

# Quo Vadis India, on Labour Welfare?

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## Part I What others have done

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“Whereas universal and lasting peace can be established only if it is based upon **social justice**....”

-ILO Charter of 1919

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Believe it or not! Exactly 220 years 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 was considered as “a veritable workers' paradise.” Factory Acts were introduced to protect working people from employers who permitted dangerous practices in workplaces. The first Acts of 1809 and 1823 failed to include effective enforcement clauses.



Robert Owen

In the 1820s, income levels for most workers began to improve, and people adjusted to the different circumstances and conditions. By that time, Britain had changed forever. The economy was expanding at a rate that was more than twice the pace at which it had grown before the Industrial Revolution. Although vast differences existed between the rich and the poor, most of the population enjoyed some of the fruits of economic growth. The widespread poverty and constant threat of mass starvation that had haunted the preindustrial age lessened in industrial Britain.

Yet, there was the other side. [In the sphere of Employment](#), “Many parents were willing to allow their children to work in these new textile factories because they needed the extra money for their farm life. However, more workers were still needed. One solution to the problem was to obtain children from orphanages and workhouses. These children became known as pauper apprentices. This involved those signing contracts that virtually made them the property of the factory and the factory owner. Children were expected to work from as young as four years old. Most child factory workers were orphans and had no other choice. Children usually weren't paid as much as grown men were. Their salaries usually came out to be one-third of the typical wage.

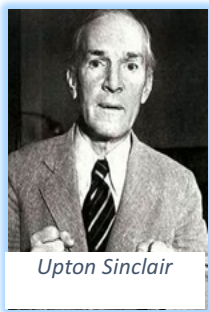
There are some accounts of children being paid \$0.25 per day for delivering newspapers. Also, some of these children died from the hard work.”

In the sphere of Punishments, “Children were sometimes hit with a strap to make them work faster. In some factories, children were dipped headfirst into the water cistern if they became drowsy. Children were also punished for arriving late for work and for talking to the other children. Apprentices who ran away from the factory were in danger of being sent to prison. Children who were considered potential runaways were placed in irons. They would also have weights tied to their necks if they weren't working quick or well enough.”

And, in the case of Accidents, “One of the main concerns about the number of textile workers was the safety of the factories. Unguarded machinery was a major problem for children working in factories. There were reports that every year there were nearly a thousand people treated for wounds and mutilations caused by machines in factories. Many of the workers were often abandoned from the moment the accident occurs.”

In 1833 Lord Ashley (later Earl of Shaftesbury) introduced the first effective law, establishing an inspectorate with powers to enter premises and require compliance with restrictions on the employment of women and children. The need for proper monitoring of law was recognised for the first time in history then.

In the USA, in the year 1904, Upton Sinclair, a journalist, spent seven weeks in disguise, working undercover in Chicago's meatpacking plants to research his fictional exposé, *The Jungle*. When it appeared in 1906, it became a best-seller. Sinclair wrote this novel to highlight the plight of the working class and to remove from obscurity the corruption of the American meatpacking industry during the early-20th century. The novel depicts in harsh tones the poverty, absence of social programs, unpleasant living and working conditions, and hopelessness prevalent among the working class, which is contrasted with the deeply rooted corruption on the part of those in power. The sad state of turn-of-the-century labor is placed front and centre for the American public to see, suggesting that something needed to be



changed to get rid of American “wage slavery”. The pressure and the public outcry, led to the passage of the Meat Inspection Act and the Pure Food and Drug Act of 1906, Upton Sinclair originally intended to expose "the inferno of exploitation [of the typical American factory worker at the turn of the 20th Century]," but the reading public instead fixated on food safety as the novel's most pressing issue. In fact, Sinclair bitterly admitted his celebrity rose, "not because the public cared anything about the workers, but simply because the public did not want to eat tubercular beef “Sinclair rejected the legislation, as he viewed it as an unjustified boon to large meat packers partially because the U.S., rather than the packers, was to bear the costs of inspection at \$30,000,000 a year. He famously noted the limited effect of his book by stating, "I aimed at the public's heart, and by accident I hit it in the stomach."



And, exactly 114 years ago, in the year 1906, there was another employer, in the U.K., who deducted a portion of wages of his employees and paid matching contributions and paid the accumulated amount at the time of retirement. His idea was the forerunner of the modern-day Provident Fund and Pension. Earlier, for the first time in history, he had introduced 5½ day working week declaring Saturday afternoon as a paid holiday, besides making his company famous for various advanced working conditions and social benefits for its

workforce. He took over charge of his ailing factory from his father in the 1850s, when he was in his teens ensured quality in his product and turned it out to be a great enterprise in Europe by inventing and ensuring proper labour welfare measures, like housing, medical facilities, education of the children of workers, etc.

The former was Robert Owen of Wales, who combined business acumen with humanitarian concern while insisting on discipline and good conduct from his employees, considered as the Father of Social Security and the Father of Personnel Management. The latter was George Cadbury (1639-1922). And, there were Daniel



*Sweatshops of 1845 - Punch Magazine*

Legrand (1841) of Switzerland who declared “Men are men; not producing machines”, Louis Wollowski (1873) of France, Ottowan Bismark (1883) Chancellor of Germany, Kaiser Williams (1890), Emperor of Germany. Such legends were many.

