WELCOME TO THE SEMINAR ON

LABOUR CODE ON SOCIAL SECURITY

VIJAYAWADA

26.08.2019



Robert Owen

What ideas individuals may attach to the term "Millennium" I know not; but I know that society may be formed so as to exist without crime, without poverty, with health greatly improved, with little, if any misery, and with intelligence and happiness increased a hundredfold; and no obstacle whatsoever intervenes at this moment except ignorance to prevent such a state of society from becoming universal."

> - Robert Owen, 1.1.1816 when he opened the Institute for the Formation of Character.

The social security system of a country is

the symbol of civilisation.

The extent of its success depends upon the degree of maturity of the society as a whole.

The direct link

- between
- the conditions of labour
- and
- The peace and harmony of the world.

ILO Charter

Preamble of the Constitution of the International Labour Organisation

- Whereas universal and lasting peace can be established only if it is based upon social justice;
- And whereas conditions of labour exist involving such injustice hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled;
- and an improvement of those conditions is urgently required; as, for example, by the regulation of the hours of work including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organization of vocational and technical education and other measures;
- Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries;
- The High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, and with a view to attaining the objectives set forth in this Preamble, agree to the following Constitution of the International Labour Organization:

I CALL IT OPPORTUNITY, NOT EXPLOITATION!



Declaration of Philadelphia

1.Labour is not a commodity;

- Freedom of expression and association are essential to sustained progress;
- 3. Poverty anywhere constitutes a danger to prosperity anywhere;
- 4.All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.

Art. 41 of the Constitution

The State shall, within the limits of its economic capacity and development, make effective provision for securing public assistance in case of unemployment, old-age, sickness, disablement and other cases of undeserved wants.

Public Assistance a Constitutional responsibility

Private
Assistance?

- What is Art. 42?
- Why is it there in the Directive Principles?
- "The State shall make provision for securing just and humane conditions of work and for maternity relief."

SECOND NATIONAL LABOUR COMMISSION

- Terms of Reference:
- 1. Review the existing labour laws in the organised sector in the changing economic context and
- 2. suggest comprehensive legislation to ensure a minimum level of protection to workers in the unorganised sector.

- AITUC, CITU, HMS were not consulted about the terms of reference.
- Nor were they involved in the Commission's proceedings. Only the BMS and the INTUC were represented in the Commission.

• Will such a political party consider the case of the other Trade Unions and provide them a slot in the National Council, in the three seats?

SEC. 5 (2) OF UNORGANISED WORKERS SOCIAL SECURITY ACT, 2008 NATIONAL SOCIAL SECURITY BOARD FOR UNORGANISED WORKERS

- (c) thirty-four members to be nominated by the Central Government, out of whom—
 - (i) seven representing unorganised sector workers;
 - (ii) seven representing employers of unorganised sector;
 - (iii) seven representing eminent persons from civil society;
 - (iv) two representing members from Lok Sabha and one from Rajya Sabha;
- (v) five representing Central Government Ministries and Departments concerned;
 - (vi) five representing State Governments.
- (3) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.
- (4) The number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the National Board shall be such as may be prescribed:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.

- (5) The term of the National Board shall be three years.
- (6) The National Roard shall meet at least thrice a year at such time and place and

A CHOSC

Press Information Bureau Government of India Ministry of Labour & Employment

14-May-2012 16:19 IST

Social Security for Construction Workers

The Government has enacted the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction Workers' Welfare Cess Act, 1996 with a view to regulating the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures etc. Under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, every State Government has to constitute a State Building and Other Construction Workers Welfare Board. The functions of the Board include providing welfare and social security measure such as immediate assistance to a beneficiary in case of accident, payment of pension to the beneficiaries who have completed the age of 60 years, loan and advances for construction of house, paying amount in connection with premia for Group Insurance Scheme etc.

The Government has also enacted the Unorganized Workers' Social Security Act, 2008 for the social security and welfare of unorganized workers which includes building and other construction worker.

The responsibility of collecting cess and its utilization for welfare activities lies with the respective State Governments and State Building and Other Construction Workers Welfare Boards. The Central Government has been impressing upon the State Governments to implement the provisions of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction Workers' Welfare Cess Act, 1996 effectively. The Central Government has issued directions to all States/UTs under Section 60 of the Building and Other Construction Workers Regulation of Employment and Conditions of Service (RECS) Act, 1996 for proper Implementation of the Act.

This information was given by the Union Minister for Labour & Employment Shri Mallikarjun Kharge in reply to a written question in the Lok Sabha today.

Representation in supreme bodies

Sl. No.	Name of the Organisation	Supreme Body	No. of employers' and employees' representatives.
1	ESI Act, 1948	ESI Corporation	10 + 10
2	EPF Act, 1952	Central Board	10 + 10
3	UWSS Act, 2008	National Board	7 + 7
4	Gratuity Act, 1972		
5	Cine Workers Act, 1981 (Rule 3)	Central Advisory Committee	7 + 7
6	Mica Mines Labour Welfare Fund Act, 1946	Central Advisory Committee	6 + 6
7	Limestone and Dolomite Mines Labour Welfare Fund Act, 1972	Central Advisory Committee	6 + 6

Representation in supreme bodies

Sl. No.	Name of the Organisation	Supreme Body	No. of employers' and employees' representatives.
8	Iron Ore Mines, Manganese Ore Mines, Chrome Ore Mines Labour Welfare Fund Act, 1976	Central Advisory Committee	6 + 6
9	Beedi Workers Welfare Fund Act, 1976	Central Advisory Committee	7 + 7
10	Unorganised Workers Social Security Act, 2008	National Social Security Board	7 + 7
	Total Members representing all these categories of employees		66 + 66
23 August 2	No. of representatives proposed for the National Council under the Labour Code (Sec. 3.3)		3 + 3

Representation in National Council as per Labour Code on Social Security

Sl. No.	Name of the Organisation	Supreme Body	No. of employers' and employees' representatives.
	No. of representatives proposed for the National Council under the Labour Code (Sec. 3.3)	National Council	3 + 3
23 August 2	019		



CONTRIBUTION

- At present:
- ESIC = Employee 1.75% + Employer 4.75%
- EPFO = Employee 12% + Employer 12% + Administrative Charges = 0.65%

- Employers' total share = 17.4%
- (Now, the reduced ESI Contribution is, 0.75% and 3.25%. This is only for strategic reasons to deceive the people, without proper Actuarial calculations).

