personnel.* An increase in the number of medical institutions would naturally reflect in the increase of health personnel. For 35 lakhs of insured persons, the numbers of health personnel required, estimated at the target ratios recommended by the Bhore Committee for the general population are indicated in the table below. Compared with the monetary point of view, the standard of medical care provided under the Employees' State Insurance Act would be about six times the standard recommended by the Bhore Committee.

Class of personnel	Number available (in 1945)	Ratio of health personnel to total population recommended by the Bhore Committee	Numbers required for 35 lakhs of insured workers according to ratios indicated in Col. 3	Total number required
Doctors	47,400	1 to 2,000	1,750	10,500
Nurses	7,000	1 to 500	7,000	42,000
Health visitors	750	1 to 5,000	700	4,200
Midwives	5,000	1 to 4,000	875	5,250
Qualified pharmacists	75	(1 Pharmacist to 3 doctors)	583	3,498
Qualified dentists	1,000	1 to 4,000	875	5,250

(iv) *Types of Medical Relief.* For the purpose of providing medical relief, the industrial areas may have to be classified according to the density of population. The areas, for example may be divided according to the following groups of workers: (*i*) sparse areas with population below 500; (*ii*) semi-urban areas with population between 500 to 2,000; (*iii*) urban areas with population between 2,000 and 4,000; (*iv*) industrially important areas with population between 4,000 and 6,000; (*v*) industrial areas with population between 6,000 and 8,000; (*vi*) industrial centres with population between 8,000 and 10,000; and (*vii*) industrial centres, with population of 10,000 and above.

For sparse areas (where the insured population is less than 500), it may not be possible to provide medical services which may be available in industrially concentrated areas. It may be too costly for the Corporation or the State Government to maintain a dispensary solely for the insured employees in these areas. Under these circumstances, it may be necessary to utilize the services of existing local dispensaries, subsidising them in various ways. To give the insured population a preferential treatment in these dispensaries, some of the following measures may be adopted:

(*a*) to employ some medical staff on a part-time basis; (*b*) to provide separate drugs and medicines for insured patients; (*c*) to provide a separate consulting room for insured employees; (*d*) to provide waiting rooms for insured patients; (*e*) to set aside different hours for the general population and for insured employees; and (*f*) to arrange to send serious cases among insured patients to well-equipped dispensaries or hospitals. A supplementary measure of providing an adequate medical service to insured population in sparse areas is to arrange for mobile dispensaries, which should visit the houses of insured employees in adjoining areas, provide medical treatment to needy persons and even bring serious cases for treatment at the medical institutions in urban areas.

For larger groups of insured persons, better medical facilities should be provided in the form of well-equipped medical institutions with trained health personnel. The Bhore Committee have recommended certain health personnel for primary units in their long-term and short-term programmes. The numbers given by the Bhore Committee for the different classes of health personnel may prove useful in estimating similar requirements for different groups of insured population. Such estimates are given in the table below:

Class of personnel	Staff recommended by the Bhore Committee for a primary unit		Staff required for an industrial area with population of insured employees between					
	Long-term programme[1]	Short-term programme[2]	500 and 2,000	2,000 and 4,000	4,000 and 6,000	6,000 and 8,000	8,000 and 10,000	10,000 and above
Medical officers	6	2	1[3]	1	2	2	3[4]	5[4]
Nurses	6	5	1	1	1	2	4	6
Midwives	6	4	..	1	1	1	2	4
Trained dais	..	4	1	..	1	1	2	4
Sanitary inspectors	2	2	..	1	1	1	2	2
Health assistants	2	2	1	1	2	2	4	6
Pharmacists	..	1	..	..	..	..	..	..
Clerks	..	2	1	1	2	3	4	6
Fitter mistries	1	1	..	..	..	..	..	..
Inferior servants	10	15	2	3	4	6	8	10

[1] Each primary unit (in the long-term programme) serves a population of 10,000 to 20,000.

[2] Each primary unit (in the short-term programme) serves a population of about 40,000.

[3] The medical officer may be a Licentiate.

[4] One of these may be a Controlling Officer.

Both the long-term and short-term programmes provide for hospitals. Such a provision will also be necessary in case of large groups of insured population, where the aim should be the establishment of well-equipped health centres providing for diagnostic and treatment facilities of a high standard, and domiciliary services. In such health centres, where insured population i

dense, it may be desirable, and possible, to erect special health dispensaries or hospitals, which would cater only to insured persons and their families.

(v) *Other Problems.* In addition to the problems mentioned above, the medical side of social insurance has to solve a number of other problems. The Employees' State Insurance Act makes provision for the establishment of a Medical Benefit Council and Medical Commissioner. The Council and the Commissioner may, in addition to laying down the standards of medical care on the lines indicated in the previous paragraphs, take up the following functions:

(*a*) *Preventive Medical Care and Health Supervision.* Provision of such services, not only for insured population but also for the general public, would prove economical to the Corporation, because they would prevent a number of preventible diseases. Insurance medical service may, therefore, undertake, preferably under separate full-time medical officers, preventive care such as vaccination and inoculation against diseases of the typhoid group, and against tetanus. To supplement the work in respect of preventive and curative care, it may be beneficial for the Corporation and State Governments to appoint a number of health supervisors to supervise the working and living conditions of industrial workers.

The social security resolution, adopted by the Preparatory Asian Labour Conference (New Delhi, 1947) makes a special mention of preventive measures and health supervision.

(*b*) *Maternity Protection.* One of the three risks covered by the Employees' State Insurance Act is maternity, for which the existing arrangements are inadequate. For adequate maternity treatment, it will be necessary to have a maternity ward in every dispensary catering to the needs of the insured persons. Anti-natal and post-natal supervision by the doctor, either at the dispensary or in the homes of the insured woman, may also be desirable.

(*c*) *Medical Research.* Industrial medicine, which plays an important part in insurance practice, is a sadly neglected subject in India. The Corporation in consultation with Central and State Governments and in close collaboration with such organizations as the Indian Research Fund Association and the All-India Institute of Hygiene and Public Health, may encourage research in industrial medicine, by means of subsidies, surveys and training of health personnel.

(*d*) *Certification.* Lax certification may result in a financial burden on the Corporation because of wrongful claims, and also in inefficiency and corruption. To remedy the evil effects arising out of lax certification, it may be necessary to appoint Medical Inspectors for supervision to ensure economy in prescribing, to arrange for the supply of standard medicines and dressings, to

prepare an All-India Health Insurance Formulary and to maintain proper and up-to-date records.[1]

(*e*) *Systems of Medicine—Modern or Indigenous.* Though there has been an increasing tendency to resort to modern scientific medicines, there are some good points in favour of the indigenous systems of medicines. The Ayurvedic and Unani systems, for example, embody a philosophical outlook appealing to the educated Indian public, make a strong appeal to national sentiment, contain some valuable drugs, which have given in many cases striking relief to patients, and cater to the needs of probably 90 per cent of the inhabitants.[2] On the other hand, the modern allopathic system has been favoured for a number of reasons.[3] The various non-allopathic systems are difficult to be co-ordinated into one system. If they are admitted, the administration of medical benefits will be very costly and complex. Their inclusion is against the principle of salaried service. On the contrary, limitation of a medical system to allopathy will lead to simplicity and efficient administration. All the health insurance systems in foreign countries provide only for the allopathic system.

Both the systems thus have some points in favour and hence should be utilized for insurance service. For this purpose, the Bhore Committee, though it favours modern scientific medicine, recommends research into indigenous systems in order to secure for the benefit of the community such drugs as are shown to be of value.

(*f*) *Panel or Medical Service.* Controversy has also arisen whether the insurance doctors should be utilized by a panel system or should be directly employed.[4] The Employees' State Insurance Act has decided in favour of the latter method, i.e. medical service. To achieve the maximum benefit of both the methods, it may be considered whether an insured person can be assigned to a particular dispensary. Personal contact between a doctor and patients is desirable in medical treatment, especially in respect of preventive care (vaccination and inoculation).

Social Insurance vs. a Public Medical Service

The two trends, in respect of general health service and industrial health service, noticed in the previous sections, are indicated in the Medical Care Recommendation, adopted by the International Labour Conference in 1944.[5] This Recommendation provides for two alternative methods of extending medical care to the whole

[1] The I.L.O. experts have suggested certain measures for economical administration of medical and pharmaceutical benefits, see Chapter I, p. 13:

[2] Dr K.C.K E. Raja, *Health Problems in India*, pp. 14-15.

[3] B. P. Adarkar, *Health Insurance for Industrial Workers*, p. 97.

[4] ibid., pp. 83-7.

[5] A summary of the main provisions of this Recommendation is given on pp. 10–11 in Chapter I.

population—social insurance with supplementary social assistance and public medical care service. In respect of each of these methods, the Recommendation makes a number of suggestions regarding persons to be covered, provision of medical care and its co-ordination with general health services, the quality of service, financing, supervision and administration.

The question of social insurance versus public medical care service was discussed by the Preparatory Asian Labour Conference (New Delhi, 1947). The Report on *Problems of Social Security*, prepared by the International Labour Office for discussion in this Conference, prefers a public medical care service to a social insurance medical care service, in view of the peculiar community structure, health conditions and the general lack of health facilities in rural Asia.[1] The resolution adopted by the Asian Conference also votes in favour of a public medical care service with the following words :

> Having regard to the predominantly rural character of most Asian countries and their village economy, the absence in many areas or communities of a money economy, the low standard of living of the population in general, the general need for an extension of medical care facilities, and the prevalence of preventible disease, medical care should preferably be provided, not by means of social insurance or social assistance services, but rather by a public medical care service for the whole of the population, without contribution conditions or the imposition of a means test, subject to the proviso that social insurance schemes or other schemes for medical care for limited sections of the community, such as industrial workers, should in suitable circumstances be inaugurated in advance of the schemes of general medical care where these do not at present exist.

The public medical care service, recommended by the International Labour Organisation, however, cannot be adopted straightway under the existing health conditions in India. The implementation of the long-term programme of the Bhore Committee may bring in a comprehensive system of general health services, which may facilitate the development of public medical care service. However, the long-term programme of the Bhore Committee may take about 40 years for completion and India's working classes cannot afford to wait till that time. A social insurance medical care service, therefore, may first be started and may be developed further into a public medical care service, which may eventually be co-ordinated with general health services.

[1] I L.O., *Problems of Social Security*, p. 80

CHAPTER X

FINANCIAL AND ACTUARIAL ASPECTS

THE financial structure and the actuarial balance together form perhaps the most important aspects of a social insurance scheme. A scheme, which is financially unsound and actuarially unbalanced, may bring in more harm than good to all the parties involved. For the successful working of a social insurance scheme, therefore, it is necessary to examine its financial and actuarial aspects so as to ensure that contributions to be paid by employees and the employers are not excessive, that benefits to be given to insured persons are adequate, that the administration is run smoothly at an adequate cost, that outgo does not exceed the income, that emergency reserves are maintained, that the investment of social insurance funds are made with maximum security, yield and liquidity, that the scheme has been financially guaranteed and that proper provisions are laid down for disposal of surpluses, actuarial valuations, accounting and auditing.

FINANCIAL ORGANIZATION

The nature of financial organization, i.e. whether it should be central, regional or provincial, industry-wise, centre-wise or factory-wise, was considered in detail by B. P. Adarkar, and he came to the conclusion that for various reasons, the financial organization of health insurance should be centralized, so as to permit a 'pooling of risks' which is the very essence of social insurance.[1]

The Employees' State Insurance Act makes provision for creation of a central insurance fund, 'which shall be held and administered by the Corporation for the purposes of the Act'. This provision enables a centralized control as far as administrative actuarial and statistical aspects are concerned. However, under the Act, medical benefits have been made the responsibility of the States and hence contrary to B. P. Adarkar's expectation, the medical organization cannot be centralized.[2]

FINANCIAL RESOURCES

The Employees' State Insurance Fund, created under the Employees' State Insurance Act, is to consist of (*a*) contributions, (*b*) grants, donations and gifts from the Central and any State Government, local authority, or any individual or body, and (*c*) all other moneys received on behalf of the Corporation.