Jerome Blanqui, the French Economist, who authored the book, the *History of Political Economy in Europe – From the ancients to our day* (1837) influenced the trend of thought of the rulers and employers on social security. Louis Rene Villerme (1839), the physician of France impressed upon the rulers the need for proper law on labour welfare. He opposed child labour, established the link between poverty and child mortality and is considered as the Founder of Epidemiology for his work on health-related study on

the living conditions of working population. Karl Marx (1848) and Engels contributed to and influenced the evolution of labour welfare during that era through their Communist Manifesto and Das Kapital

Voltaire, Rousseau and Montesquieu of the 18<sup>th</sup> century, liberated not only France from the tyrants but also the entire humanity from slavish mentality. French intellectuals considered that production was “not” something that was “independent of the fate of the workers”. Blanqui stressed on the fact that “it is not sufficient for (a nation) that wealth be created, but it must be equitably distributed”. In the view of our French intellectuals, “men are really equal before the law as before the Eternal. The poor are not a text for declamations, but a portion of the great family, worthy of the deepest solicitude”, care and concern.



*Jerome Blanqui*

Yet, the attempts of these employers to provide Security-Net to their employees remained individual initiatives. States took much longer time to provide, by law, a comprehensive State-administered Security-Net.

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 prove in court that his injury was the direct result of his employer’s negligence. This had resulted in embittered relationship between him and his employer. Consequently, he had to seek alternate employment somewhere else besides pursuing the court case filed by him against his erstwhile employer.

English common law courts had established rules under which a worker might sue an employer for compensation. “These principles differed from those governing non-contractual relations, being grounded on the premise that employer liability was based on an employer’s promise, either express or implied, to compensate injured workers. Employers could defeat most claims by relying on the following three common law defences:

1. Contributory negligence which ruled out any compensation if the worker contributed, however slightly, to the accident.
2. Assumption-of-risk which, in accordance with a general belief that courts should not be involved in voluntary agreements, assumed that workers willingly accepted the possibility of injury.
3. Common employment which absolved employers from injuries caused through the error or omission of fellow-workers '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 worked against them. As a result, cases were decided not on facts. The employers' lawyers demonstrated their cleverness by resorting to all sorts of tricks to cheat the courts to get judgments in their favour and thereby deny the legitimate benefits to the workers who sustained employment injury.

### **Employee Vs. Employer**

The following instance would prove the extent to which the employers and their clever lawyers had colluded together to deprive an innocent and suffering workman of his legitimate dues.

An employee of a railroad company had sustained injury during the course of employment. He was denied compensation by the employer-company. He approached the court seeking remedy. His case was that the accident had resulted in his becoming a victim of neurasthenia or nervous prostration. The evidence produced by him showed that because of that problem, his mental and physical health had deteriorated rapidly. It was also proved during the cross-examination of an expert doctor that the workman was suffering from neurasthenia. The expert witness informed the Court that the workman suffered no pain when pricked with a pin on top of the head and that was a sure sign of his suffering from neurasthenia.

The lawyer for the defendant-company of the employer began his argument. He was "an ex-judge, somewhat advanced in years and exceedingly resourceful". Incidentally, "he was as bereft of hair as the oft-cited billiard ball. When it came time to argue the case to the jury, he proceeded to expound the facts with clearness and vigour for a considerable length of time and finally approached the subject of neurasthenia."

He paid his respects to the learned doctor who was called in as an expert witness. He then expressed his surprise and astonishment at the conclusion arrived at during the examination that "one who did not experience pain by the prick of a pin on the top of the head was a neurasthenic and rapidly progressing to complete mental decline." He, then, informed the jury that he was under the impression that he was a man of reasonable physical vigour and had always supposed that he was still possessed of his normal mental faculties. But he became afraid that he discovered that he himself was a hopeless neurasthenic as per the evidence given by the expert doctor. If he was a patient suffering from neurasthenia, he had no business trying lawsuits, but "should be preparing rapidly to meet his Maker", he added.

"Thereupon he turned back the lapel of his coat and extracted good-sized needles, which he promptly stuck in the top of his head. He kept this up until he had some ten or twelve needles sticking in the top of his bald head and looked like an animated pin cushion". He finished his argument." Everyone was stunned. The verdict returned was "*in favour of the defendant*", i.e., the employer.

But what had happened was that the lawyer had got a portion of his scalp injected with cocaine with the help of a physician to avoid feeling pain when sticking the pins on his head. He had thus cheated the Judge, the Jury and the Law with the only aim of denying the legitimate compensation payable to the workman who was actually suffering from neurasthenia as a result of the employment injury sustained by him.

In later years, the lawyer confided to the same judge, Mr. Justice Faville, "that the last needle got outside the area of the cocaine which his physician had hypodermically injected into his scalp just before he began his

argument and had almost unmasked the hoax”. He had to pretend hard that there was no pain although the last needle gave him very sharp pain.