- Proposed (Labour Code Sec. 20.1):
- State Social Security Fund Centre to notify (not exceeding)
 Employers' Share = 17.5%
- (Sec. 20.2):
- State Gratuity Fund Employers' Share = 2%
- Administrative Charges = (will be specified by National Council u/S 165(2) (xxvi)
- Employers' total share = 19.5% + Administrative Charges

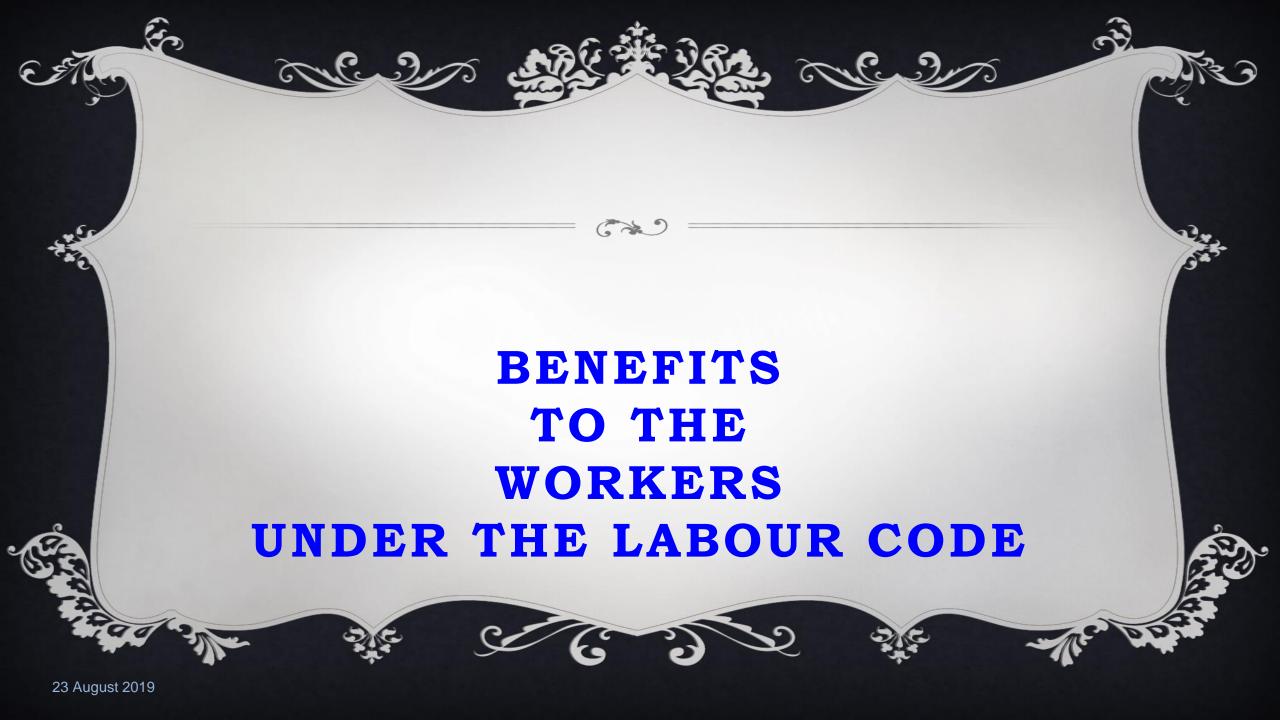
EMPLOYEES' CONTRIBUTION

At present:

Proposed (Labour Code Sec. 20.3):

• Employees' total share = 13.75%

- Employees' total share = 12.5%
- Self Employed = 20%



BENEFIT

- Maternity Benefit = Sec. 53-60.
- Disablement Benefit = Sec. 60A-77.
- Dependent Benefit = Sec. 60A-77
- Sickness Benefit = Sec. 78-82.
- Medical Benefit = Sec. 83-87.



Maternity Benefit



MATERNITY BENEFIT

- Subscription compulsory 54.5 –
- Should have actually worked for a period of not less than 80 days in the twelve months preceding the date of expected confinement. (55.2)
- Period 26 weeks (less than 2 surviving children) 12 weeks in other cases.
- For, Adopting mother and Commissioning mother 12 weeks.
- Rate of Benefit: (57).
- At the rate.?N
- Benefit Wage = Amount of wages deemed to be payable for a month's service (Sec. 2.12).

BENEFIT WAGE

- Employee in service for a continuous period of not less than 12 months Preceding 12 months wages ÷ 12
- In service for a period of less than 1 month = ? (2.12. (b).
- In service for more than 1 month but less than 12 months = 30 x Total wages earned in respect of the last continuous period of service ÷ No. of days comprising such period. (?)
- When not possible to calculate the monthly wages for want of necessary information = Such rate as stipulated for various classes of employment.

Maternity Benefit

under the ESI Act, 1948

- Wages Rs. 5000 p.m.
- Standard Benefit Rate Rs. 163.93
- Maternity Benefit = SBR
- Cash Benefit for 84 days initially.
- Can be extended for another 30 days in case of sickness due to pregnancy or confinement.
- One month $MB = 164 \times 30 = 4920$

Maternity Benefit under Labour Code

- Subscription compulsory
- 54.5
- Subscription to the Maternity Benefit Scheme shall be compulsory for every worker covered under sub-section (2), irrespective of his or her entitlement, gender, ability or intention to avail the benefits of Maternity Benefit Scheme.



DEPENDENTS BENEFIT

• Employment Injury that is fatal = 50% of the Benefit Wage (Sec. 63.1)

•ESIC, at present provides 90% of the Standard Benefit Rate.