Contributions from Employees, Employers and the State. Of the various items of the financial resources, the contributions from

[1] *Report on Health Insurance for Industrial Workers*, pp. 4 and 55-7.

[2] B. P. Adarkar says, 'It is indubitable that medical organization itself must have a pyramidal shape, if questions of all-India medical policy are to be decided properly at an apex.'—*Report*, op. cit., p. 56.

employees, employers and the State are most important, not only because they form a major (and often the whole part of the receipts of the social insurance funds, but also because the sharing of these financial resources between these three parties has been a controversial issue. The sharing of the cost of social insurance has raised two main problems:[1] (*a*) which groups can and should contribute to the financial resources, and (*b*) what share each should contribute? In deciding the first problem, two factors must be taken into account: (*a*) *responsibility* for the occurrence of the event insured, and (*b*) *advantages* received in the shape of benefit and, in general, from the working of insurance.[2] These two factors of responsibility and advantages bring in for the purpose of sharing the cost of social insurance three parties, namely, the employers, the employees (insured persons) and the public authorities (the State). About the participation of the first two parties, there is general agreement. The Sickness Insurance Convention, 1927, lays down that 'the insured persons and their employers shall share in providing the financial resources of the sickness insurance system'. It is not, however, definite as regards the contribution of the State and it is left to national laws to decide as to the financial contribution of public authorities. The work of a social insurance institution and of the State is common in many spheres, such as organization of medical services, provision of maternity clinics, ante-natal and post-natal care, hospitals and dispensaries, prevention of sickness and of accidents, improvement in sanitation, establishment of industrial peace and maintenance of a healthy, contented labour force. The State should, therefore, grant considerable assistance to a scheme, which lessens its task.

The financial participation of the State in social insurance has been a debatable point in many countries and India is no exception. The Second Labour Ministers' Conference, held in 1941, resolved that no contribution to any sickness insurance scheme should be paid by any State Government, because of two reasons: there was no justification for any State contribution in view of the fact that various Governments have already provided medical benefits on a good scale; and secondly, any sickness insurance scheme would be for the benefit of only one section of the working population. Later on, the Government of India and the States' Governments agreed to the provision of a financial guarantee for the stability of the health insurance fund,[3] though they still refused to be a regular party to the financial resources to the Fund. Not sure of the financial participation of the State, B. P. Adarkar had to draft two schedules of contributions—one

[1] I.L.O., *International Labour Organisation and Social Insurance*, p. 56.

[2] I.L.O., *Compulsory Sickness Insurance*, pp. 405-8.

[3] B. P. Adarkar, *Report on Health Insurance for Industrial Workers*, pp. 63 and 105.

with the State as a party and the other without. He, however, examined the whole question and advocated a tripartite contribution[1]. Messrs Stack and Rao strongly supported B. P. Adarkar's plea and recommended that the Central Government should bear two-thirds of the cost of administration, and each State Government should bear (*a*) that part of the cost of medical care not covered by contributions of employees and employers, and (*b*) the excess cost of sickness benefits over actuarial estimates. The recommendation regarding the financial contribution of the Central Government has been incorporated in the Employees' State Insurance Act, while that regarding the contribution of States' Governments has been left over by the Act to an agreement between the Corporation and the Governments concerned.

In agreeing to a share of the cost of social insurance, the State may follow one of the following four methods:[2] (*i*) a regular share in the total contribution, (*ii*) bearing a proportion of administrative expenses, (*iii*) grant of privileges to sickness funds, such as free postage or exemption from taxation; and (*iv*) drawing funds from taxation. The Government of India have accepted the second method by agreeing to contribute a proportion (namely, two-thirds) of the administrative expenses.

The other items of financial resources, such as donations, gifts, legacies, interest on investments, fines and penalties and loans are mostly uncertain factors and also unimportant compared to the contributions from the three parties to the social insurance scheme.

Relations between Wages, Contribution Rates, Benefits and Risks

The relation between wages and contribution rates under the Employees' State Insurance Act may be illustrated as follows:

Wages and Contribution Rates under the Employees' State Insurance Act, 1948

Income groups (wages per day)	Assumed average wages		Weekly contributions			Weekly contributions as percentages of assumed weekly wages		
	Daily	Weekly[1]	Employee's	Employer's	Total	Employee's	Employer's	Total
	Rs. as.	Rs. as.	Rs. as.	Rs. as.	Rs. as.	%	%	%
Upto Re. 1 ..	0 14	5 4	Nil	0 7	0 7	..	8.3	8.3
Re. 1 to Rs. 1½ ..	1 4	7 8	0 2	0 7	0 9	1.7	5.8	7.5
Rs. 1½ to Rs. 2 ..	1 12	10 8	0 4	0 8	0 12	2.4	4.8	7.2
Rs. 2 to Rs. 3 ..	2 8	15 0	0 6	0 12	1 2	2 5	5.0	7.5
Rs. 3 to Rs. 4 ..	3 8	21 0	0 8	1 0	1 8	2.4	4.8	7.2
Rs. 4 to Rs. 6 ..	5 0	30 0	0 11	1 6	2 1	2.3	4.6	6.9
Rs. 6 to Rs. 8 ..	7 0	42 0	0 15	1 14	2 13	2.2	4.4	6.6
Rs. 8 and above ..	10 0	60 0	1 4	2 8	3 12	2.1	4.2	6.3

1 A week is taken to consist of 6 days (a normal period during which the employee gets remuneration).

[1] B. P. Adarkar, *Report on Health Insurance for Industrial Workers*, pp. 3, 9-10, and 188-90.

[2] I.L.O , *Compulsory Sickness Insurance*, pp. 411-25; a more detailed list is given in I.L.O., *Actuarial Technique and Financial Organisation of Social Insurance*, pp. 16-17.

The percentages in the last three columns reveal the following interesting features regarding the relation between wages and contributions: Firstly, except for the first two groups, the employer's contribution is double the contribution of the employee. Secondly, the joint contribution of employee and employer varies between 6.3 and 8.3 per cent of the former's wages; there does not seem to be any definite principle behind these percentages. Messrs Stack and Rao had suggested that the joint contribution of employers and workers should be 6.5 per cent of the earnings of each class. This contribution was to be shared as follows:

CONTRIBUTIONS FROM WORKERS AND EMPLOYERS

Income group	Monthly basic earnings	Contributions (monthly)			Percentage of contributions to wages		
		Worker	Employer	Total	Worker	Employer	Total
	Rs. as.	Rs. as.	Rs. as.	Rs. as.	%	%	%
Upto Re. 1	19 8	Nil	1 4	1 4	..	6.5	6.5
Re 1 to Rs. 1-8	32 8	0 5	1 13	2 2	1.0	5.5	6.5
Rs. 1-8 to Rs 2-4	52 0	1 0	2 6	3 6	2.0	4.5	6.5
Rs 2-4 to Rs 3-8	78 0	2 0	3 2	5 2	2.5	4.0	6.5
Rs. 3-8 & over	104 0	2 13	3 14	6 11	3.75	2.75	6.5

According to the schedule in the above table, there is a progressive increase in the worker's contributions, counter-balanced by a progressive decrease in the employer's contributions. As the worker gets more and more, the percentage of his contributions to his earnings increases; at the same time, the percentage of employer's contributions to the worker's earnings decreases.

The position under the Employees' State Insurance Act is materially different. The percentage of employee's contribution to wages rises till the fourth group is reached and then there is a progressive decline. On the other hand, the percentage of the employer's contribution to wages shows a regular fall except from the third to the fourth group, when it rises from 4.8 to 5.0.

The relation between wage-rates and benefits (cash) under the Employees' State Insurance Act is far more simple than that between wages and contributions. The daily rate of cash benefit for sickness is an amount equivalent to one-half of the sum of assumed average daily wages; for maternity, it is 12 as. per day, while for disablement, it is a proportion of the average daily wages, dependent upon the degree of disability.

Allocation of Weekly Contributions to Various Cost Factors. The 6.5 per cent of wages, suggested by Messrs Stack and Rao as

joint contributions of employers and workers to the social insurance fund are allocated to cost factors as follows: (*i*) medical benefit—2 per cent; (*ii*) sickness benefit—3 per cent; (*iii*) maternity benefit—0.25 per cent; (*iv*) administration—0.25 per cent; and (*v*) employment injury benefit—1 per cent. These proportions count for the 6.5 per cent of the wages, which constitute employee's and employer's contributions. The contribution of the Central Government (two-thirds of the cost of the administration) and that of the States (one-third of the medical benefit expenses) are outside the 6.5 per cent of wages. Bearing all these factors in mind and taking the allocations suggested by Messrs Stack and Rao as the basis, the contributions for the various classes proposed under the Employees' State Insurance Act may be shared at the rates shown in the Table on p. 189.[1]

The allocations of employee's and employer's contributions may further be split up as shown in the Table on p. 190.

The cost of insurance against each risk and for administration and medical service will be as follows for different classes of insured employees:

ALLOCATION OF COSTS TO RISKS
(Under the Employees' State Insurance Act, 1948)

Class of insured employee	Allocation of total tripartite contributions to																				
	Medical care			Sickness benefit			Employment injury benefit			Maternity benefit			Administration			Total				
	Rs.	as.	ps.	Rs.	as.	ps.	Rs.	as.	ps.	Rs.	as.	ps.	Rs.	as.	ps.	Rs.	as.	ps.		
I	0	3	3	0	3	1	0	1	1	0	0	4	0	1	0	0	8	9		
II	0	4	5	0	4	4	0	1	1	0	0	4	0	1	0	0	11	2		
III	0	5	11	0	5	11	0	1	2	0	0	6	0	1	6	0	15	0		
IV	0	8	11	0	8	9	0	1	10	0	0	9	0	2	3	1	6	6		
V	0	11	9	0	11	8	0	2	6	0	1	0	0	3	0	1	13	11		
VI	1	0	3	1	0	1	0	3	5	0	1	4	0	4	0	2	9	1		
VII	1	5	11	1	6	2	0	4	7	0	1	10	0	5	6	3	8	0		
VIII	1	13	5	1	13	6	0	6	1	0	2	5	0	7	3	4	10	8		

[1] From the previous section, it is clear that the recommendation regarding contribution suggested by Messrs Stack and Rao has not been accepted by the framers of the Act. However, in the absence of any other actuarial basis, the Stack-Rao allocation has been utilized for the calculations of rough estimates in this chapter. The conclusions arrived at on such a basis are merely illustrative of the financial position under the Act.

ALLOCATIONS OF CONTRIBUTIONS TO VARIOUS COST FACTORS UNDER THE EMPLOYEES' STATE INSURANCE ACT, 1948

Class of insured employee	Contributions from Employees and Employers						Grant by Central Government	Share of States' Government	Total
	Medical care (2/3rd)	Sickness benefit	Maternity benefit	Administration	Employment injury benefit	Total			
	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.	Rs. as. ps.
I	0 2 2	0 3 1	0 0 4	0 0 4	0 1 1	0 7 0	0 0 8	0 1 1	0 8 9
II	0 2 11	0 4 4	0 0 4	0 0 4	0 1 1	0 9 0	0 0 8	0 1 6	0 11 2
III	0 3 11	0 5 11	0 0 6	0 0 6	0 1 2	0 12 0	0 1 0	0 2 0	0 15 0
IV	0 5 11	0 8 9	0 0 9	0 0 9	0 1 10	1 2 0	0 1 6	0 3 0	1 6 6
V	0 7 10	0 11 8	0 1 0	0 1 0	0 2 6	1 8 0	0 2 0	0 3 11	1 13 11
VI	0 10 10	1 0 1	0 1 4	0 1 4	0 3 5	2 1 0	0 2 8	0 5 5	2 9 1
VII	0 14 7	1 6 2	0 1 10	0 1 10	0 4 7	2 13 0	0 3 8	0 7 4	3 8 0
VIII	1 3 7	1 13 6	0 2 5	0 2 5	0 6 1	3 12 0	0 4 10	0 9 10	4 10 8

[1] The Central Government grant comprises of 2/3rds of the cost of administration.
[2] The States' grant comprises of 1/3rd cost of medical care.