*(Ref: Oxford Book of Legal Anecdotes - Michael Gilbert – Oxford University Press –Pages 10-11).*

### **Employee Vs. Private Insurer**

There began another era when private insurance companies were brought into picture to bear the burden of compensation payable to the workmen. Experiments are still on. The employers are asked “to put aside, on their own, the required amount towards providing health insurance or they pay the same amount to the State to pay for care.” But the experience with the private insurers is that the employers were worried about the cost of high premium. They wondered how they could possibly compete with other companies where workers’ compensation was cheaper. They resented workers who took advantage of the system. They resented insurance companies that made generous profits. The private insurance companies preparing profit and loss accounts were always interested in ensuring more premiums and less compensation. “Frauds on the part of employees were there. But the Insurance Companies overstated them. While some insurance companies claimed that 33 percent of the workers lied about their injuries, the actual number of fraud cases sent to prosecutors was less than 1 percent. No state agency regularly monitored the claims to see whether insurance payments were received on time or whether injured workers were receiving appropriate medical care.”

Systematic disrespect and humiliation of work-injured claimants by insurance company officials were the order of the day. Some Insurance Company officials, however, could not remain silent. "I wouldn't want to be an injured worker in this system, due in huge part to the inherent complexity, subjectivity and inefficiency," said Doug Widtfeldt, Vice President of the Association of California Insurance Companies. "This system chews people up, and I don't like it," said Edward C. Woodward, President of the California Workers' Compensation Institute, the research arm of the insurance industry. (Mary Fricker - Staff Writer of The Press Democrat). The following instance would prove how in Australia, a private insurance company went out of the way to deny disablement benefits to an employee of a factory, who sustained employment injury.

Owing to the injury sustained by him, he had difficulty in moving, bending and even walking. He could not lift any heavy article, nor could he indulge in his hobbies of gardening and tennis. The employee was constructing a house for himself. Before he sustained employment injury, he did his own bricklaying, concreting and painting around his house. After the accident, he could not do any work either in the factory or in his own house. His employer conceded the fact that the accident had occurred. But the private insurance company refused to compensate him alleging that he suffered no disability. Ultimately, the employee had been compelled to seek legal remedy. Australian Barrister Mr. Ian Byrne was representing the suffering employee.

But, even before the trial, the insurance company had, as advised by its clever lawyer, engaged a loss-assessor to collect evidence against the employee. The loss-assessor had been ordered by the insurance company “to follow the applicant (employee) secretly, photograph him when he was unaware, and report, with a view to giving evidence at the trial.”

In due course the application came on for hearing. Ian Byrne put his client, the injured employee, in the witness box. He told the Court his story of pain and suffering. He demonstrated that he had severe limitation of movement, could not bend or carry weights, and was a completely useless member of the community because of his unfortunate injury.

When the Examination-in-Chief concluded, the Court was convinced of the disability of the employee. At that point, Ian Byrne’s opponent, the counsel of the private insurance company, sprang to his feet, enthusiasm gleaming in his eyes, and said “Your Worship! I have here over 1000 feet of film which shows this man bricklaying, lifting weights, concreting, vaulting a fence, working on his own house and even running. I would ask leave of Your Worship to run the film before I begin to cross-examine him.”

The prayer was granted. The film was run. It showed the employee running, making a brick wall, carrying wheelbarrow loads of bricks, picking up slabs of concrete, climbing up and down ladders, digging in the garden and running behind a lawn mower. Further, the film depicted his home and his small truck with his name clearly marked on the door, and also showed him wearing a red cardigan (jacket), which he was wearing while he was in the witness box. After the screening was over, the enthusiastic counsel for the insurance company commenced his cross-examination.

“You saw that film?”

“Yes”.

“There is nothing wrong with your back at all, is there?”

“Yes, there is disability”, said the employee-applicant. “Everything that I said before is true.”

“But the film proved that you are not suffering from any disability”.

“No, that was not me in the picture. That was my brother”

“But”, exploded Counsel, “That was your house. Wasn’t it?”

“Yeah”.

“And the same cardigan you’ve got on today is the one shown in the film?”

“Yeah”, said the applicant, “I lent it to my brother. My brother is very good to me. He does all the work for me, he paints the house, he cements the paths and mows the lawns.”

“But”, said learned Counsel, “The Court has seen the film and His Worship knows that you are in the film”.

“It is not me. It’s my brother.”

At this point, the lawyer of the injured employee, Ian Byrne, intervened. After obtaining the permission of the Court, he called the brother of the employee to appear before the Court. And when he walked into Court it became obvious to all that he was the identical twin of the applicant. After a few questions all were convinced that it was he who had been seen in the film doing all the physical acts.

The angry Counsel for the defendant insurance company pleaded permission of the Court to recall the applicant, the injured employee, to examine him further. The employee was recalled. The Counsel of the insurance company said to him, “You have tried to deceive the Court. You and your brother knew very well that he was being photographed”

“Yeah”, said the applicant, “we thought it very funny”.

*(Ref: Oxford Book of Legal Anecdotes - Michael Gilbert – Oxford University Press - Pages 48-49)*

It is not a matter to laugh at. That employee was fortunate enough to find the plot against him to be funny. But not many disabled employees could feel that way. All that, however, changed when nations of the world woke up to the reality. It was mankind, which was suffering, and the States decided to step in.

The establishment of the League of Nations after the World War I and its constituent, the International Labour Organisation in June 1919 altered all this anti-labour mentality. The Charter of the ILO said,

- ❖ 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:

When the system created institutions to protect the employees from contingencies, there was no proprietary interest to prevent the benefits from being extended to the working populace. Although, politically the League of Nations was a failure, and the United Nations Organisation came into existence in 1945 after the World War II, the ILO continues to remain for over a century by now.