SEC. 63.(1) (A) OF THE LABOUR CODE

63.	Amount of Compensation and interest thereupon		
63.1.	Subject to the provisions of this Chapter, the amount of compensation		
	shall be as specified in the following table, namely :-		
	(a) where death (a) an amount equal to fifty per cent of		
	results from the	the benefit wage wages of the deceased	
	injury person multiplied by the relevant factor, or		
		(b) such amount as may be prescribed,	
		whichever is more;	
	(b) where nermanent	 an amount equal to sixty per cent of 	

RULE 58 (2) OF THE ESI (CENTRAL) RULES, 1950

(2) The daily rate of dependant's benefit shall be ninety per cent. of the standard benefit rate in the contribution period corresponding to the benefit period in which the employment injury occurs :

Provided that where an employment injury occurs before the commencement of the first benefit period in respect of a person, the daily rate of dependants' benefit shall be —

- (i) where a person sustains employment injury after the expiry of the first wage period in the contribution period in which the injury occurs, ninety per cent. of his average daily wages during that wage period, rounded to the next higher rupee;
- (ii) where a person sustains employment injury before the expiry of the first wage period in the contribution period in which the injury occurs, ninety per cent. of wages actually earned or which would have been earned had he worked for a full day on the date of accident, rounded to the next higher rupee.

- Rule 2 (7-A) of the ESI (Central Rules) 1950, adds that **standard benefit rate** means average daily wages obtained by dividing the total wages paid during the contribution period by the number of days for which these wages were paid.
- This works out approximately to 90% of th wages of the deceased employee or, in certain cases, more than that amount.

- Even in the year 1952, the Dependant's Benefit was about 70 % of the wages.
- The Sickness benefit itself was about 55% of the wages, then.
- So, reducing the quantum of Dependant's benefit to 50% of the wages does not show that the intention of the Code-makers is to improve the standard of living of the workforce.
- This is patently unfair, unjust and unlawful.
- It is worth-comparing, in the context, that even the Sickness Benefit is 70% of the Standard Benefit Rate under the ESI Scheme, at present.

Dependants Benefit

under the ESI Act, 1948

Wages Rs. 5000 p.m.

If the employment injury is a fatal one,

Monthly payment to his family members Rs. 4440 is apportioned among wife and children.

23 August 2019 •

COMPENSATION FOR FATAL ACCIDENTS UNDER THE WC ACT, 1923 (NOW EC ACT)

4. Amount of compensation

(1) Subject to the provisions of this Act the amount of compensation shall be as follows namely :-

where death results from the injury an amount equal to fifty per cent of the monthly wages of the deceased workman multiplied by the relevant factor; or an amount of fifty thousand rupees whichever is more; where permanent total disablement results from the injury an amount equal to sixty per cent of the monthly wages of the injured workman multiplied by the relevant factor; or an amount of sixty thousand rupees whichever is more.



PERMANENT DISABLEMENT BENEFIT

• Sec. 63.1 (b) of the Labour Code:

(b) where permanent total disablement results from the injury an amount equal to sixty per cent of the benefit wage of the injured person multiplied by the relevant factor; or ii. such amount as may be prescribed,, whichever is more.

RULE 57 (3) OF THE ESI (CENTRAL) RULES, 1950

(3) The daily rate of disablement benefit shall be ninety per cent. of the standard benefit rate in the contribution period corresponding to the benefit period in which the employment injury occurs, rounded to the next higher rupee:

Permanent Disablement Benefit

under the ESI Act, 1948

Wages Rs. 5000 p.m.

If disabled permanently

Monthly payment as per the percentage of loss of earning capacity.

If it is 50%, then the monthly payment is 50% of Rs. 4440.

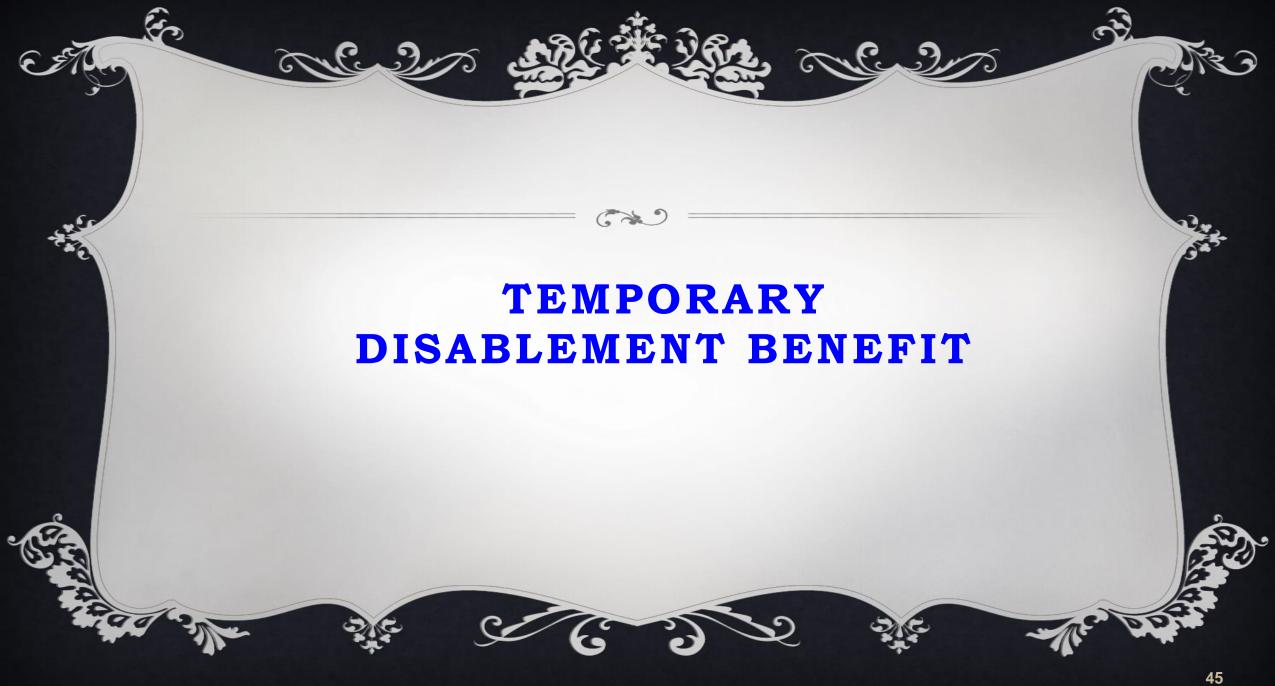
63.1 (B) (I) & 63.1 (B) (II) OF THE LABOUR CODE

- Quantum of Permanent Total Disablement Benefit has been reduced in the Labour Code, when compared with what is available now under the ESI Act, 1948.
- When the ESI Act provides almost 90 % of the wages as the benefit for Permanent Total Disablement Benefit and Temporary Total Disablement as per Sec.57 (4) of the ESI Act, 1948, the benefit proposed to be provided under Sec. 63.1 (b) & (d) of the Code is 60 % and 50% of the benefit wage, respectively, which is far less than what is provided under the ESI Act at present

•Such a reduction in benefit shows that the proposed Labour Code is not for improving the lot of working population.