ALLOCATION OF CONTRIBUTIONS OF EMPLOYEES AND EMPLOYERS

(Under the Employees' State Insurance Act, 1948)

Class	EMPLOYEE'S CONTRIBUTION					EMPLOYER'S CONTRIBUTION						Grand Total
	Medical care	Sickness benefit	Maternity benefit	Administration	Total	Medical care	Sickness benefit	Maternity benefit	Administration	Employment injury benefit	Total	
	Rs. as ps.	Rs. as. ps	Rs. as. ps	Rs as. ps.	Rs as ps.	Rs as ps.	Rs. as. ps	Rs as. ps.	Rs. as. ps.	Rs. as. ps	Rs. as ps.	Rs. as. ps.
I	Nil	Nil	Nil	Nil	Nil	0 2 2	0 3 1	0 0 4	0 0 4	0 1 1	0 7 0	0 7 0
II	0 0 9	0 1 1	0 0 1	0 0 1	0 2 0	0 2 2	0 3 3	0 0 3	0 0 3	0 1 1	0 7 0	0 9 0
III	0 1 6	0 2 2	0 0 2	0 0 2	0 4 0	0 2 5	0 3 9	0 0 4	0 0 4	0 1 2	0 8 0	0 12 0
IV	0 2 3	0 3 3	0 0 3	0 0 3	0 6 0	0 3 8	0 5 6	0 0 6	0 0 6	0 1 10	0 12 0	1 2 0
V	0 3 0	0 4 4	0 0 4	0 0 4	0 8 0	0 4 10	0 7 4	0 0 8	0 0 8	0 2 6	1 0 0	1 8 0
VI	0 4 0	0 6 0	0 0 6	0 0 6	0 11 0	0 6 10	0 10 1	0 0 10	0 0 10	0 3 5	1 6 0	2 1 0
VII	0 5 5	0 8 3	0 0 8	0 0 8	0 15 0	0 9 2	0 13 11	0 1 2	0 1 2	0 4 7	1 14 0	2 13 0
VIII	0 7 4	0 11 0	0 0 10	0 0 10	1 4 0	0 12 3	1 2 6	0 1 7	0 1 7	0 6 1	2 8 0	3 12 0

Income-groups of Factory Workers. The Employees' State Insurance Act provides for the classification of employees into eight income-groups. Reliable statistics regarding the income of an insured employee are not available. It is difficult to estimate the average net earnings of an insured person because of various factors. Firstly, on account of a variety of occupational nomenclatures and a very wide variance in respect of the manner and extent of the payment of wages and dearness allowance, it is not possible to have useful and uniform data about earnings of all factory employees. Secondly, an all-India census of all factory industries has never been attempted. Thirdly, because of the growing economic crisis during the war and the immediate post-war period, the earnings of factory workers have risen by leaps and bounds, as the following figures from the returns under the Payment of Wages Act reveal :[1]

AVERAGE ANNUAL EARNINGS OF FACTORY WORKERS
(From returns under the Payment of Wages Act, 1936)

Year	Average annual earnings per worker	Percentage increase over 1939
	Rs.	
1939	287.5	..
1940	307.7	7.0
1941	324.5	12.9
1943	525.0	82.6
1944	586.5	104.0
1945	595.8	107.2
1946	619.4	115.4
1947	737.0	156.3
1948	889.7	209.5

These figures reveal the rise in the worker's earnings during the war and post-war years. Messrs Stack and Rao, who visited India in 1945 and who had perhaps the 1943 figures before them, accepted for their estimates Rs. 500, i.e., Rs. 1-6-0 per day, as the average annual basic earnings of factory workers. In 1944-5,

[1] The Payment of Wages Act applies only to workers earning less than Rs. 200 per month and hence the figures given in the table above relate only to those workers, who get below this income-limit.

the Government of India conducted in some 28 centres family budget inquiries, whose results show that the average income of a working class family (with 1.5 earners on an average) is Rs. 72-14-0 per month.[1] Each wage-earner, therefore, earns Rs. 1-9-0 a day or Rs. 48-9-0 a month or Rs. 582-12-0 a year.

Statistics of distribution of factory workers, according to daily earnings, are available for some of the factory industries, surveyed by the Labour Investigation Committee in 1944-5. These statistics also are not complete. Besides, as has been seen above, the earnings of factory workers have tremendously increased since 1944-5. However, in the absence of any reliable up-to-date statistics, the 1944-5 statistics may be utilized for the purpose of an examination of the financial balance of the social insurance scheme. The following classification of income-groups of factory workers is based on twelve of the *ad hoc* survey reports of the Labour Investigation Committee.

FREQUENCY TABLE OF EARNINGS OF FACTORY WORKERS

(Compiled from the *ad hoc* survey reports of the Labour Investigation Committee)

Industry[2]	Number of workers having daily net earnings						Total number of workers
	Upto Re. 1	Re 1- Rs. 1-8	Rs. 1-8- Rs. 2	Rs. 2- Rs. 3	Rs 3- Rs. 4	Above Rs. 4	
Cotton mills	2,115	11,075	25,179	33,095	3,876[4]		75,340
Jute mills	37,752	41,496	12,322	..	..	..	91,570
Woollen mills	1,060	3,079	2,009	2,517[3]			8,665
Silk mills	6,474	640	732	132[3]			7,978
Match factories	2,106	1,111	1,523	1,213[3]			5,953
Paper mills	10,829	1,320	539	177[3]			12,865
Potteries	789	687	200	106[3]			1,782
Cigarette factories	1,339	1,419	1,073	1,578	291[4]		5,700
Dockyards	3	254	752	955	799	306	3,069
Mineral oil (factories only)	1,290	1,139	331	191	34[4]		2,985
Sugar factories	15,535	3,189	634	817[3]			20,175
Tanneries and leather goods	1,458	3,537	4,786	5,529[3]			15,310
Total	80,750	68,946	50,080	51,616(Rs. 2 & above)			251,392
Percentage	32.1	27.4	19.9	20.6			100.0

[1] Compiled from Table No. LXXX in the *Indian Labour Year Book*, 1946.

[2] In these industries, figures are given only for those centres for which statistics in this table are available.

[3] These workers earn Rs. 2 and more.

[4] These workers earn Rs. 3 and more.

These figures reveal that only 51,616 workers or 20.6 per cent of the total get more than Rs. 2 per day. Separate figures for higher income-groups are available only for cotton mills, cigarette factories, dockyards and mineral oil. These figures show that out of 87,094 workers in these four industries, 35,819 get between Rs. 2 and Rs. 3. It may therefore be concluded that out of 51,616 workers, who get between Rs. 2 per day, *at least* 35,819 or 69.4 per cent get more than Rs. 2 and Rs. 3 per day. This proportion of workers, getting more than Rs. 2 and Rs. 3 per day must be somewhat higher and a very rough estimate may put it at about 15.4 per cent of the total number of workers.

The percentages of workers according to income-groups, therefore, will be as follows:

PERCENTAGES OF INSURED PERSONS ACCORDING TO INCOME-GROUPS

Class of insured employee	Income-groups	Percentages of workers
I	Up to Re. 1 per day ..	32.1
II	Re. 1 to Rs. 1-8 per day ..	27.4
III	Rs. 1-8 to Rs. 2 per day ..	19.9
IV	Rs. 2 to Rs. 3 per day ..	15.4
V, VI, VII, VIII	Above Rs. 3 per day ..	5.2

FINANCIAL WORKING OF THE EMPLOYEES' STATE INSURANCE ACT

With the various estimates given above, a rough budget under the Employees' State Insurance Act may be framed. The Act applies to all factories coming within the scope of the Factories Act. The statistical returns under this Act for the year 1947 show that the Act covered about 22 lakhs of workers in 1947.[1] According to the percentages of workers in different income-groups, arrived at in the previous section, these 22 lakhs of insured employees, classified in these groups will be as follows:

[1] The Factories Act, 1948, may increase the number of workers to be covered by some lakhs. At the same time, transition to peace economy may decrease the number of workers. Hence for a study of the financial working of the Employees' State Insurance Act, the figure of 22 lakhs has been taken as the number of insured employees. This figure, however, may prove immaterial, because later on in this chapter the income and expenditure per insured employee have been estimated.

NUMBER OF INSURED EMPLOYEES ACCORDING TO INCOME-GROUPS

Income-group	Percentage of workers	Number of workers
I	32.1	706,200
II	27.4	602,800
III	19.9	437,800
IV	15.4	338,800
V-VIII	5.2	114,400
	100.0	2,200,000

In the Tables on pp. 189-90, the contributions of employees and employers and the estimated shares of the Central and States Governments in the financial resources of the Employees' State Insurance Scheme are given for each insured employee according to the eight income-groups. The total income from the tripartite contributions can now be estimated as follows:

TOTAL INCOME FROM TRIPARTITE CONTRIBUTIONS FOR 22 LAKHS OF INSURED EMPLOYEES

(Under the Employees' State Insurance Act, 1948)

Income groups	Number of workers	Total income from contributions of				Total income
		Employees	Employers	Central Government	States Governments[1]	
		Rs.	Rs	Rs.	Rs.	Rs.
I	706,200	Nil	308,962	29,425	47,816	386,203
II	602,800	75,350	263,725	25,117	56,512	420,704
III	437,800	109,450	218,900	27,363	54,725	410,438
IV	338,800	127,050	254,100	31,762	63,525	476,437
V, VI, VII, VIII[2]	114,400	78,650	157,300	19,067	38,739	293,756
Total contributions:						
Weekly		390,500	1,202,987	132,734	261,317	1,987,538
Annual		20,306,000	62,555,324	6,902,168	13,587,964	103,351,456
Percentage		19.7	60.5	6.7	13.1	100.0

[1] The contribution of the States' Governments will be in the form of medical services.

[2] Separate figures for groups V to VIII are not available. Group No. VI, however, may be taken as the average for these groups and for the purpose of estimates, it is assumed that all the 114,400 employees (of groups V to VIII) belong to group VI.

The figures show that for 22 lakhs of insured employees, the total annual income from contributions of the employees and employers and from the grants of the Central and States' Governments comes to about Rs. 10 crores. Thus for each employee, Rs. 47 per year are available and this amount is contributed by different parties roughly according to the following shares:

	Rs.	a.	p.
Employer's contribution	28	7	0
Employee's contribution	9	5	0
Grant by the Central Government (as 2/3rds cost of administration) ..	3	2	0
Grant by the States' Governments (in the form of 1/3rd cost of medical services)	6	2	0
Total income per employee per year Rs.	47	0	0

From the allocations of contributions to various cost factors in the Table on p. 188, the annual expenditure on various items can now be estimated:

EXPENDITURE UNDER THE EMPLOYEES' STATE INSURANCE SCHEME FOR 22 LAKHS OF WORKERS

Income-group	Allocation of total contributions to costs					Total expenditure
	Medical benefits	Sickness benefits	Maternity benefits	Employment injury benefits	Administration	
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
I	143,447	136,090	14,713	47,816	44,137	386,203
II	166,398	163,258	12,558	40,815	37,675	420,704
III	161,895	161,895	13,681	31,923	41,044	410,438
IV	188,810	185,281	15,881	38,820	47,645	476,437
V-VIII	116,188	114,996	9,533	24,429	28,600	293,746
Total expenditure:						
Weekly	776,738	761,520	66,366	183,803	199,101	1,987,528
Annual	40,390,376	39,599,040	3,451,032	9,557,756	10,353,252	103,351,456
Percentages	39.0	38.3	3.4	9.3	10.0	100.0

Out of the total expenditure, 30 per cent is spent on medical services, 10 per cent on administration and 51 per cent on cash benefits. B. P. Adarkar, after a detailed study of health insurance in foreign countries, has recommended in his *Report on Health Insurance for Industrial Workers* the following proportions: medical care—42.5 per cent; cash benefits—40 per cent; administration—12.5 per cent; and Contingencies Reserve Fund—5 per cent. Messrs Stack and Rao, who examined B. P. Adarkar's scheme, recommended that no special portion of the contribution need be set aside for the accumulation of reserves. The reasons for this recommendation will be discussed in a subsequent section in this chapter, but it may be stated that in the estimates given above, no provision has been made for any reserves.