The year was 1941. The United Kingdom was in the thick of the Second World War. The trend of the war had not been in favour of Britain at that time. Yet, the British Prime Minister Sir Winston Churchill had the vision to summon Sir William Beveridge to prepare a comprehensive report on how Britain should be rebuilt after the World War. He could, even during the moments of war, foresee the importance of the essential link between the labour welfare measures and the nation's development.



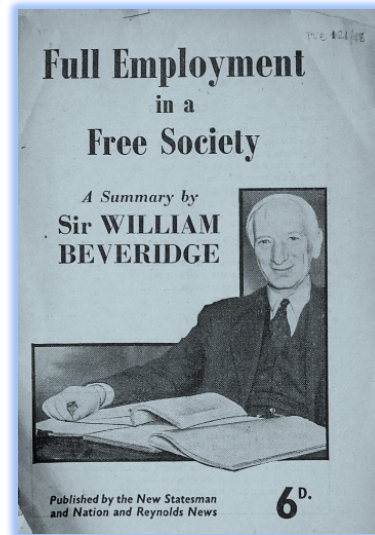
*Ernest Bevin*

Coalition Government minister Ernest Bevin (a future Foreign Secretary in the 1945 Labour Government) addressed the Rotary Club whose audience included mainly businessmen. Bevin addressed himself to the causes of War and blamed “the failure to provide an economic basis for the development of resources” as one of the basic causes. Bevin borrowed from Arthur Sheldon’s famous motto by declaring, “If profit can be the only motive, the natural corollary is economic disorder, and economic disorder will bring you back to the same position you are in now, ever recurring, and future generations will again pay, in the same form or another, the bitter price we are paying now...”.

A country’s social security system aims at providing the much-needed economic basis so that the country is able to develop its resources. Social security provided to the working population is the important and basic structure on which alone the edifice of a nation’s economy be built solidly.

Sir William Beveridge, whose ideas influenced David Lloyd George and led to the passing of the 1911 National Insurance Act in England and who worked as the Director of the London School of Economics and Political Science in the 1920s, identified the link between the social security and the economic development of a nation. The British government’s watershed publication in December 1942, better known as the Beveridge Report, is rightly hailed as the “monumental document which revolutionised the trend of thought on social security”. “Willing participation of labour can be obtained only through social security” declared Sir Beveridge. And the participation of labour with willingness is essential in the making of a nation. Beveridge said that the government should find ways of fighting the five ‘Giant Evils’ of Disease, Ignorance, Squalor, Want and Idleness.

He said that of all the five, “Want” was the easiest to tackle. Beveridge appealed to conservatives and other doubters by arguing that the welfare institutions he proposed would increase the competitiveness of British industry in the post-war period, not only by shifting labour costs like healthcare and pensions out of corporate ledgers and onto the public account, but also by producing healthier, wealthier and thus more motivated and productive workers who would also serve as a great source of demand for British goods. The Report to the Parliament on Social Insurance and Allied Services was published in 1942. It proposed that all people of working age should pay a weekly national insurance contribution. In return, benefits would be paid to people who were sick, unemployed, retired or widowed. Beveridge argued that this system would provide a minimum standard of living “below which no one should be allowed to fall”.



“In 1942, people responded to Beveridge’s call in their millions. 500,000 copies of the original report were published and sold out in months. People then gathered together – in factory canteens, church halls and pubs – to have grown up conversations about the kind of country they wanted to live in”. The impetus behind Beveridge’s thinking was social justice, and the creation of an ideal new society after the war. He believed that the discovery of objective socio-economic laws could solve the problems of society. His report was followed by Wagner-Murphy-Dingell Bill of the United States of America and the Marshall Plan of Canada in the year 1943. The same British rulers in India entrusted that work to Prof. B. P. Adharkar who examined the report of Beveridge and adapted it to the Indian circumstances and gave his report to the Government of India on 15.08.1944.



Illingworth Leslie, the Daily Mail, February 17<sup>th</sup> 1943  
Le Plan Beveridge

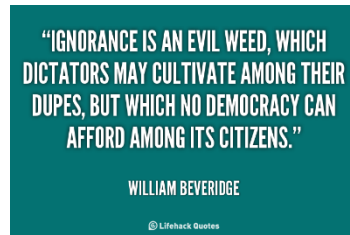
There cannot be a few pockets of plenty among a mass of poverty. There cannot be a few rich among the multitude of poor. Such a situation would not lead to a peaceful atmosphere in a society. That was why social security measures had been introduced. The Charter of the International Labour Organisation (ILO) had declared in the year 1919 itself that “the peace and harmony of the world are imperilled” when the “conditions of labour exist involving such injustice, hardship and privation of large numbers of people (so) as to produce unrest”. The object of the League of Nations, then, was “the establishment of Universal Peace” and “such a peace can be established only if it is based upon social justice”. The Charter of the ILO had been prepared only in order to attain the above-mentioned objective of the League of Nations.

Now, in the context of globalisation, it is essential for everyone to improve and give more thrust to the infrastructure of the social security measures of every nation. Whatever benefits available in the developed countries should be made available to the working population in India too. Globalisation of social security benefits is not only necessary but should be seen as a natural corollary of globalisation, before embarking on globalisation formulae in other spheres.