SEC. 4 (C) OF THE W.C. ACT, 1923

(c) where permanent partial disablement results from the injury in the case of an injury specified in Part II of Schedule I 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 lass of earning capacity caused by that injury; and in the case of an injury specified in Schedule I such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury;



Temporary Disablement Benefit

under the ESI Act, 1948

- Wages Rs. 5000 p.m.
- Any number of days x Rs.148 per day
- If disbabled for 30 days148x30=4440.



51-B OF THE ESI ACT. (ABSENT IN THE LABOUR CODE)

- 51-B. Accidents happening while acting in breach of regulations, etc. An accident shall be deemed to arise out of and in the course of an employee's employment not withstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if —
- (a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and
- (b) the act is done for the purpose of and in connection with the employer's trade or business.

51-C OF THE ESI ACT. (ABSENT IN THE LABOUR CODE)

- 51-C. Accidents happening while travelling in employer's transport. (1) An accident happening while an employee is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if —
- (a) the accident would have been deemed so to have arisen had he been under such obligation; and
- (b) at the time of the accident, the vehicle —
- (i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and
- (ii) is not being operated in the ordinary course of public transport service.
- (2) In this section vehicle II includes a vessel and an aircraft

51-D OF THE ESI ACT.

(ABSENT IN THE LABOUR CODE)

• 51-D. Accidents happening while meeting emergency. — An accident happening to an employee in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of his employment, if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperiled, or to avert or minimize serious damage to property.

51-E OF THE ESI ACT.

(ABSENT IN THE LABOUR CODE)

• 51-E. Accidents happening while commuting to the place of work and vice versa. — An accident occuring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occured and the employment is established.



SICKNESS BENEFIT IN LABOUR CODE

- Rate of SB,
- No. of days of SB,
- Conditions to become eligible for SB,
- Qualification to claim SB,
- All, left to be decided by Subordinate Legislation called
- Sickness Benefit Scheme.

• The Sickness Benefit is 70% of the Standard Benefit Rate under the ESI Scheme, at present.

Sickness Benefit

under the ESI Act, 1948

- Wages Rs. 5000 p.m.
- Standard Benefit Rate
- Divide the total wages paid during the contribution period by the number of days for which these wages were paid
- **30000/183=163.93**
- □ Sickness Benefit = Rs. 163.93x70%
- □ One month sickness Benefit payable is = Rs.
 115x30=3450

SEC. 78.1

- Recognised medical practitioner
- any
- Registered medical practitioner
- Authorised medical practitioner

SEC. 55 (2) OF THE ESI (CENTRAL) RULES, 1950

Provided further that sickness benefits shall not be paid to any person for more than ninety-one days in any two consecutive benefit periods.

(2) The daily rate of sickness benefit in respect of a person during any benefit period shall be seventy per cent. of the standard benefit rate of that person during the corresponding contribution period rounded to the next higher rupee.

REG. 103 – A OF THE ESI (GENERAL) REGULATIONS, 1950

• 103-A (1): Medical benefit after contribution ceases to be payable.

 A person on becoming an insured person for the first time shall be entitled to medical benefit for a period of 3 months provided that where such a person continues for 3 months or more to be an employee of a factory or establishment to which the Act applies, he shall be entitled to medical benefit till the beginning of the corresponding benefit period.

Labour code -



 Reg. 103-A (2) The person in respect of whom contributions have been paid in a contribution period for not less than seventy-eight days in the said contribution period shall be entitled to medical benefit till the end of the corresponding benefit period:

Labour (



 Reg. 103-A (2) -Provided that in case of a person who becomes an employee within the meaning of the Act, for the first time, and for whom a shorter contribution period of less than 156 days is available, he shall be entitled to medical benefit till the end of the corresponding benefit period if the contributions in respect of him were payable for not less than half the number of days available for working in such contribution period

• Labour Code: Silent



EXTENDED SICKNESS BENEFIT

Reg. 103-A (2)- Provided further that where a person suffering from any of the
following diseases, before the commencement of the spell of sickness in
which any such disease was diagnosed being in continuous service for a
period of two years or more or where he did not have two years" continuous
service but by virtue of relaxation granted by the authority competent in this
behalf, the insured person qualifies to claim extended sickness benefit, he
shall be entitled to medical benefit till the end of the relevant extended
benefit period:

I. INFECTITIOUS DISEASES

- Tuberculosis
- Leprosy
- Chronic Empyema
- 4. Bronchiatesis
- Intersitial Lung Disease
- A.I.D.S.

II. NEOPLASMS

Malignant Diseases

III. ENDOCRINE NUTRITIONAL AND METABOLIC DISORDERS

Diabetes Mellitus with proliferative retinopathy/diabetic foot/nephropathy.

IV. DISORDERS OF NERVOUS SYSTEM

- Monoplegia
- Hemiplegia
- Paraplegia
- 12. Hemiparesis
- 13. Intracranial Space Occupying Lesion
- 14. Parkinson's disease
- 15. Spinal Cord Compression
- 16. Myaesthenia Gravis/Neuromuscular Dystrophies

V. DISEASES OF EYE

- 17. Immature Cataract with vision 6/60 or less
- Detachment of Retina
- Glaucoma

VI. DISEASES OF CARDIOVASCULAR SYSTEM

- 20. Coronary Artery Disease
 - (a) Unstable Angina
 - (b) Myocardial infarction with ejection less than 45%
- 21. Congestive Heart Failure

Left Right

- 22. Cardiac Valvular Diseases with Failure/complications
- Cardiomyopathies
- 24. Heart Disease with Surgical intervention along with complications.