The amount of Rs. 47 available for each employee per year under the Employees' State Insurance Scheme is spent on the various items of expenditure as follows:

SOCIAL INSURANCE EXPENDITURE PER EMPLOYEE, PER YEAR
(Under the Employees' State Insurance Act, 1948)

Items of expenditure	Expenditure shared by	Amount spent Rs.	a.	p.
Medical benefits ..	Employees and Employers	12	3	0
	States' Governments ..	6	2	0
		18	5	0
Administration ..	Central Government ..	3	2	0
	Employees and Employers	1	9	0
		4	11	0
Sickness benefit ..	Employees and Employers	18	0	0
Maternity benefit ..	Employees and Employers	1	10	0
Employment injury benefit ..	Employers ..	4	6	0
Total expenditure per employee per year ..		47	0	0

For each employee, the shares of the Corporation, the Central Government and the States' Governments will be respectively, Rs. 37-12-0, Rs. 3-2-0 and Rs. 6-2-0.

SOCIAL INSURANCE BUDGET IN INDIA

From the estimates given in the previous sections, a social insurance budget under the Employees' State Insurance Scheme can now be framed as follows:

SOCIAL INSURANCE BUDGET

(Under the Employees' State Insurance Act, 1948)

Estimates of Income and Expenditure	For each insured employee	For 22 lakhs of insured employees
	Rs. as. ps.	Rs.
Estimated Income:		
Receipts of contributions from		
(*a*) Insured employees ..	9 5 0	20,306,000
(*b*) Employers	28 7 0	62,555,324
Grant from Central Government ..	3 2 0	6,902,168
Total income[1] ..	40 14 0	89,763,492
Estimated Expenditure:		
Medical benefits	12 3 0	26,802,412
Sickness benefits	18 0 0	39,599,040
Maternity benefits	1 10 0	3,451,032
Employment injury benefits ..	4 6 0	9,557,756
Administration	4 11 0	10,353,252
Total Expenditure[1] ..	40 14 0	89,763,492

This budget does not take into account such factors as reserves, interest to be paid on loans and interest to be received from investments.

RESERVES AND BALANCE BETWEEN INCOME AND EXPENDITURE

B. P. Adarkar in his *Report on Health Insurance for Industrial Workers* mentions two kinds of reserves: (*i*) Contingencies Reserve Fund to meet any sudden and excessive rise in the claims; and (*ii*) Epidemic Reserve Fund to meet the strain of epidemics in particular areas or years. Messrs Stack and Rao, who examined the Adarkar scheme, however, recommended that 'no special portion of the contribution need be set aside for the accumulation of reserves' for the following reasons: (*i*) the

[1] In addition, the States' Governments may have to pay for medical services to the extent of an estimated cost of Rs. 13,587,964 per year for 22 lakhs of insured employees.

possibility that sickness benefits or employment injury benefits may exceed the actuarial estimates would be covered by the subsidiary liability of States' Governments; (*ii*) provision for adequate care for the wives and children of insured employees may not materialize for some years and meanwhile the sums allotted for that purpose would accumulate; (*iii*) no benefits would be paid in any State during the first six months after the contributions begin to be collected;[1] (*iv*) lastly, a number of persons may fail to qualify for benefit through insufficency of contributions. Messrs Stack and Rao, however, think that this source of income may cope with the risk of unemployment, involving thereby an unduly low average number of contributions.

The excess of income over expenditure can also be achieved by resorting to strict economy and by utilizing what B. P. Adarkar calls 'hidden reserves',[2] and the safety margins left intentionally in actuarial estimates. From this viewpoint, it may be of some interest to examine the estimates arrived at in the social insurance budget in the preceding section.

Medical Benefit. For medical services, the social insurance budget provides Rs. 18-5 (Rs. 12-3 by the Corporation and Rs. 6-2 by States' Governments) for each insured employee. This amount is for the whole family and falls a bit short of Rs. 20 a year per family recommended by Messrs Stack and Rao. On the other hand, the Bhore Committee in their long-term plan have proposed Re. 1 per head as the annual average cost of the personal health services. The Bhore Committee's plan will be the basis for a public medical care service. Though this service may be different from an industrial health service, a State Government may not make any preferential treatment between these two services, particularly when the Employees' State Insurance Corporation offers to contribute a major share of the social insurance medical service. If the State Government contributes Re. 1 per head for an insured factory employee, the Corporation's contribution comes to Rs. 2, thereby bringing the total annual contribution per insured employee for medical services to Rs. 3. This amount, however, will be only for the insured employee and not for his family members. The Family Budget Enquiries conducted by the Government of India in 1944-5 reveal that the size of a working-class family varies from 3.62 persons in Jharia to 6.80 in Monghyr and Jamalpur.[3] From the data available for 22 centres about the persons per family, it seems

[1] As an I L.O. study observes: 'At the beginning the total annual expenditure is usually nil, owing to the qualifying period that must be completed before a claim to benefit can be made. After that it remains fairly small during a certain period, even though the maximum rate of benefit may be applied at once.'—*Actuarial Technique and Financial Organisation of Social Insurance*, pp. 16-17.

[2] *Report on Health Insurance for Industrial Workers*, p. 59.

[3] Labour Bureau, *Indian Labour Year Book, 1946*, p. 190.

that on an average an Indian working-class family consists of 5 persons—with 1.5 wage-earners and 3.5 dependents. With this estimate, the dependents of an insured employee would require medical services worth Rs. 7 a year. An annual expenditure of Rs. 10 on medical services seems, therefore, to be adequate at the standard proposed under the long-term plan of the Bhore Committee. The social insurance budget exceeds this limit by Rs. 8-5, which may be diverted to reserves. Besides, for some time, the dependents may not get the benefits of medical services and thus there may be additional saving of Rs. 7 per insured employee per annum.

Sickness Benefits. For sickness cash benefits, the social insurance budget provides for Rs. 18 for an insured employee for one year. To find out whether this amount is adequate, knowledge of two factors is essential: the average number of days of sickness per insured employee per year; and the average net earnings of an insured employee. As for the average number of days of sickness, B. P. Adarkar collected some data, which do not reveal a rate of sickness higher than 14.6 days (whether gross or net) anywhere amongst the concerns investigated.[1] The days of sickness per person per year may be taken as 14.6; however, as estimated by Messrs Stack and Rao, the effect of imposing a waiting period of 3 days would be to reduce these 14.6 days of sickness to 12½ to 13 days of benefit. The estimate of Messrs Stack and Rao of Rs. 500 per year or Rs. 1–6 per day may be accepted for the purpose of examining the extent of sickness cash benefits. With Rs. 1–6 as average daily basic earnings and 13 as days of sickness benefit per year, the cost of sickness cash benefit (at the rate of half the daily average earnings) per employee, per year, would be Rs. 8–15 whereas the social insurance budget provides for Rs. 18, thus leaving an appreciable margin.

Maternity Benefit. For the estimates of maternity cash benefit the knowledge of two factors is necessary : (*a*) the proportion of women to the total insured population ; and (*b*) the proportion of women claimants of maternity benefit to the total number of insured women. In 1946, out of the total factory employment of 2,314,587 persons, only 271,997, i.e. 11.8 per cent, were women or female adolescents.[2] This percentage is slightly higher than the 10 per cent estimated by Messrs Stack and Rao. Regarding the number of women who claim maternity benefits the following figures from the 1946 administration reports of the Maternity Benefit Acts of eight States may be of some use:[3]

[1] *Report on Health Insurance for Industrial Workers*, Appendix VI, pp. 137-62.

[2] *Indian Labour Gazette*, February 1948, p. 526.

[3] *Indian Labour Gazette*, August 1948, pp. 76-77.

Average number of women employed	171,424
Number of claims for maternity benefit received ..	12,567
Number of claims paid	11,679
Total amount paid	Rs. 485,586

These figures show that out of the total female labour employed in factories, only 7.3 per cent claim maternity benefit and only 6.8 per cent get it. However, because of the faulty administration of the Acts, it is proved that a number of women, who are eligible for maternity benefit, forgo their claims for one reason or another. It is not possible to estimate the number of such women, but the statement that 12 per cent of insured women are eligible to claim maternity benefit each year would not be far out of the mark. Messrs Stack and Rao, following the Adarkar Report have taken this estimate as the percentage of insured women who claim maternity benefit each year.

From these estimates, a rough idea of the extent of maternity cash benefits can be had. If there are 22 lakhs of insured persons, there would be 259,600 insured women among them (at the estimate of 11.8 per cent). Of these, only 31,152 would claim maternity benefit each year (at the estimate of 12 per cent). Under the Employees' State Insurance Act, an insured woman eligible for maternity benefit, would get it at the rate of 12 as. per day for a maximum period of 12 weeks. An insured woman, therefore, would get a maximum amount of Rs. 63 per year. This means an annual estimated expenditure on maternity cash benefit of Rs. 1,962,576 for 22 lakhs of insured employees (of whom only 31,152 would claim benefit) or only 14 as. per insured employee. The social insurance budget provides for Rs. 1–10 per insured employee per year and thus leaves a lot of margin.

Employment Injury Benefits. The estimate of the expenditure on employment injury benefits requires the knowledge of a number of factors, such as (*a*) number of factory accidents per year; (*b*) the proportion of injury cases resulting in death; (*c*) the extent of disability arising from the employment injury; (*d*) the number of dependents: (*e*) statistics regarding invalidity, mortality, morbidity, marriageable age, etc. Data regarding all these factors are not available and hence any estimate regarding the expenditure on employment injury benefits would be far from accurate. In spite of this limitation, a very rough estimate may be made.

Under the Factories Act, it is obligatory on the part of the manager of a factory to report all accidents which cause death or which cause bodily injury whereby an injured person is prevented from resuming his work during the next 48 hours. The table below shows the number of accidents in factories since 1939:

ACCIDENTS IN FACTORIES IN INDIA[1]

Year	Fatal		Serious		Minor		Total	
	Number	Per 1,000 workers	Number	Per 1,000 workers	Number	Per 1,000 workers	Number	Per 1,000 workers
1939	221	0.13	5,837	3.33	29,948	17.10	36,006	20.56
1940	236	0.13	6,857	3.72	33,986	18.42	41,079	22.27
1941	271	0.13	8,374	3.88	40,091	18.59	48,736	22.60
1942	323	0.14	9,111	3.99	44,740	19.60	54,174	23.73
1943	361	0.15	10,016	4.11	48,799	20.03	59,176	24.29
1944	348	0.14	10,638	4.22	56,336	22.33	67,322	26.69
1945	342	0.13	11,006	4.16	58,775	22.24	70,123	26.53
1946	252	0.11	8,423	3.64	48,460	20.94	57,135	24.68
1947	211	0.09	8,657	3.88	49,644	22.26	58,512	26.23

These figures show that on an average, out of 1,000 workers, 23.06 workers meet with accidents, resulting out of employment injury—0.13 with death, 3.78 with serious accidents and 19.15 with minor accidents. So if there are 22 lakhs of employees, of these 50,732 employees may meet with employment injuries, 286 with death, 8,316 with serious accidents and 42,130 with minor accidents. These 50,446 serious and minor accidents result in either temporary or permanent disablement. To find out the proportion of cases of temporary and permanent disablement, the returns under the Workmen's Compensation Act may be utilized, in spite of the fact that that Act has a scope much wider than that of the Factories Act. The average number of compensated accidents for 1942-7 were 47,709;[2] of these, 1,023 resulted in death, 2,713 in permanent disablement and 43,973 in temporary disablement. Leaving apart the cases of death, there remain 46,686 accidents, which resulted in disablement—5.8 per cent permanent and 94.2 per cent temporary disablement. Taking this same proportion for the 50,446 factory accidents the estimate comes to 2,926 cases of permanent disablement and 47,520 of temporary disablement.