No country, if it wants to be called a civilised country can be impervious and indifferent to the poor social security picture obtaining in another country. The Charter of the ILO had also warned in the year 1919 itself that “the failure of any nation to adopt human conditions of labour is an obstacle in the way of other nation’s desire to improve the conditions in their own countries”. World has been witness to the consequences



of such indifference in the form of migrations, legal as well as illegal, and many other problems in the economic front.



nations that proper social security ensures

Analysts visualise the needs and the miseries of man on one side and the production and wealth on the other side. For the success of any society, it is necessary to maintain a balance between these two aspects. And it can be and has been done only through social security schemes. That is the experience of the nations around the world. Scandinavian countries provide outstanding testimony to the fact that it is social security measures which make the society far advanced in civilisation. It has been demonstrated by great souls and great

- A. Security to the Labour,
- B. Stability to the Industry,
- C. Strength to the Nation and
- D. Civilised status to the society.

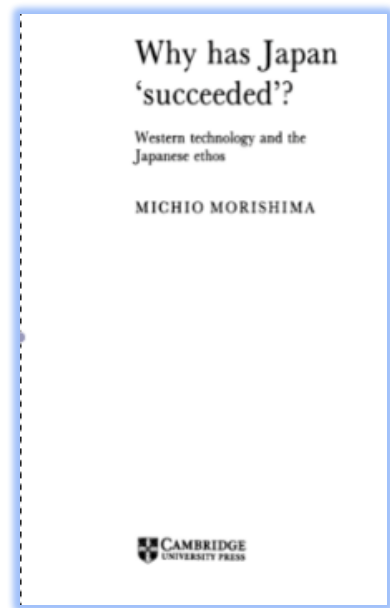
The World Bank's report in 1994 had identified the existence of the link between the sound social security system of a country and the its ability to compete effectively in the world market.

The year was 1945. The Second World War was over. Germany had been divided into four pieces. The country's economy was a war-ravaged one. Economic conditions in the Western Occupation Zones (West Germany) in 1945 were worse than in the Soviet zone (East Germany). Germany's financial system had collapsed. Cigarettes were the means of exchange. Banks had been closed. Transportation had virtually ceased, railroads had stopped, the Rhine was not navigable, bridges destroyed, ports were closed, the autobahns (highways) were impassable and canals were blocked. Industrial cities were badly damaged by Allied bombing and wartime fighting. 20% of German housing had been destroyed. Between 50 - 95% of major cities like Berlin, Hamburg, Dresden, Munich had been destroyed. 20% of all German industry had been destroyed. Germany's agricultural breadbasket in the East was lost to Soviet occupation. Food rationing was about 800 calories a day instead of the needed 2,000.

In these circumstances, it seemed unlikely that Germany, either East or West, would ever recover as a major industrial power. Yet, by 1965, the Federal Republic of Germany (West Germany) had emerged as the most powerful industrial nation in Western Europe. In the year 1971, the German DM attained full value.

The year was 1947. India had attained independence through peaceful means. There was peaceful transition of power between the colonialists and the Indians. But, even after 72 years, the monetary unit of India, the Rupee, is yet to attain its full value.

The stupendous development in the economy of war-ravaged Japan can be traced to the labour welfare measures. Prof. Michio Morishima has recorded these details in his book "Why has Japan 'succeeded'?". He emphasizes 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 mutual devotion of the employers and employees towards each other and their complete loyalty to the firm and to the state.



## Directions, Warnings and Examples

The social scientists who analysed the West German economic miracle of the Sixties, had come to the conclusion that, although the Currency Reform of 1948 had been the starting point, the economic development of that nation became a reality mainly due to the successful implementation of the social security measures. Germany, which is called as the “Cradle of Social Security” had proved the vital link between the economic development of a nation and the social security system enforced in that country.

The United Nations Declaration on Human Rights, 1948 says, “Everyone has the right to work, to just and favourable conditions of work and to protection for himself and his family [and] an existence worthy of human dignity ... Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing and medical care.”

The Declaration of Philadelphia, adopted on May 19, 1949, states:

1. Labour is **not** a commodity;
2. Freedom of expression and association are essential to sustained progress;
3. Poverty anywhere constitutes a danger to prosperity anywhere and
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.

“The political costs of inequality are recognized and accepted as being too high. The economic costs of fighting the effects are also high. Citing some research, the BBC also noted that for each dollar spent on poverty causes, seven dollars were saved on consequences.”

"The debt crisis of the 1980's in Latin America, and then the recent East Asia Crisis, have shown just how quickly people's lives are turned upside down by steep recession, and how the poor suffer the most during these times," says Eduardo Doryan, the World Bank's Vice President for Human Development, and a former Costa Rican Education Minister, 1994-98.

"So social safety nets are vital to catch people who lose their jobs, become hungry or sick. But a system that solely concentrates on helping poor people deal with a crisis (only when) it happens runs the risk of keeping them in a poverty trap by not providing any opportunities. We need to embrace a more holistic approach that makes social protection more like a springboard that lets people jump into more secure lives."