VII. CHEST DISEASES

25. Chronic Obstructive Lung Disease (COPD) with congestive heart failure (Cor Pulmonale)

VIII. DISEASES OF THE DIGESTIVE SYSTEM

Cirrhosis of liver with ascities/chronic active hepatitis

IX. ORTHOPAEDIC DISEASES

- Dislocation of vertebra/prolapse of intervertabral disc.
- Non union or delayed union of fracture
- Post Traumatic Surgical amputation of lower extremity
- Compound fracture with chronic Osteomyelitis.

X. PSYCHOSIS

- Sub groups under this are listed for clarification
 - (a) Schizophrenia
 - (b) Endogeneous depression
 - (c) Manic Depressive psychosis (MDF)
 - (d) Dementia

XI. OTHERS

- More than 20% burns with infection/complication
- 33. Chronic Renal Failure
- Reynaud's diseases/Burger's disease.

Extended Sickness Benefit

under the ESI Act, 1948

- 34 diseases
- Wages Rs. 5000 p.m.
- S.B= 115.00x91=10465.00
- **309** days x Rs. 132 per day (163.93 x 80%)
- **330 days x Rs. 132 per day**
- Total 730 days
- Eligibility: On payment of contribution for 183 days in preceding four contribution periods and is eligible for SB in one period at least.

Labour Code on such Extended Sickness Benefit:





Enhanced sickness Benefit

under the ESI Act, 1948

to promote family welfare.
7 days for men

14 days for women

Benefit paid is equivalent to the wages

Assuming the extra social responsibility of
the State

But, the proposed Labour Code is silent on Enhanced Sickness Benefit. Apparently, because it does not want the profit earning scope of private players to be affected.

Even the concept of Corporate Social Responsibility is facilitated by the framers of the Code to be given a go-by.





MEDICAL BENEFIT

It is admissible from the first day of insurable employment.

To the Insured Person and his family members.

Universal Declaration of Human Rights

All human beings are born free and equal in dignity and rights.

They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

-Article 1

Universal Declaration of Human Rights

Everyone, as a member of society, has the right to social security

-Article 22

POLITICAL FUNDING AND BRIBE VS. WAGES

Bill for Improving Safety and Health of Workers

The Ministry of Labour and Employment today introduced Factories (Amendment) Bill, 2014 in Lok Sabha.

The amendment of the Factories Act aims to ensure improvement and safety and health of workers working in factories.

The bill will provide permission for employment of women for night work in a factory or group or class or description of factories with adequate safeguards for safety and provision of transportation upto their residence. It will enhance the limit of overtime hours from the present limit of 50 hours per quarter to 100 hours per quarter.

The amendments will make provision of personal protective equipment for workers exposed to various hazards and regarding entry into confined spaces and precautions against dangerous fumes, gases etc. and will empower the Central Government also to make rules under the Act on some important provisions.

Other main features of the proposed Amendments are as follows:-

- Reduction in the eligibility criteria for entitlement of annual leave with wages from 240 days to 90 days.
- Provision of canteen facilities for factories employing 200 or more workers instead of the present stipulation of 250 workers and also provision of shelters or restrooms and lunchrooms for factories employing 75 or more workers instead of the present stipulation of 150 workers.
- Amendment of Section 66 of the Act relating to permission for employment of women for night work at a factory or group or class or description of factories with adequate safeguards for safety and provision of transportation upto their residence.
- iv. Prohibition of employment of pregnant women and persons with disabilities on or near machinery in motion and near cotton openers.
- The amendment also proposes to further increase the limit of overtime hours to a maximum of 125 hours per quarter in public interest with the approval of the State Government.
- The provision of self-certification has been introduced for the purpose of expansion of the factory through amendment in Section 6.
- half hours to 12 hours through notification in the Official Gazette.

Provision of empowering the State Government to increase the period of spread-over from 10 and

SADISTIC BUREAUCRATS AND THE NOMENCLATURE

23 Augustist, 201 Introduction of new terms like "hazardous substance" and "disability" to existing definitions.

Flourishing ESIC

HOME ABOUT INVITATION NEXT POST POWERPOINTS



← The extent of 'Confiscation' around the world!

The Gulbarga Extravaganza! Frittering away the Insured Persons' money!! →

APRIL 22, 2015 · 1:03 AM | EDIT

↓ Jump to Comments

Warning from Mr. Robert Reich! Will we save the workforce from 'hell'?

Readers may please recall the attempt of the present day rulers to bring in a legislation titled "The Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014", to facilitate the rich businessmen to exploit the working population with immunity and impunity. The details have been provided in the Post in the following link:

https://flourishingesic.info/2014/11/04/828/

Now, Mr. Robert Reich, former Secretary of Labour to the Government of the



Recent Posts

 Labour Code: Whittling down accidents covered by the ESI Act, 1948! Providing subsidy to employers!!

Search

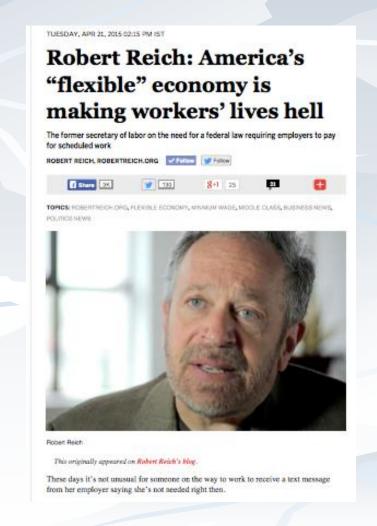
- Labour Code: The fine art of poorbashing! - Part 1
- Labour Code: Plea for publicising Draft Rules, Regulations, Schemes & License!
- Labour Code: The term "Substantial" left out of exemption provisions!
- Labour Code: Letter No. 7 Drastic reduction in DB, PDB & TDB!

Just-in-time-scheduling

• Just-in-time scheduling is another part of America's new "flexible" economy

- Robert Reich

Just-in-time scheduling



• "Organisations must have the **flexibility** to adjust the number of this workforce based on economic efficiency"

- Second National Commission of Labour

Passing urine for the third time? Fine Rs. 20!