The data regarding the extent of disability arising from employment injury and statistics regarding invalidity, mortality, morbidity, marriageable age, etc. are not available in a reliable form. In the absence of these, the workmen's compensation statistics may be utilized for establishing the cost of employment injury

[1] *Indian Labour Year Book, 1947-48*, p. 174. For purposes of classification an accident is considered to be 'serious' if the injury involves absence from work for 21 days or more and 'minor' if it involves absence from work for more than 48 hours but less than 21 days.

[2] For figures for each year, see *Workmen's Compensation*, pp. 80–1.

insurance. Though there is material difference in the form of payment—workmen's compensation is usually paid in a lump sum, whereas employment injury benefits are paid in periodical payments —the rates do not vary widely. Workmen's compensation statistics for three years, 1945-7, show that on an average Rs. 64 have been paid for each injury under the Workmen's Compensation Act. If this rate is accepted for our estimate, Rs. 3,246,848 would be required for 50,732 employment injury cases among 22 lakhs of insured employees, i.e. approximately Rs. 1–7–6 per insured employee. The social insurance budget provides for Rs. 4–6 per insured employee for employment injury benefits and hence is sufficient to cover the risk, even if the cost of employment injury insurance were very much higher than that of workmen's compensation.

All these estimates show that an appreciable margin has been left over in the budget and this can be profitably utilized to build up the reserves of the social insurance fund. After the savings have reached the amount equal to three years' expenditure by the Corporation, or roughly about Rs. 141 per insured person, any excess of income over expenditure may be utilized for providing additional benefits, for an increase in existing benefits or in duration of benefits, for covering under insurance classes other than factory employees, for introduction of unemployment and pension insurance, for promoting measures of public health, etc. Provision has been already made in the Employees' State Insurance Act to enable the Corporation to enhance the scale of any benefit admissible under the Act or the duration of such benefit and to contribute towards the cost of medical care for the families of insured employees at any time, when its funds so permit.

Investment of Social Insurance Funds

With 22 lakhs of insured employees, the estimated annual income of the Employees' State Insurance Corporation may come to about nine crores of rupees. All this amount of considerable magnitude, which would belong to the Corporation, would not be required for immediate expenses and thus would arise the problems of investment of social insurance funds. The reserves, which are discussed in the preceding section and, the contributions to the Corporation's provident fund also raise these problems for the proper administration of all these funds.

Under the Employees' State Insurance Act, the Corporation, subject to certain conditions and mostly with the permission of the Central Government, can acquire and hold, sell or otherwise transfer property, both movable and immovable, and invest any moneys which are not immediately required for expenses properly defrayable under the Act. The Employees' State Insurance Rules further lay down that all such moneys should be invested in Government Securities, or as fixed deposits in the Imperial Bank of India. The prior approval of the Central Government is necessary, if moneys belong-

ing to the Fund are to be invested in any other manner. Broadly the financial aspects of the Corporation are to be looked after by the Chief Accounts Officer, under the supervision of the Director-General, who is responsible to the Standing Committee of the Corporation, over which there is an overall authority of the Central Government.

The problems of investment of social insurance funds received the active attention of the International Labour Organisation, which convened in 1937 and 1938 two meetings of experts and asked them to advise on these problems.[1] In 1939, the International Labour Office also published a detailed study on this subject[2]. Compared with the conclusions adopted by the I. L. O. Committee of Experts, the Indian statutory regulations on this subject fall short in many respects, as may be seen from the following comparative study:

Conclusions adopted by the I. L. O. Committee of Experts	Remarks about the provisions in the Employees' State Insurance Act and Rules
I. Principles of Investment Regulations	
(*i*) The regulations should be so framed as to achieve the purpose of the reserves, namely, either to afford security for the payment of 'the benefits due or to guard' against sudden increase in expenses.	The Indian regulations are not precise and hardly serve as a practical guide to the insurance institutions. On the other hand, they place some restrictions on the liberty of action of these authorities. It is necessary to make clear what are the moneys 'which are not immediately required for the expenses properly defrayable under the Act'. It is also necessary to give a list of approved scheduled banks and to mention the permissible investments other than Government Securities and fixed deposit in the Imperial Bank of India. Clear regulations are necessary in case of short-term and long-term investments.
(*ii*) The regulations should be sufficiently precise to be used as a practical guide to the bodies responsible for selecting investments and wide enough to leave them sufficient liberty of action.	

[1] For a summary of the decisions of these experts, see p. 15. The conclusions adopted by these experts are studied in this section with a view to examine how far they can serve as a guide to investments under the Employees' State Insurance Scheme.

[2] *The Investment of the Funds of the Social Insurance Institutions*—Studies & Reports, Series M., No. 16.

Conclusions adopted by the I. L. O. Committee of Experts	Remarks about the Provisions in the Employees' State Insurance Act and Rules
II. General Conditions to be Satisfied by Investments	
The regulations should determine and apply to investments the general conditions 'of safety, yield and liquidity'. Further, in choosing between securities, which satisfy these basic conditions, consideration should be given to the measure of social and economic utility of these investments.	Both the Government Securities and fixed deposits in the Imperial Bank of India, in which the Corporation is authorized to invest, ensure perfect safety, moderate yield and little liquidity. Their social and economic utility is also not very great.
(*i*) *Safety* is the first condition and the insurance authorities must satisfy of the value of investments as regards the recovery or conservation of the nominal value of the capital invested and the regular receipt of interest. Devaluation reduces the capital of, or income from, the investments, and hence to protect against such measures, the insurance authorities should be authorized to seek investments, which maintain also their real value in purchasing power. The acquisition of variable-yield securities should be subject to special regulations. To ensure utmost safety the regulations should set out a general definition of the conditions to be observed in the selection of investments, namely, suitable types of negotiable securities or of holdings in real estate, character or legal status of the borrower, duty to obtain a charge or preferential right as security for the debt, geographical distribution of investments, etc. The regulations should also draw up an exclusive list of the classes of permissible	Besides the two prescribed classes of investments, there are a number of other classes which are safe for investments. The regulations should either widen the scope of investments by setting out an exhaustive list or grant considerable freedom of action to insurance institutions. The Indian Act and Rules do neither. In times of inflation, the real value of investments (as judged from the income from interest received) in Government Securities or fixed deposits goes down and hence it would be necessary to invest also in 'real estate'. Some provision for such investments should be made in the Indian regulations. These regulations should also lay down the various conditions to be observed in the selection of investments (mentioned in the conclusions of the I. L. O. experts). The question of investments in State Government Securities may also arise and then it would be necessary to decide 'geographical distri-

Conclusions adopted by the I. L. O. Committee of Experts	Remarks about the Provisions in the Employees' State Insurance Act and Rules
investments among the various classes in the list.	bution of investments' and also the Central Government guarantee for the State Securities.
(*ii*) *Yield.* Consonant with safety and liquidity investments should carry the highest yield. The average yield on the investment should not be less than the net rate of interest on the market of the same kind. Low rate of interest, however, may be admissible for investments, which procure advantages for insured persons as social groups, for example, by acquisition of preventive or curative establishments, construction of workers' dwellings, etc.	As far as yield is concerned, Government Securities and fixed deposits in the Imperial Bank of India may not prove the best. Some other classes, such as loans issued by public bodies, mortgage loans, commercial or industrial debentures or stocks and shares, urban and rural property, etc. may yield better interest and, if safety permits, investments in these classes may be allowed. At the same time for the first few years, it would be necessary for the insurance authorities to construct buildings for medical institutions, and to provide for office and residential accommodation. Investments in these classes would, however, mean a low rate of interest.
(*iii*) Provision for *liquidity* of investments is necessary, when as a result of the nature of benefits or of the financial structure of the scheme, a part of the actuarial reserves will have to be realized at a given date. In these circumstances, the liquid assets required may be provided by sums received on account of redemption or capital repayment. Liquidity may also be afforded by a current account in a solvent institution and the contingencies reserves should seek this kind of liquidity, because such reserves should be capable of immediate	The Employees' State Insurance Act classifies the moneys received by the Corporation into : (*a*) those which are not immediately required for expenses properly defrayable under the Act, and (*b*) other moneys, i.e., those which may be required for current expenses. For (*a*), the Act provides for Government securities and fixed deposits of the Imperial Bank of India. 'Other moneys' may be deposited in 'approved' scheduled banks. For the purpose of liquid assets, however, it may be necessary to

Conclusions adopted by the I. L. O. Committee of Experts	Remarks about the provisions in the Employees' State Insurance Act and Rules
realization. A certain proportion of contingencies reserves should be invested in short-term Government securities, or in other securities, which are readily marketable or early redeemable.	invest some proportion of the moneys mentioned in (*a*) in short-term Government securities or in deposits, which are either readily marketable or are subject to early redemption. At the same time, moneys required for day-to-day expenses will have to be deposited in the current account of a scheduled bank.
(*iv*) *Social and Economic Utility.* Investments may also be used for social and economic purposes after satisfying the basic conditions of safety, yield and liquidity. Such purposes may include improvement in health conditions, housing, increase in production, raising the standard of living, prevention of unemployment, town-planning, establishment of schools, etc. The financial help of the insurance funds, co-ordinated with the economic and financial policy of the public authorities, can make a substantial contribution to social and economic progress of the community. For investments of social and economic character, special guarantees of safety by public authorities are essential.	The working of the Employees' State Insurance Act would be very much facilitated if measures to lessen the incidence of sickness, disability and mortality are undertaken. Such measures may include better standard of living, improvement in working conditions, adequate and up-to-date medical facilities, prevention of unemployment, etc. Establishment of medical institutions and construction of buildings may also have to be undertaken. A part of investments may profitably be diverted for all or most of these purposes. The Act already empowers the Corporation to promote measures for the improvement of health and welfare of insured persons and for the rehabilitation and re-employment of insured persons, who have been disabled.

III.—Permissible Classes of Investments

Insurance authorities should draw up periodical plans setting out the broad lines for investment operations, and determining	The Employees' State Insurance Act makes provision for an annual report and for valuation of assets and liabilities

Conclusions adopted by the I. L. O. Committee of Experts	Remarks about the Provisions in the Employees' State Insurance Act and Rules
proportions of fixed-yield and variable-yield investments.	every five years. These opportunities may be taken to decide periodically the policy regarding investments.
(*A*) *Fixed-yield Investments*	
(*i*) *Government Funds or Government guaranteed Funds* are suitable from the point of view of safety. It may, however, be considered, whether preference should be given to securities quoted on the Stock Exchanges over direct loans and to redeemable over irredeemable securities.	The Employees' State Insurance Rules provide Government securities as one of the classes of long-term investments. Details of such securities, however, need be stated in the regulations.
(*ii*) *Loans of States, towns and other local authorities and loans guaranteed by such authorities* are suitable for financing, from insurance funds, schemes of social character likely to improve the standard of living and the health of the community. It may, however, be considered whether (*a*) to have financial guarantee to such loans, (b) to give preference to securities quoted on the Stock Exchange over direct loans, and (*c*) to use the loans for new works.	As stated earlier, it is in the interest of the Corporation to invest some money in measures intended to raise the standard of living and to improve working and living conditions, provided adequate financial guarantee is forthcoming.
(*iii*) *Loans issued by public bodies other than regional or local authorities* may be utilized for investments only when such bodies have unquestionable and adequate resources as guarantees.	The Corporation may invest in loans issued by public utility concerns of long standing.
(*iv*) *Loans of land mortgage banks or building societies* enable the insurance authorities to carry out the schemes of building workers' houses.	Accommodation for office and residential purposes would have to be undertaken by the Corporation and hence investment in the loans of land or building credit associations of unquestionable solvency or in
(*v*) *Direct mortgage loans* to the owner of a building. Preference	

Conclusions adopted by the I. L. O. Committee of Experts	Remarks about the Provisions in the Employees' State Insurance Act and Rules
should be given to buildings in industrial centres. (*vi*) *Commercial or industrial debentures* are suitable only when along with safety, they offer yield, which is higher than that of similar debentures issued by public authorities.	direct mortgage loans may prove profitable. The Corporation may invest in such debentures only for a higher yield.
(*B*) *Variable-yield Securities* (*i*) *Loans of public authorities with Gold Clause or Currency Option* provide some guarantee against monetary devaluation. (*ii*) *Commercial or industrial ordinary shares or stocks* only of well-established companies may be purchased. (*iii*) *Urban letting property* entail the least risk of loss of capital. (*iv*) *Rural property* provides reasonable yield and having adequate guarantee may be purchased only in exceptional circumstances.	The Corporation may examine the various classes of investments providing variable-yield securities and select after assessing their safety, yield, liquidity, and social and economic utility.