Inequality is also characterized by a concentration of wealth, which means a concentration of political power. Historically, one of the main reasons for continued poverty has been in order to maintain this power. In May 2002, the BBC aired a documentary related to inequality, called The Experiment (which came to be called later as the BBC Prison Study) where they showed in detail how inequality can “turn good people to evil”. The entire society will fall into an abyss, unless labour welfare measures are enacted with the real intention to do common good. But the Indian policymakers do not care. They are cruel and are hell-bent on dismantling the existing structure in which the government monitors and assumes responsibility for running the welfare state. They are taking the nation in the wrong direction and are riding roughshod over the ILO and make it a helpless spectator to all their anti-labour activities, because of their desperation to please the lobby of the ultra-rich. The Labour Code they bring in will take the nation back to primitive era of pre-1923 India, worse than the India that had been seen by the Royal Commission of Labour in 1929-31.



## Part II

### What India is doing

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“Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organisation that lasting peace can be established only if it is based on social justice, the Conference affirms that: (a) 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**; b) the attainment of the conditions in which this shall be possible must constitute the central aim of **national** and international policy; (c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this **fundamental objective**;...”

- Declaration concerning the aims and purposes of the  
International Labour Organisation  
(Declaration of Philadelphia)

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Even after the enactment of labour law legislations the world over after 1919, under the auspices of the ILO, India was reluctant. Indian reluctance was criticised in the ILO in the year 1922. One member had gone on record saying that among the civilised countries, India is the only country where no social security measures is in existence. Immediately, the embarrassed Indian representatives gave an assurance that steps would be taken to enact legislation for insurance in respect of accidents. That was the reason for the enactment of the first labour welfare legislation, the Workman’s Compensation Act, 1923. But, the situation on the accidents front got really improved only after the enforcement in 1952 of the ESI Act, 1948. With the arrival a package of Labour Welfare enactments on the scene in 1948 and their enforcements from 1952, post-independence, the working population does not, any more, face any such hostile atmosphere to claim its legitimate benefits as had been narrated in Part I in Pages from 4 to 6. The ESI Scheme provides benefit on evidence and does not attempt to deny benefit by fabricating evidence. The employers covered under the ESI Act neither conceal accidents nor contest the claims of compensation.

Sir William Beveridge showed how it is possible for the governments to run Welfare States and ensure the well-being of the people ‘from the Cradle to the Grave’ or ‘from the Womb to the Tomb’. His report showed how inhumane was the theory of Laissez Faire. It was the realisation of these facts which led the Constitution makers of our nation to incorporate Art. 41 in the Constitution to provide social security to the people of India. United Nations has treated the right to Social Security as a **human right**. The International Social Security Association, of which India is a member-nation, declares that Social Security is a **“fundamental human right”**. In India it is part of the Directive Principles and the direction is to the State to provide “public assistance”. But, the politicians in power, at present, are attempting to reduce the social security to be a business aspect instead of elevating from the state of Directive Principles to Fundamental Rights.

### Leisure and Evolution of Thoughts

ILO’s Philadelphia Declaration paved way for the working population to work for their spiritual development, the development of thinking process, which is the outcome of deep education and understanding of

oneself vis-à-vis others. That requires time to study and contemplate. The division of 8 hours for work, 8 hours for sleep and 8 hours for other needs is an ideal parameter for all human beings. But the present-day ruling party does not care for establishing such a welfare state for all. Most business concerns make their employees work for at least 9.5 to 12 hours daily and sometimes even 6 days a week, especially the MNCs. But the real democratic nations reduce the working hours and increase the productivity. And, it is Germany that has become strong in economy.

Art. 42 of the Constitution of India says that “The State shall make provision for securing just and humane conditions of work....”. And, Art. 43 of the Constitution of India mandates the government to ensure that the workers do have the scope for “**full enjoyment of leisure**”. But the present-day politicians in power, without any concern for the welfare of the working class, increased the Overtime hours from 50 to 100 per quarter, and permitting further increase to 125 hours by State Governments. They increased the duration of Spread-Over to 12 hours. It was a very cruel action on their part. Sadistically, they called it a Bill for improving Safety and Health of Workers. It is contrary to Art. 43 of the Indian Constitution. But they do not care. Art. 43



#### 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.**

says, “The State shall endeavour to secure, by suitable legislation or **economic organisation** or in any other way, to **all** workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and **full enjoyment of leisure** and social and cultural opportunities and, in particular, the State shall endeavour to

promote cottage industries on an individual or cooperative basis in rural areas”.

### Demolition Squads that worked against labour welfare measures

It is a pity that greedy middlemen who act as consultants to the ‘rich’ and the ‘powerful’ have now stepped up their campaign against the ESI and EPF schemes. It is even more pitiful that the politicians in power choose to pay heed to these middlemen to spoil the living conditions of the working population throughout the nation. The first of choice of these middlemen is to coin new terms. Contribution to Provident Fund is called by these middlemen as ‘confiscation’; removing the ESI and EPF benefits is projected as ‘increasing the take-home pay’ and ‘putting more money in the pockets of workers’; beneficiaries of the ESI and EPF schemes were called ‘hostages’ but no evidence was produced when asked for the source of information under the RTI Act. Fertile minds work in innumerable ways to curtail the benefits enjoyed by the common people! Slander and calumny was spread through various media in a sustained manner against the labour welfare measures, forgetting the fact that the contribution toward social security in India is far less than the 27% in Germany and 69 to 73% in the Scandinavian countries, which always remain on the top in the Human Development Index.