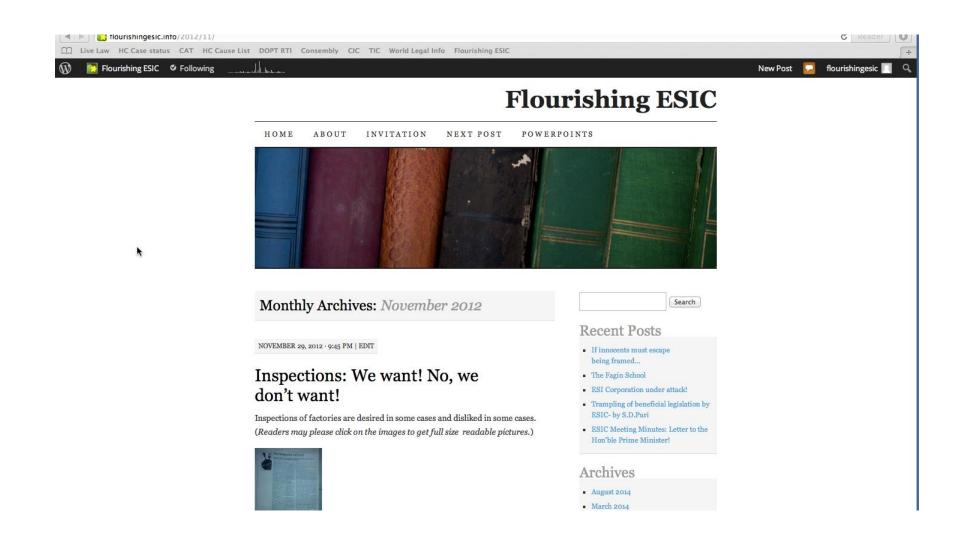




The purpose of inspection divisions of the ESI Corporation is to ensure

*that no person who should be provided security-net under the ESI Act, 1948 is left uncovered and

*that no amount of wages paid to him is left by the employer for calculating the amount of contribution.



Germany Vs. India



Otto von Bismarck

Choice is ours

Social Securityor

Social unrest

SECOND NATIONAL LABOUR COMMISSION

- Terms of Reference:
- 1. Review the existing labour laws in the organised sector in the changing economic context and
- 2. suggest comprehensive legislation to ensure a minimum level of protection to workers in the unorganised sector.

- AITUC, CITU, HMS were not consulted about the terms of reference.
- Nor were they involved in the Commission's proceedings. Only the BMS and the INTUC were represented in the Commission.

• Will such a political party consider the case of the other Trade Unions and provide them a slot in the National Council, in the three seats?

ESIC – The benefactor par-excellence

"The package (of benefits provided by the ESIC) can rarely be matched by private employers on their own because of the heavy costs involved – not to mention the disinclination among employers, with honorable exceptions, to operate health care systems for their workforce"

- The Hindu (1.1.2005).

23/08/2019

India has not done enough in social security space: ILO report

- GENEVA: India has performed poorly in providing social security protection to its people until recently with "very high vulnerability" to poverty and informal labour practices in the world, according to a report released by the International Labour Office (ILO) today, 16.11.2010, Times of India.
- In its first comprehensive 'World Social Security Report', the ILO has suggested that India has not done enough in the arena of social security protection, which is reckoned as the "human face of globalisation, in line with its fiscal status".

The Pioneer 09.03.2019

"The International Social Security Association, Geneva's report in 2012 on BRICS counties revealed that India has a very weak social security policy in comparison to Brazil, China, Russia and South Africa which have adopted international standards covering important areas such sickness, maternity, old age, family, invalidity, unemployment, employment injury and death. The Allianz Global investor's Pension Sustainability Index 2014 says India has one of the world's weakest pension systems."

Law Commission on W.C. Act, 1923

It is an oft-repeated slogan: "The cost of the product should bear the blood of the workman."

This objective may not have been realised fully. But it gives us, in striking language, a clue to the governing principle of the Act, and its socio-economic importance.

Social insurance.

1.10. In fact, the idea of social security has been carried much further by the scheme of compulsory insurance introduced by the Employees State Insurance Act¹, but we are not concerned with that Act at the moment. What we should emphasise is the essential connection of the Workmen's Compensation Act with social security and social insurance.

Effect of Employees' State Insurance Act. 1.11. After the passing of the Employees' State Insurance Act², the area of application of the Workmen's Compensation Act has diminished, to a certain extent. But the Employees' State Insurance Act applies only to (i) factories, and (ii) notified establishments, and in the rest of the cases the Workmen's Compensation Act still holds the field.

THE HUFFINGTON POST

IN ASSOCIATION WITH THE TIMES OF INDIA GROUP

Featuring fresh takes and real-time analysis from HuffPost's signature lineup of contributors



Amol Sarva Become a fan

Startup founder, building builder, ex-philosopher.

Why Germans Work Fewer Hours But Produce More: A Study In Culture

Posted: 18/11/2014 23:02 IST Updated: 18/01/2015 16:29 IST

The Standard Vacuum Refining Co.of India Ltd.Vs. Workmen

Contract labour

should not be employed where:

- (a) The work is perennial and must go on from day to day;
- (b) The work is incidental to and necessary for the work of the factory;
- (c) The work is sufficient to employ considerable number of whole time workmen; and
- (d) The work is being done in most concerns through regular workmen.

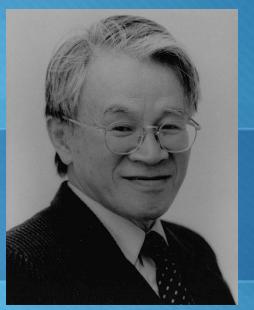
CLRA ACT,

STATEMENT OF OBJECTS AND REASONS

abolition has been under the consideration of Government for a long time. In the Second Five Year Plan, the Planning Commission made certain recommendations, namely, undertaking of studies to ascertain the extent of the problem, of contract labour, progressive abolition of the system and improvement of service conditions of contract labour where abolition was not possible. The matter was discussed at various meetings of Tripartite Committee at which the State Governments were also represented and the general consensus of opinion was that the system should be abolished wherever possible and practicable and that in cases where this system could not be abolished altogether, the working conditions of the contract labour should be regulated so as so ensure payment of wages and provision of essential amenities.