ACTUARIAL SYSTEM

Generally for the actuarial purposes, a mixed financial system based on several methods is utilized. Broadly, however, the actuarial methods can be classified into two systems:[1] (*a*) assessment or budgetary or distribution system; and (*b*) accumulation or actuarial or capitalization system. These two systems are briefly described by the I. L. O. studies as follows:[2] In the budgetary system, the account is opened at the beginning of the year and definitely closed at the end of the same year, when there should be neither credit nor debit balances; the account also is not interest-bearing. In the other system, namely, the capitalization system,

[1] The I L O. study on *Actuarial Technique and Financial Organisation of Social Insurance* mentions a third system known as the Individual Accumulation system, according to which contributions paid on behalf of each insured person are entered into an individual account for the purpose of accumulating the sum needed for the payment of benefit, account being taken of compound interest and withdrawals from the scheme owing to death or invalidity. For details of the actuarial systems used in social insurance, see pp. 22-36 of the I.L.O. study. See also I.L.O., *Approaches to Social Security*, pp. 74-7, and I.L.O., *Compulsory Sickness Insurance*, pp. 433-7.

[2] I.L.O., *Compulsory Sickness Insurance*, pp. 433-6.

the account is opened for the insured group when the institution begins to operate and, although it may be audited periodically, it is never closed unless the fund ceases its operations. Deposits and payments are interest-bearing at a rate agreed in advance, which is the assumed rate. At the end of each year, there must be a credit balance carried forward to the next year and constituting the actuarial reserves of the fund. These actuarial reserves combined with the discounted value of all future receipts must balance the discounted value of all future expenditure.

B. P. Adarkar examined in detail the merits and demerits of both the budgetary and capitalization systems and preferred the budgetary system for the following reasons:[1] (*i*) The capitalization system can be applied only if all the statistical data for calculations of social insurance benefits and contributions are available; in their absence, the budgetary system is useful. (*ii*) The budgetary system is suitable, where compensation for risks represents an average expenditure, which does not vary from year to year for each insured person and in respect of which the insured person from the moment of first insuring acquires the rights to benefits. (*iii*) The capitalization system may be suitable to those countries, which have a permanent industrial proletariat. In India, there are no definite ages of entry into, and exits from, industry, and consequently into, and from, insurance. (*iv*) Under the budgetary system, it is each year's group, which is taken into account; one year's experience can be used for framing the budget and for laying down the policy of the next year. The system thus provides an effective check on the various assumptions made. Under this system, as the total resources are made equal to total charges regularly, and year after year, the obvious conclusion is that it affords financial guarantee to the scheme. (*v*) The budgetary system is much more simple and intelligible than the capitalization system; it is simpler to frame, equally simple and certain in operation, and more easy for administrative purposes. (*vi*) The system of capitalization lacks flexibility and involves a lot of calculations and assumptions. (*vii*) The system of capitalization can at best make actuarial provision for the cash benefits. There are two other elements of cost, namely, the costs of medical benefits and the costs of administration. Because of the provision of a medical service (as opposed to the panel service) in the Indian Act, the actuarial calculation becomes more difficult. (*viii*) Capitalization is a long-term financial operation, and it would consequently require frequent re-examination of sickness statistics and experience, valuation of assets and liabilities, etc. (*ix*) Experience in the United Kingdom shows that the capitalization system leads to uncertainty regarding the extent of benefit, adequacy or otherwise of resources, adequacy or otherwise of contributions, etc.

[1] *Report on Health Insurance for Industrial Workers*, pp 57-9, and Appendix XV, pp. 180-2.

B. P. Adarkar concludes that it is because of reasons like these that all the world over it is the budgetary system that has been adopted in sickness insurance schemes. Only in Great Britain and Ireland, the capitalization system is in vogue, but that is because it was essential there to maintain this feature while converting the then existing sickness insurance schemes from a voluntary to a compulsory basis in 1911. Besides in these countries, all necessary statistics were available.

All these arguments make the choice of the budgetary system for India desirable. However, for better working it is necessary that the budgetary system should be modified by the constitution of reserves. Under this modified system, a provident reserve fund is accumulated either out of possible surplus revenue or out of a fixed deduction from contributions, which are increased for this purpose, and this reserve fund is used in case of need to avoid the levy of an extra-ordinary contribution. Under the Employees' State Insurance Act, the budgetary system has been adopted and the Corporation will be required in each year to frame a budget showing the probable receipts and the expenditure, which it is likely to incur during the following year. The budget is to contain provisions adequate in the opinion of the Central Government for the discharge of liabilities incurred by the Corporation and for the maintenance of a working balance. By this system, it is hoped, the experience and happenings of one year would automatically be taken into account and serve as a basis of operation for the next and subsequent years, and automatic checks and adjustments would be provided. Various provisions such as the annual audit of the accounts, the annual budget, the annual report on the work of the Corporation and the periodical valuation of assets and liabilities of the funds provide ample opportunity to revise the policy and to amend the defects in the working of the Employees' State Insurance Act, 1948.

CHAPTER XI

TOWARDS A UNIFIED SCHEME OF SOCIAL SECURITY

THE social insurance scheme, proposed under the Employees' State Insurance Act, 1948, is narrow in its scope and limited in the grant of benefits, though it opens quite a new field in labour welfare in India. This fact has been admitted even by the authorities responsible for the introduction of the scheme. At the time of the third reading of the Employees' State Insurance Bill, the Labour Member of the Government of India said on 4 April 1948, that the Bill opened a new chapter in the history of labour legislation. However, according to him, it was only a beginning of social security measures. Its scope is limited, though the benefit might be expanded and extended to any extent in order to cover the various categories of the working classes. Again at the time of the inauguration of the Employees' State Insurance Corporation, the Labour Member said on 6 October 1948, 'We are assembled here today to witness a momentous event—an event as momentous as any major social or economic reform in this country. We are about to start on the long road to social security...But let nobody run away with the impression that what we are going to embark upon today is anything like a comprehensive plan of social security. It is only a beginning—a modest start—the first step towards that cherished objective.'

Earlier in this book the modern tendency to adopt a comprehensive plan of social insurance, as illustrated in various countries and in the I. L. O. Recommendations, has been mentioned. In the second part, the various provisions of the Employees' State Insurance Act have been studied. It is now proposed to examine the extensions (and the directions of these extensions) necessary to evolve a comprehensive plan of social security out of the existing limited provisions of the Employees' State Insurance Act. Such an examination makes it necessary first to define the limits of 'comprehensive social security', which is to be attained and then to study the loosening of the limitations of the Employees' State Insurance Act. These limitations are mainly two-fold in character: (*a*) classes of persons and undertakings covered; and (*b*) risks against which insurance or assistance is provided. Besides, the Act is also limited both in its operation and in the grant of benefits. All these limitations will have to be removed or at least to be considerably lessened, if the Employees' State Insurance Scheme is to be the source of a comprehensive plan of social security and if the Employees' State Insurance Corporation is to be the authority for the execution of such a plan.

The term 'social security', as has been noted often before, is very comprehensive. According to the I. L. O. studies, social

security broadly comprises of all schemes providing for income security and medical service. According to a French authority, social security has three essentials—security of employment, security of income and security of power to work.[1] The limits of social security have not yet been properly defined, possibly because both the term and the concept are new. The term, it seems, was first authoritatively utilized in the United States Social Security Act of 1935, which mainly provided benefits for the unemployed and the aged. Since then, it has received official status both in national laws and international vocabulary of social policy. Social security was specifically mentioned as one of the objectives of the post-war policy recommended in the Atlantic Charter in 1941. The concept of the term, however, has so far failed to have any generally accepted definition, though the idea of social security has made remarkable progress during the last fifteen years. There were already in existence a number of social insurance schemes, providing benefits to certain classes of persons against certain risks. These schemes were partial and limited in scope and benefits. For example, many of these schemes covered only the industrial workers or often wage-earners in particular, industries such as factory industries or mines; again some schemes provided insurance only against sickness; others like our Employees' State Insurance Act, provided benefits to meet the consequences of sickness, maternity and employment injury; still others covered a still wider field by the inclusion of some more risks like unemployment, old age and death. Co-ordination or integration of these separate, partial schemes, designed to cover certain classes of the population and to meet certain industrial risks led to the concept of social insurance. This concept too is very modern. When in 1919, the Preamble to the Constitution of the I. L. O. was drafted, the idea of social insurance had not yet found comprehension or acceptance in the world at large; the Preamble had merely made a reference to the protection of the workers against sickness, disease and injury arising out of employment and provision for old age and injury.[2] Soon, however, the concept of social insurance came to be recognized and in 1925 the International Labour Office started its social insurance studies with *General Problems of Social Insurance* and the International Labour Conference adopted a general Resolution on social insurance.

Social insurance is one of the two main approaches to social security, the other being social assistance. The I. L. O. studies have found that the tendencies, shown by the various branches of social insurance and social assistance, have pointed towards the unification of social insurance, its extension to an ever larger circle of the population and the adoption of social adequacy as the main

[1] *International Labour Review*, June 1948, pp. 565-8 (Article on 'From Social Insurance to Social Security—Evolution in France' by Pierre Laroque).

[2] I.L O., *First Report of the I.L.O. to the United Nations*, Vol. I, p. 31.

criterion for the nature and amount of its benefits.[1] The social security system, according to the I. L. O., consists of the complex of the social insurance and the social assistance schemes. Both the tendencies of social insurance and social assistance move ever closer to one another, till at last they meet and combine into a system of social security. When this stage is reached, the distinction between insurance and assistance becomes immaterial, because a social security system depends for its working both on the contributions and the public funds and the proportion of these two sources may merely prove a matter of detail.

Social security is thus the objective and social insurance is one of the means by which the objective may be reached. Social security plans, however, differ fundamentally from the social insurance schemes for the following reasons:[2] Firstly, social insurance schemes may be partial; but social security plans must apply to the whole population. No full employment policy, no health service, no income distribution scheme can afford to be restricted to certain groups of workers. For the same reasons, social security must cover all the risks which deprive a person of earning an income. Secondly, various components of social security cannot be kept apart. An economic policy of full employment, for example, cannot be dissociated from a policy of income distribution because the income to be distributed itself depends to a large extent on the level of employment, and because the failure of a full employment policy will require the provision of alternative incomes for the unemployed. The connexion between health policies on the one hand and income re-distribution on the other is equally evident.

The evolution from social insurance to social security consists in extending its protection to an ever larger circle of the population, in widening the range of the risks that it covers, and as regards the quality and quantity of its benefits, caring more for social adequacy than for actuarial equity.[3] Such an evolution took an advanced form in New Zealand, when the Social Security Act of 1938 covered the whole population, furnished medical care to all and provided subsistence benefits in all contingencies in which persons are involuntarily deprived of their livelihood. The New Zealand Act was enacted ' to provide for the superannuation benefits and of other benefits designed to safeguard the people of New Zealand from disabilities arising from age, sickness, widowhood, orphanhood, unemployment or other exceptional conditions; to provide a system whereby medical or hospital treatment will be made available to persons requiring such treatment; and, further to provide such other benefits as may be necessary to maintain and

[1] I L.O., *First Report of the I.L O. to the United Nations*, Vol. I, pp. 40-1 ; and I L.O., *Approaches to Social Security*, pp. 80-93.