### Health and Public Sector

“Health is one area in which the public sector consistently does a better job than the private sector at controlling costs”, said Paul Krugman, Nobel Prize winner (*The Hindu* – 14.6.2011). It was the Emperor Asoka who established charitable hospitals first, as per the recorded history of the sub-continent, not only for the human beings but also for animals and birds. But the present ruling party wants to dismantle the public hospital system

and hand it over to private parties. (For more: Refer to the article, 'Public Sector Healthcare is dying in India. How can we resurrect it?' by Vivekanand Jha – The Wire – 15.01.2020)



*Demolishing the existing structure: This cartoon applies more to the Indian scenario*

### Social Assistance and Insurance

Art. 41 of the Constitution of India says that “The State shall, within the limits of its economic capacity and development, make effective provision for securing the right .... to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want”. The ESI Corporation was established for fulfilling this Constitutional mandate of providing “public assistance” in the event of such undeserved wants.

Provision of **adequate Social Security** for the **entire** workforce **regardless** of the nature of their employment has also been accepted as a fundamental element towards achievement of Goal 8 (Decent Work and Economic Growth) of the 2030 Sustainable Development Goals Agenda adopted at the **UN Summit** held in September 2015. But, the GOI has not yet ratified the Social Security (Minimum Standards) Convention of ILO of 1952. (No. 102 of 1952). According to Articles 22 and 25 of the Universal Declaration of Human Rights, access to Social Security is a basic right. The ‘Social Security (Minimum Standards) Convention 102’ adopted by the International Labour Organization (ILO) in 1952 also prescribes minimum standards for benefits in the important areas of social security. India has not yet ratified this convention. It is high time now that the Country **moves towards providing the minimum standards** of social security to all its citizen”. Now, what are those minimum standards?

In regard to the benefits provided through the ESI Act, 1948, The Hindu had editorially acknowledged on 01.01.2005 that “**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 ruling party at present is, however, taking steps to make provisions, in violation of Art. 41 and 42 of the Constitution of India, for “private assistance” and absolve the State of its Constitutional responsibility. The ESI Act provides, for the present, social security-net



to the working population in the factories and the industrial and commercial establishments in the organised sector and its long-term goal, as spelt out in Sec. 1 (5) of the Act, is to extend the security-net not only to all the factories but also to all kinds of establishments including those which are agricultural or otherwise.

The quantum of benefits provided by the ESI Act, at present, in the event of Sickness, Employment Injuries of various kinds and Fatal Accidents ensure a decent and dignified lifestyle for the insured persons and their dependants. Art. 22 of the Universal Declaration of Human Rights says, “Everyone, as a member of society, has the right to social security”. The High Court of Madras has observed that “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” (*C. Indira Vs. Senthil & Co.* – 2009 (2) LLN. 302). “The object of the legislation is to protect the weaker section with a view to do social justice” (*Chandramathi Vs. ESIC* – 2003 (4) LLN. 1143).

### **Make law for Distributive Justice, said Apex Court**

Distributive justice which is essential to achieve social and economic democracy has been made available to the citizens of all the civilized nations only through social security schemes. It is only the nations, which implement the social security schemes, top the list of International Human Development Index. Hon’ble Supreme Court has, in *Samatha Vs. State of Andhra Pradesh* (1997) 8 SCC 191 (Para 75), observed that “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 sub serve the common good. 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”

### **ESI Act does more than the Factories Act**

Hon’ble High Court of Madras has, in *ESIC Vs. S. Savithri* 2003 (3) LLJ 250, observed that “The Scheme of the Act, Rules and Regulations spelled out that the insurance covered under the Act is distinct and differs from the contract of insurance in general....The Division Bench of the Madras High Court observed that the Act in fact tries to attain the goal of socio-economic justice enshrined in the Directive Principles of State Policy”. Hon’ble High Court has also said therein that the ESI Act “covers a wide spectrum of than the Factories Act, 1948”.

The importance of the ESI Scheme to a nation would become evident from this observation. The Act provides security-net to the working population in the organised sector and its long-term goal, as spelt out in Sec. 1 (5) of the Act is to extend the security-net not only to the factories but also to the establishments, industrial, commercial, agricultural or otherwise. But, instead of running the organisation in a transparent manner and making it corruption-free, especially at the top, the Hon’ble Finance Minister had chosen to run down the organisation by levelling unfounded allegations against the ESIC and the EPFO from 28.02.2015 onwards.

### **Reducing the time-tested benefits through Labour Code**

The proposed Labour Code on Social Security reduces or dispenses with many benefits already received by the beneficiaries of the ESI Scheme. It is defective, incomplete and hides many facts for ulterior reasons. People have been left with no information pertaining to many essential aspects of the Code and have been left to wonder whether they would be benefitted or affected by the new Code. The Code is not an all-inclusive document. There are so many areas deliberately left to remain grey to facilitate non-accountability of the erring private players. Defects of various kinds in the Bill show unseemly hurry on the part of the authorities to destabilise the present social security structure and bring in something unknown even to the law makers.