The proposed Bill aims at the abolition of contract labour in respect of such categories as may be notified by the appropriate government in the light of certain criteria that have been laid down, and at regulating the service conditions of contract labour where abolition is not possible. The Bill provides for the setting up of Advisory Boards of a tripartite character, representing various interests, to advise the Central and State Government in administering the legislation and registration of

Why has Japan succeeded?



Prof. Michio Morishima emphasises the importance of the role played in the creation of Japanese capitalism by ethical doctrines as transformed under Japanese conditions, especially the Japanese Confucian tradition of complete loyalty to the firm and to the State.

Why has Japan 'succeeded'?

Western technology and the Japanese ethos

MICHIO MORISHIMA



IMPERIALISM, HEALTH & MEDICINE, edited by Vincente Navarro. London, Pluto Press, 1982. 285 pp. \$9.95 (paper)

This is a book whose rationale for publishing is unclear. It is a collection of articles on the theme of the relationship between imperialism, health and medicine, put together by Navarro with minimal editorial comment. All the articles have appeared previously in the *International Journal of Health Services* and are directly reprinted down to the same format and typeface. If it is designed to be a guide to researchers and others interested in the field, then the excellent reputation of the Journal and its relative availability would appear to ensure familiarity with the contents, certainly enough so as not to justify its publication for that purpose. If on the other hand its rationale is to be used as teaching material then its relatively specialised contents and availability of the readings elsewhere would make its adoption unlikely given the difficult economic circumstances of many students. Perhaps where the journal was not available would be the major market.

Which is not to detract in any way from the contents of course. In so far as the papers have a unified theme they examine what has come to be called "the underdevelopment of health", the vastly disproportionate burden of death and disease borne by third world countries. The papers argue in one form or another that poverty and ill health in third world countries is to be explained not by overpopulation as conventional explanations would have us believe. Rather it is caused by the penetration and expansion of capitalism throughout the world, the major feature of which is the imperialist relationship between the developed and underdeveloped countries.

The specific topics examined to support this argument vary but include population control, food aid, the ideological consequence of western medicine, the export of hazardous industries and unhealthy commodities to the third world, the breast feeding infant formula debate and the role of pharmaceutical industry in the third world. The papers inevitably are uneven, some more speculative than others. Together however they strongly and effectively make the point that disease and health are indissolubly individual and social phenomena, as much political as biological and that the search for solutions to massive problems of ill-health in individualist measures such as population control falsely separates health from the whole political and economic context of both the society and the broader capitalist world system.

Department of Anthropology & Sociology Monash University **EVAN WILLIS**

Hazarduos
industries and
unhealthy
commodities to
the third world

Not population
But
Uncontrolled
Capitalism



When the State did not provide Security-Net...

- R. Natarajan

elieve it or not! Exactly 200 vears ago, a factory in Britain metamorphosed into a tourist spot "attracting both the rich and famous as well as thousands of curious sightseers every year". Reason? An employer who acquired a factory in the year 1799, paid fair wages to the employees, employed no child under ten, arranged for free medical services, built workers' housing at moderate rents. established schools for children and adults and provided recreational facilities. Soon, it became famous throughout Britain and were considered as "a

But, the interim period saw heart-rending incidents in the industrial arena all over the world. No compensation was paid to the employees for the injury sustained by them during the course of employment except when the accidents had occurred due to the carelessness on the part of the employer. The general tendency of the employers was to deny their role and responsibility in all the accident cases. Whenever a worker had sustained injury, there was no option for him to receive compensation from his employer except to file a tort lawsuit and

agreements, assumed that workers willingly accepted the possibility of injury.

 Common employment which absolved employers from injuries caused through the error or omission of fellowworkers 'in common employment'.

Commoners in England chose to sit and suffer injustice in silence than to stand up and fight against in the costly courts. The money power of the employers and the cleverness of the dishonest lawyers

Samuel Gompers

President of the American Federation of Labor between 1886 and 1924

"When a dominating class wants to keep a subject class under its control, what better way to distract it than to keep it fighting amongst itself. If a subject class is kept busy fighting each other as individuals and trying to gain small advantages or favouritism over each other, it will be all the easier to keep them in check. A subject class which is divided on the basis of arbitrary and superficial differences such as sex, race or nationality will always remain subject"



The Constitution of the ILO was drafted between January and April, 1919, by the Labour Commission set up by the Peace Conference, which first met in Paris and then in Versailles. The Commission was chaired by Samuel Gompers.

Second National Labour Commission Report

REPORT OF THE NATIONAL COMMISSION ON LABOUR

C.K. Saji Narayanan, Advocate, Member 2nd National Commission on Labour.

Note of Dissent on Chapter on Review of laws

Leisure is a basic necessity

Leisure, rather than being a right, is a basic necessity of human beings. In the name of work culture you cannot expect workers to be workaholic. Law cannot and should not compel workers to be workaholic by over work. We cannot expect our workers to have psychological abnormality

Less over time and spread over

Hence I request the Commission to recommend that-

- Maximum of 8 hours daily working to be made uniform especially in many of the central statutes.
- For industrial establishments weekly hours should be reduced from 48 hours to 40 hours a
 week and for commercial establishments from 48 hours to 36 1/2 to 40 hours a week.
- Interval of rest shall be one hour.
- Maximum spread over, overtime work etc. should not be changed adversely to the workers.
- A new branch of ergonomics is to be introduced in labour laws, especially with regard to the newly developing I T industry. In order to reduce stress and strain, and to generate more employment it is necessary to reduce working hours.

"Health is one area in which the public sector consistently does a better job than the private sector at controlling costs"

> -Paul Krugman Nobel Prize winner (The Hindu – 14.6.2011)





Home » Money

Last Modified: Wed, Oct 14 2015. 08 44 PM IST

Richest 1% own 53% of India's wealth

According to Credit Suisse, India's wealth increased by \$2.284 trillion between 2000 and 2015. Of this rise, the richest 1% has hogged 61%















Subscribe to our newsletter.