[2] Pierre Laroque, op. cit , pp. 569-70.

[3] I.L.O., *Approaches to Social Security*, p. 83.

promote the health and general welfare of the community'.[1] The lead given by New Zealand was followed by a number of other countries in their social security plans and legislation. Australia had a number of social security Acts; in 1947 they were all brought together into the Social Services Consolidated Act, which now provides old-age and invalid pensions, widows' pensions, child endowment, maternity allowances, and unemployment, sickness and special benefits.[2] In England, the ideas advocated in New Zealand were endorsed by Lord Beveridge in a comprehensive plan of social security aiming at freedom of want by means of a national scheme of social insurance.[3] The medical aspects of social security were considered in a Report of the Medical Planning Commission of of the British Medical Association, the Royal College of Physicians and Surgeons and other medical societies of Great Britain.[4] In 1944, the British Government published in the form of a White Paper their proposals for the organization of a comprehensive medical care service.[5] All these plans of social security in Great Britain have now taken the form of five statutory regulations:[6] (*i*) The British Family Allowances Act, 1945; (*ii*) The National Insurance Act, 1946; (*iii*) The National Insurance (Industrial Injuries) Act, 1946; (*iv*) The National Health Services Act, 1946; and (*v*) The National Assistance Act, 1948. In Canada, the ideas of a comprehensive plan of social security have been advocated in what is known as the Marsh Plan.[7] In the United States, similar proposals have been embodied in the Wagner-Murray Social Security Bill,[8] which covers the major economic hazards of average American families, such as the cost of medical and hospital care, and loss of income in times of unemployment, temporary sickness,

[1] From the Preamble to the Act For benefit rates under the Act, see *Cash Benefits under the New Zealand Social Security Program* (U. S. Social Security Board, Report No. 13) and *New Zealand Year Books*.

[2] For a summary of the provisions of the Australian Act, see *Social Services*, a handbook issued by the Department of Social Sciences, Australia, in 1946, with supplements for 1947.

[3] *Report on Social Insurance and Allied Services* (1942); see also, Lord Beveridge's *Pillars of Social Security*, pp. 59-75. For a summary, see *International Labour Review*, January 1943, pp. 46-7.

[4] For a summary of this *Report*, see *International Labour Review*, January 1943, pp. 57-61.

[5] Ministry of Health and Department of Health, Scotland—*A National Health Service*, Cmd. 6502 (London, 1944). For a summary, see *International Labour Review*, April-May 1944, pp. 473-81.

[6] The Government proposals embodied in the first three of these Acts were published in a White Paper (1944) under the title *Social Insurance*, Parts I and II (Cmd 6550 and 6551).

[7] Advisory Committee on Reconstruction—*Report on Social Security for Canada: The Requirements for Post-War Planning* by Leonard C. Marsh, (Ottawa, 1943). For a summary, see *International Labour Review*, May 1943, pp. 591-612.

[8] For a summary of the provisions of this Bill, see *International Labour Review*, August 1943, pp. 247-50

permanent disability, and old age. The Social Security Acts and plans of the western countries had some influence in some of the Eastern countries and mention in this respect may be made of the Chinese Social Relief and Assistance Act, 1943, and to the Report of the Ceylon Commission on Social Services, published in 1947.

The concept of comprehensive social security, emphasized by all these plans and Acts, was accepted also by the International Labour Conference in what is known as the Declaration of Philadelphia (1944), when it included among its objectives the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care. These Recommendations have been based on the principles embodied in the social security Acts of New Zealand and Australia and also on the social security plans of a number of Governments, like those of Great Britain and Canada and the Wagner-Murray Bill of the United States.[1] The proposals in respect of income security and medical care embodied in the I. L. O. Recommendations have been reiterated in a comprehensive resolution on social security, adopted by the Preparatory Asian Regional Labour Conference, held in New Delhi in October-November 1947.

Extension of Social Insurance to Social Security in India

The provisions of the Acts, plans and Recommendations, mentioned in the previous section, indicate the extent of a comprehensive plan of social security. The comprehensive character of such a plan has the following main features: (*a*) coverage of the whole population: provision of income security and medical services to all citizens; (*b*) coverage of all principal contingencies by means of social insurance, supplemented by social assistance: such contingencies include sickness, maternity, employment injury, invalidity, old age, death of breadwinner, unemployment and childhood; (*c*) adequate medical and allied services, easily available to all members of the community; (*d*) benefits adequate to replace lost earnings, with due regard to family responsibilities: at the same time, benefits should take into account the needs of the citizens and assure him subsistence means; (*e*) contributions: there is a growing tendency of financing the social security scheme through a general tax (or income tax) in addition to specific contributions from insured persons and employers; (*f*) administration of the national social security system by a Minister, assisted by tripartite organizations of insured persons, employers and the State: representatives of the medical profession are also to be taken on medical advisory bodies.

[1] I.L.O., *Social Security—Principles and Problems arising out of the War*, Part I, pp. 1-3; and I.L.O., *First Report of the I.L.O. to the United Nations*, Vol. I, p. 41.

If the elementary forms of social services at present in existence in India are to be transformed into a comprehensive plan of social security, various steps need to be taken. These are briefly studied below :

(*a*) *Coverage of All Citizens.* The population of a country may be classified into two main groups: persons who are gainfully occupied in the various branches of economic activity of the country; and persons who are not gainfully occupied. The first group consists of persons employed or engaged in[1]: (*i*) agriculture (including forestry, hunting and fishing); (*ii*) agriculture (including quarries and oil wells); (*iii*) industries (manufacturing, construction, etc.); (*iv*) transport and communications (land transport by road and rail, navigation—inland, maritime and air, and post, telegraph and telephone); (*v*) public administration (local, municipal, State and Central administration); (*vi*) commerce, personal and professional services, etc. (trade, banking, insurance, hotels and restaurants, domestic service, laundries, hairdressing, entertainments, sports, education, professional services, etc.). The class of non-gainfully occupied persons consists of children, old persons and other dependent males and females.

A comprehensive plan of social security must cover all these classes of persons, employed and non-employed. At present, only a few classes of the population are (or will soon be) eligible to get certain classes of benefits. The agricultural class has been completely neglected as far as social security is concerned. Only recently an inquiry into wages and conditions of living of agricultural labour has been undertaken and the results may provide some data on which a social security plan for peasants may be based. The Government of India also appointed an officer to study the problems of crop and cattle insurance and to put up a pilot scheme in selected areas. It is believed his scheme is under the consideration of the Central Government.

The introduction of a social security plan in India, will have to be undertaken by stages. A start is being made with the Employees' State Insurance Act, which covers only factory employees. Other classes of organized workers, such as miners and seamen, may also be brought in without much difficulty. The Central Government can set up an example by providing compulsory insurance to their employees, particularly railwaymen and postal and telegraph employees. The States' Governments and local authorities (such as Municipalities and Local Boards) may also be advised to extend insurance to their employees. At present, there is a manifest tendency on the part of the State to nationalise some trades such as road transport, fisheries and educational service. The State monopoly of a trade or a service

[1] The list is mainly based on the classification of industries and occupations adopted by the I L.O 's International Conference of Labour Statisticians (see I.L.O., *International Standardisation of Labour Statistics*, pp. 51-2.)

offers an easy field to social insurance. After providing insurance to about a crore of persons in all these industries and services, the question may be taken up of insuring employees in unorganized or non-Governmental trades and services. Here also an easy approach would be to cover the employees employed in banks, insurance companies and such other concerns. Classes like shop assistants and domestic servants may be taken last, because of the scattered nature of these services.

The problems of social security for peasants will have to be taken up separately for various reasons. Firstly, a very large proportion of our population, namely over 70 per cent is directly dependent upon agriculture and because of this large percentage of persons to be covered, the problems deserve careful attention. Secondly, the rural population is scattered throughout the country in many villages and the social security authorities must take each village as a unit. For the administration of social security benefits, the co-operation of village authorities and of the local, States and Central Governments is highly essential. Thirdly, the agriculturist class consists not only of the landless agricultural wage-earners, but also of the tenant farmers and peasant proprietors. The economic needs of each of these groups are different from those of the other two and hence the social security authorities will have to formulate their plans according to these distinct needs. Lastly, the various social insurance risks, such as sickness, accident, invalidity, old age and even death do not have the same meaning for the cultivator as for the urban wage-earner. The most beneficial system of insurance to a cultivator would be the crop and cattle insurance. Cash benefits of social insurance may not have the same appeal to a cultivator as they have to an urban wage-earner. At the same time, the necessity of a medical care service is felt by both the classes. Because of the peculiar conditions of a cultivator, the social security authorities may have also to consider the possibility of collecting contributions in kind instead of cash.

The problem of providing security to dependent persons (children, old persons, invalids, etc.) will have to be considered along with the plans of social security for wage-earners. Invalidity, old age and survivors' pensions and provident fund system are forms of social insurance, and hence may have to be considered earlier (along with other social insurance plans) than the forms of social assistance, such as children's allowances and widows' allowances.

(*b*) *Coverage of All Risks.* The Resolution on social security adopted by the Asian Regional Labour Conference recommends that social security schemes should cover 'risks such as sickness, maternity, invalidity, death of breadwinner and employment injury and, in the case of industrial workers, old age and unemploy-

[1] This point has been considered in detail in I L.O., *Problems of Social Security* (Report I of the Asian Regional Conference) 1947, pp. 48-51.

ment under certain conditions'. Of these risks, the Employees' State Insurance Act aims to cover sickness, maternity and employment injury, though only for factory workers. The Workmen's Compensation Act provides coverage of the risk of employment injury for a very large group of workers. In many industries, in individual undertakings, systems of provident funds, gratuities, old age and retirement pensions are found; of these, the provident fund system is the most common and it may be considered whether such a system may be encouraged in all industries, till compulsory and contributory old age and retirement pensions are introduced by the social security authorities.

The introduction of a comprehensive plan of social security may be effected by development of social insurance either by branches or as a whole.[1] In India, a method having the essential elements of both these processes may be usefully adopted. The Workmen's Compensation Act, the maternity benefit laws, sickness funds and works provident funds, can each be made to evolve into a branch of social insurance.[2] Workmen's Compensation, which is at present considered the sole liability of the employer, can be transformed into employment injury insurance, to be administered by the representatives of employers, employees and the State. Similarly, maternity benefit may also be transformed into maternity insurance. Sickness funds, which may be in the form of works funds or general local funds, may develop, into sickness insurance. In India, such funds are not very common, though in some cases *ad hoc* sickness benefits are paid. Provident funds, based on the principle of compulsory savings are common in many industries and services. They often provide an adequate benefit on retirement. The adoption of old age or retirement pension in place of provident funds may be effected gradually by means of converting compulsory saving into compulsory pension insurance. The amount saved on accont of employees' contributions may be transferred from the funds of the undertaking, or of the service, to the funds of social security. The contributions may be adjusted by the social security authorities and on the completion of a prescribed period, a life annuity instead of a lump sum may be granted to the employee. In this system, provision may also be made for the payment of pensions to survivors of the insured person (if he dies while in service) and of invalidity pension (if he is unable to work due to invalidity). Gratuity systems and old age pensions, which are already in existence in some industries and services, will have to be merged into the general social security system, which would cover *inter alia* the risks of invalidity, old age and death of the breadwinner.

[1] I L O., *Problems of Social Security*, pp. 54-71.

[2] The process of evolution has been explained on pp. 55-9 of the I.L.O. publication, *Problems of Social Security*.