Manas Chakravarty





SHARE OF RICHEST 1% IN COUNTRY'S WEALTH

100

SHARE OF RICHEST 10% IN COUNTRY'S WEALTH

100



Top 1% of India's richest now own over 50% of country's wealth: Credit Suisse



hindustantimes

Bonded labourers, sex workers, forced beggars: India leads world in slavery

Faizan Haider, Hindustan Times, New Delhi | Updated: May 31, 2016 08:25 IST



The wealthiest nations do not have the healthiest people;

instead,
it is countries with
the smallest economic gap
between the rich and poor.

(Mark Bourrie – Inter Press Service -23.7.1999).



 "The political costs of inequality are recognized and accepted as being too high. The economic costs of fighting the effects are also high... For each dollar spent on poverty causes, seven dollars were saved on consequences."

 The ESI Act, as things stand at present, provides solution precisely to this problem.

What should be objective of a nation?

- Top in the list of GDP.
- Top in the list of Percapita income.
- Top in the list of possession of nuclear arms.
- Top in the list of number of billionaires.
- Top in the list of Human Development Index.
- Top In the Isit of Global Prosperity Index.

Human Development Index

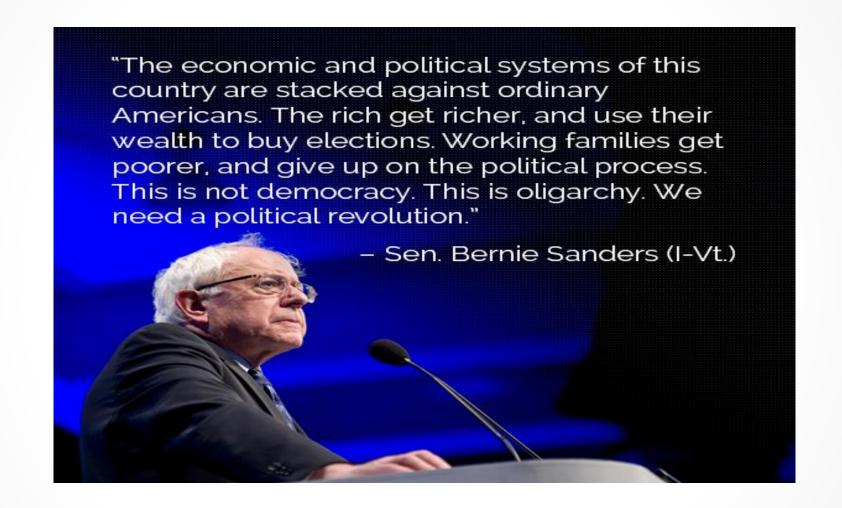
Top Scandinavian countries.

- India 130 /188
- Human development is defined as the process of enlarging people's freedoms and
 opportunities and improving their well-being. Human development is about the real freedom
 ordinary people have to decide who to be, what to do and how to live.



Global Prosperity Index

- India ranked 99 out of 142 countries on a prosperity index.
- The rankings, produced by a London-based think tank, the Legatum Institute, gauge the
 prosperity of a nation by combining economic indicators, including gross domestic product,
 with dozens of other measures of wellbeing, from access to education and health to the living
 environment for ethnic minorities.
- The index is based on the logic that "prosperity is more than just the accumulation of material wealth".
- In this year's rankings, Norway topped the list for the seventh consecutive year, followed by Switzerland, Denmark and New Zealand.



Has to be run only by Governments

The ESI Scheme in India which collects only 1.75% of wages as Employees Contribution is still viable for almost 6 decades without any assistance from Central Government, only because it is compulsory and also because the **field of dispersal of benefit load is larger**. This is in sharp contrast to the position obtaining in smaller countries where the employees contribution is much more, ranging from 27 to 73%.

High Court of Madras

[Chandramathi Vs. ESIC - 2003 (4) LLN. 1143]

- "The object of the legislation is to protect the weaker section with a view to do social justice"
- But the Labour Code is meddling with weaker sections only.

High Court of Madras

[C. Indira Vs. Senthil & Co – 2009 (2) LLN 302]

• "The object of the Act is to provide certain benefits to the employees or dependants in case of sickness, maternity and employment injury, etc., to give effect to Art. 1 of the Universal Declaration of Human Rights, 1948, which assures human sensitivity of moral responsibility of every State that all human beings are born free and equal in dignity and rights".

ESIC renders

Distributive Justice

Supreme Court of India

Samatha Vs. State of Andhra Pradesh (1997) 8 SCC 191 (Para 75)

• "The core constitutional objective of 'social and economic democracy' in other words, just social order, cannot be established without removing the inequalities in income and making endeavour to eliminate inequalities in status through the rule of law. The mandate for social and economic retransformation requires that the material resources or their ownership and control should be so **distributed** as to subserve the common good.

Contd.

Supreme Court of India

Samatha Vs. State of Andhra Pradesh (1997) 8 SCC 191 (Para 75 Contd.)

• A new social order, therefore, would emerge, out of the old unequal or hierarchical social order. The legislative or executive measures, therefore, should be necessary for the reconstruction of the unequal social order by corrective and **distributive justice** through the rule of law"

Universal Declaration of Human Rights

Preamble

- Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
- Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,
- Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,
- Whereas it is essential to promote the development of friendly relations between nations,
- Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,
- Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,
- Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,
- Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

- Whereas recognition of the inherent **dignity** and of the equal and inalienable rights of all members of the human family is the foundation of freedom, **justice** and **peace** in the world,
- Whereas disregard and contempt for human rights
 have resulted in barbarous acts which have
 outraged the conscience of mankind, and the advent
 of a world in which human beings shall enjoy
 freedom of speech and belief and freedom from fear
 and want has been proclaimed as the highest
 aspiration of the common people,
- Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to **rebellion** against tyranny and oppression, that human rights should be protected by **the rule of law**,

Civil Service, Political set up & Moral standards of the society

 Responsibility of thinkers, leaders and individuals.

சான்றோரும் உண்டுகொல்?



There is a definite role for

You!

"I am only one; but still I am one.

I cannot do everything, but still I can do something.

I will not refuse to do something I can do."

Helen Keller



23-Aug-19