In contrast to this method of developing social insurance by branches, another method, namely that of developing social insurance as a whole may be adopted first, and then at convenient stages new classes of population may be added and new risks may be covered. India, for example, has recently enacted the Employees' State Insurance Act, 1948, which provides insurance against sickness, maternity and employment injury to factory employees. This measure may be extended gradually to cover other risks, such as old age, invalidity, death and unemployment and also to cover various categories of non-factory employees, such as miners, plantation workers, seamen, railwaymen, etc. In its first application the scheme may be considered as experimental and may be introduced in small selected areas, preferably in a few medium-sized towns having several large factories and ample and efficient hospital facilities. The object of this experimental scheme is to ascertain the most efficient administrative procedure for collection of contributions and payment of benefits; the costs and therewith the suitable rates of contribution and benefits; the most suitable administrative organs, with special reference to convenient co-ordination with the medical care service, and to the effective participation of insured persons and employers in the control of the scheme.[1] With this end in view, the Government of India, it seems, have selected the Centrally-administered areas of Delhi and Ajmer-Merwara, where a pilot survey is being made and the scheme will be introduced. The survey should include a study of the population to be insured, the industries to be covered and the existing medical facilities.

The second stage begins when the success of the experimental scheme in selected areas has prepared the ground for its extension to other industrialized areas of the country. At this stage, the Employees' State Insurance Scheme may be introduced in the States. However, before this step is taken, it is necessary to conduct detailed surveys for the collection of information regarding the conditions of work and living of persons to be insured, the morbidity and mortality statistics and the available medical facilities. It seems the Government of India are already collecting information in respect of existing medical facilities in all the States. It would be desirable, if up-to-date data about employment, wages and earnings, working conditions, welfare work, housing, accidents, systems of provident funds, gratuities and pensions, etc. are also collected, before the Employees' State Insurance. Scheme is introduced. Such data would prove highly useful both for correct actuarial calculations and efficient administration of the scheme. At the third stage the experimental scheme, if it has found satisfactory solutions for the many problems of detail that have been met with, is working smoothly and has elaborated complete regulations, forms and

[1] I.L.O., *Problems of Social Security*, p. 59.

an accounting system, may be made permanent.[1] At this stage, the Employees' State Insurance Scheme has to cover all factory employees and their families with a sound system of income security and medical services in respect of sickness, maternity and employment injury. These benefits may be extended to other classes of industrial employees and their dependents.

At the fourth stage, the problems of adding unemployment, invalidity and death not due to employment injury, and old age to the range of risks covered may be considered.[2] The addition of these new risks may complete a social insurance system. However, such an addition may be facilitated, if right from the beginning the several individual systems of workmen's compensation, maternity benefit, provident fund, gratuity, pensions and sickness funds are encouraged by developing them into the various branches of social insurance. These systems may not cover satisfactorily the risks in respect of which they provide benefits, but they are at least partially effective and they operate with a minimum of administrative machinery, and in any part of the country.[3] For these reasons, it is prudent to allow these systems to grow independently, till a rational system of social insurance is developed. When such a system develops out of the general social insurance scheme, such as the Employees' State Insurance Scheme, it can be supplimented by the amalgamation with it of the various existing, individual, social security systems. At this stage, the essential elements of both the methods, namely, development of social insurance by branches, and as a whole, may be usefully accepted.

The fifth and the last stage is the evolution from social insurance to social security. At this stage, the benefits offered by social insurance are to be supplemented by the benefits of social assistance, etc. such as family allowance, unemployment assistance, etc. Medical care, which has so far grown up as an adjunct to insurance against sickness, maternity, employment injury and invalidity, is now to be transformed into a comprehensive health service. The range of risks covered is widened and the protection granted to insured persons is extended to more and more classes of population, till at last adequate income security and comprehensive medical service are provided to all who are in need of them.

As has been noted in the previous section, the question of social security for peasants will have to be taken up separately, because their problems are different. For the independent cultivator, whether he rents or owns his holding, social security means first of all security against the loss of his crop or his livestock.[4] He needs some insurance against a climatic catastrophe or against disease-destroying plants or animals. Such disasters may no doubt be considerably mitigated by such schemes as agricultural

[1] I.L.O., *Problems of Social Security*, p. 67.
[2] ibid., p. 67. [3] ibid., p. 70. [4] ibid., p. 46.

engineering works, veterinary and weed and pest controls, famine relief measures like irrigation works and road construction, etc. The Chinese Social Relief and Assistance Act provides for setting up granaries, from which foodstuffs can be loaned to the poorer classes free of interest or at low rates of interest, subject to repayment at the next harvest. The best method, however, would be the development of an insurance scheme to cover the loss of crops and livestock. The social security Resolution, adopted by the Asian Regional Labour Conference (New Delhi, 1947), recommends: 'With a view to affording a larger measure of income security to cultivators, Governments should consider the possibility of organizing crop and cattle insurance schemes, either for the country as a whole or for those parts in which it may be possible to take immediate action.' Crop insurance is insurance against the risk of loss or deficiency in respect of periodical crops raised by the cultivators.[1]

(c) *Comprehensive Medical Service.* More than any other factor, the provision of medical care service may prove useful to bring about the evolution from social insurance to social security. Medical care forms an essential part of social insurance, in as much as it is to be provided to every insured contributor (and his dependents) in virtue of his contribution. The scope of this social insurance medical service is narrow, as it is generally meant for specific risks and for limited sections of the community. The medical care service to be provided under the Employees' State Insurance Act, for example, is restricted only to factory employees (and to their dependents, if it is extended to families of the insured employees), who would be entitled to receive medical benefit only of such kind and on such scale as may be provided by the States' Governments and the Corporation and would have no right to claim any medical treatment, except such as is provided by the dispensary, hospital, clinic or other institution to which they are allotted. Such insurance schemes lack qualities, essential for meeting the requirements of an effective medical care service: they fall short of universality in scope, do not provide unlimited care of every description available at any time, nor do they ensure a rational organization of such care, and its effective co-ordination, with general health services.[2] On the other hand, a medical care service, organized under a social security system, is comprehensive in character and unlimited in its availability. It meets the need of the individual member of the community for care by members of the medical and allied professions, and for such other facilities as are required at medical institutions with a view to restoring the individual's health, preventing the further development of disease and alleviating suffering, when he is afflicted by ill health (curative

[1] M. R Idgunji, *Social Insurance and India*, pp 321-5.

[2] I.L O , *Social Security : Principles and Problems arising out of the War*, Part I, p. 60.

care), and with a view to protecting and improving his health when it is threatened (medical care).[1]

(*d*) *Adequacy of Cash Benefit.* The aim of social insurance is to replace earnings lost by the insured person because of his inability to work or to obtain work. Cash benefits, which are paid for this purpose of *compensation*, are generally related to the previous earnings of the insured person on the basis of which he has contributed. The Employees' State Insurance Act fixes the sickness benefit and disablement and dependents' benefits normally at the rate of half of average daily wages. Judged from the principles mentioned above, this rate seems to be very low, as it is far below the average wages of the insured person. A compromise between the adequacy of benefit and the prevention of malingering or of discouragement to work would be to pay at the rate of 75 per cent of the wages. A still better way may be to fix flat rates and at the same time to grant adequate rates of cash benefits. Sir William Beveridge proposed the flat rate of benefit which 'is intended in itself to be sufficient without further resources to provide the minimum income needed for subsistence in all normal cases'.[2] For maternity benefit, the Employees' State Insurance Scheme lays down a flat rate, namely, 12 as. per day; and this seems to be adequate.

The aim of social security on the other hand is to provide subsistence benefit, to all who are in need. The social security Resolution of the Asian Regional Labour Conference recommends that in fixing the level of benefits, the aim should be to afford at least a minimum of subsistence. It is, however, not easy to fix a minimum subsistence rate. In India, wages of industrial employees are generally low and in many cases they are even below the subsistence level. Social insurance by itself may mitigate, but cannot cure, the evil of low wages.[3] The enforcement of the Minimum Wages Act may fix up minimum wage rates in some of the industries. These minimum rates of wages may be taken as the minimum rates of cash benefits to be paid under the social security schemes in India. The evolution from social insurance to social security may thus shift the emphasis in respect of cash benefits from the proportion of earnings to the provision of subsistence means.

(*e*) *Financing the Social Security System.* The cost of the social insurance scheme is shared by the insured persons and their employers, with or without financial assistance from the State. Of the various branches of social insurance, the cost of invalidity, old-age and survivors' benefits and unemployment benefit is

[1] I.L.O., *Social Security: Principles and Problems arising out of the War*, Part I, p. 61.

[2] Beveridge, *Report on Social Insurance and Allied Services*, para 307.

[3] I.L.O., *Social Security: Principles and Problems arising out of the War*, Part I, p. 22.

usually shared among insured persons and employers, while the cost of compensation for employment injuries is borne solely by the employers.[1] In meeting the cost of social insurance, reliance is mainly placed on the contributions of the insured persons and the pay-roll levies on the employers of these insured persons. The State is generally made responsible for the residual cost of social insurance, which is not met by the above two resources, and for such other elements as the deficit of contributions of persons brought into insurance late in life, the contingent liability involved in guaranteeing basic long-term benefits, adequate maternity benefit, and, in times of heavy unemployment, unemployment benefits, and subsidies to the insurance of persons of small means. On the whole, in India, the financial participation of the State in the social insurance schemes is appreciable, compared to the cost borne by the employers and their insured employees. Under the Employees' State Insurance Scheme, the financial assistance of the State is two-thirds of the administrative costs (to be borne by the Central Government for the first five years in the first instance) and probably also one-third cost of the medical-care services (to be borne by the States' Governments). These costs borne both by the Central and States Governments may come to about 20 per cent of the total costs of the scheme.[2] In the social security system, financial burden shifts from employees and employers to the State, because of the existence of social assistance, children's allowances, health services and such other measures, whose costs, it may not be possible for the insured persons to bear. The financial resources of the State come out of the general public revenues, i.e. through the taxes paid by the community. This fact has given birth to the idea that social security should be largely financed by revenues from general taxation, or, in other words, income security should be provided through income tax. Such an idea has been already brought into practical shape in New Zealand and Australia. In a social security system, substantial contributions from the general revenues seem to be inevitable, though pay-roll and wage taxes (i.e. contributions from employers and employees) must also be collected.

In India, the cost of the Employees' State Insurance Scheme would be borne mainly by insured employees and their employers, though the State also would bear about one-fifth of the costs. On the transformation of the social insurance scheme into a social security scheme, the financial participation of the State will increase and then it would be desirable to levy an income tax on the whole population to defray the cost of social security in part. At present, only a small fraction (about 0.6 per cent) of the total population would be benefited by the Employees' State Insurance

[1] I.L.O., *Social Security: Principles and Problems arising out of the War*, Part I, p. 31.

[2] See p. 195.

Scheme and hence the other classes would naturally resent paying for it.

(*f*) ***Administration.*** The Employees' State Insurance Scheme is being administered by an autonomous Corporation, on which are represented the Central and States' Governments, employees, employers, medical profession and members of the Indian Parliament. Because of the limited nature of the Scheme, the Corporation may not come across great administrative difficulties. However, when new classes of persons are added and new risks covered, administration may become complex. Again, social insurance, which is mainly the affair of insured employees and their employers, would be, in course of time, transformed into social security, which would be the responsibility of the State. The State control over administration would, therefore, go on increasing, till at last a Government Department, say a Ministry of Social Security, would administer the whole scheme in consultation with the Corporation which would act merely in an advisory capacity. This set-up of the social security administration would be more or less on the model of the Directorate General of Resettlement and Employment, which is a Government organization, with branches all over the country, and which works in consultation with the Central and Regional Employment Advisory Committees. These Committees consist of representatives of Government, employers, workers, Universities and women's organizations. The success of social security in any country depends on various factors such as the employment policy, wage levels, standard of living, utilization of human and natural resources, health services, etc. The State can be made primarily responsible for all these factors and consequently for the success of the social security system.

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