- ❖ When the ESI Act provides about 90% of the wages of an employee to his dependant family as “Dependants Benefit” in the event of **death of that employee due to employment injury**, the proposed Code reduces it to 50%. This one single instance would show that the proposed Code is detrimental to the welfare of the working population.
- ❖ The ESI Act provides “Extended Sickness Benefit” to the insured persons and pays them about 80% of the wages to the insured persons for about 730 days, if they suffer from any of the specified 34 long term sickness. He and his family members can, in addition, get medical benefit for 3 years, in such cases. But the proposed code has done away with the provisions of this Extended Sickness Benefit altogether. The politicians in power have not made it public while coming up with the draft Labour Code.
- ❖ The Permanent Disablement Benefit under the impugned Code has been reduced to 60% and Temporary Disablement Benefit to 50% in the Code, when the ESIC provides about 90% in both the cases. Clearly, the impugned code reduces the benefits being paid to the insured persons for decades and is detrimental to their interests.
- ❖ When the ESIC provides about 70% of the wages as Sickness Benefit for 91 days in two consequent contribution periods, the proposed Code maintains total silence about the period and quantum of Sickness benefits and has left it for the uncertain decisions through Subordinate Legislation.
- ❖ When the ESIC provides medical benefit to an insured person and his family right from the day of his entry into insurable employment, the proposed Code is silent on the issue and does not assure any such benefit, thus being detrimental to the interests of the working population.
- ❖ The “Enhanced Sickness Benefit” for 7 / 14 days given to the insured persons (For Family Welfare operations) equivalent to the total wages of the employee, has been dropped from the proposed Code in toto. When the ESIC assumes social responsibility through it, the proposed Code abdicates that responsibility.

### Unlawful observations in the Budget speech

World over, the established fact is that the governments cannot provide government job to all. But governments can provide social security to all. That is what the governments all over the world do. But, here in India, the government tries to wash its hands off its responsibility to provide social security too. It all started on 28.02.2015 when the Hon’ble Finance Minister of the Government of India made unfounded allegation, in Para 61 & 62 of his budget speech, against the two major social security schemes in India saying thus:

“61. Madam Speaker the situation with regard to the dormant Employees Provident Fund (EPF) accounts and the claim ratios of ESIs is too well known to be repeated here. It has been remarked that both EPF and **ESI have hostages, rather than clients**. Further, the low paid worker suffers deductions greater than the better paid workers, **in percentage terms**.

62. With respect to the Employees Provident Fund (EPF), the employee needs to be provided two options. Firstly, the employee may opt for EPF or the New Pension Scheme (NPS). Secondly, for employees below a certain threshold of monthly income, contribution to EPF should be optional, without affecting or reducing the employer’s contribution. **With respect to ESI, the employee should have the option of choosing either ESI or a Health Insurance product**, recognized by the Insurance Regulatory Development Authority (IRDA). We intend to bring amending legislation in this regard, **after stakeholder consultation.**” (*Emphasis supplied*)

The Minister had, thus, gone on record having said that the EPFO and the ESIC do “*have hostages, rather than clients*”. As this was contrary to truth, it was considered necessary to ascertain the basis on which the Ministry of Finance had included such a phrase in the speech of the Hon’ble Minister. Such findings ought to have been arrived at on the basis of extensive and intensive study and analysis of exhaustive details, when the Hon’ble Minister accuses the departments of the Government of India. As the budget speech is, always, a document prepared with a lot of care, there should have been documentary evidence for the statements made through that by the Minister of Finance, Government of India. A very sorry state of affairs in a

democracy where Budget speeches contain lies of far reaching consequence. That unlawful allegation in Para 61 of budget speech dated 28.02.2015 was the first step in the attempt of some vested interests to dismantle these two major social security organisations.

### **ISSA not happy with the Labour Code**

The Summary Record of the proceedings of the Consultation Workshop of the Secretaries of States and UTs on 02.05.2017 shows that the Secretary, Ministry of Labour & Employment had told the gathering that the draft Labour Code which had been put in public domain on 16.03.2017, was “the outcome of prolonged discussions with the ILO and ISSA experts”.

Her statement recorded thus in the said Summary gave the impression that such a defective and deficient Code got the approval of the ISSA. But there was no scope for those experts from the ISSA to endorse the proposed Draft Code, which was full of incomplete, incomprehensible provisions, especially when it had given the Best Practices Awarded to the ESIC in the year 2012. The Award was given by the ISSA at Seoul on 30.10.2012, declaring that “The ESI Corporation of India has made remarkable efforts to extend social security protection to the workforce in India”. In all, 41 nations participated in the competition meant for Asia and the Pacific 2012 and India got the first prize. Launched in 2008, the ISSA Good Practice Award programme is organized on a regional basis over a three-year cycle and has garnered international attention from social security institutions. Yet, the Hon’ble Finance Minister had fallen victim to the propaganda by vested interests and believed that the ESIC held the beneficiaries as “hostages” and allowed that questionable phrase find its way into his budget speech in a mysterious manner. This shows that there are various interests of the society are allowed to manipulate the decision of the democratically elected Government. Instead of taking action to run the organisation in a transparent and corruption-free manner at the top level, Hon’ble Finance Minister had chosen to run down the organisation, without verifying the facts from his own department. For, the ISSA defines the term Social Security as under:

“Social security may be defined as any programme of social protection established by legislation, or any other mandatory arrangement, that provides individuals with a degree of income security when faced with the contingencies of old age, survivorship, incapacity, disability, unemployment or rearing children. It may also offer access to curative or preventive medical care”.

### **ILO not happy with the Labour Code**

As two representatives from the ILO, Dr. Marckus and Ms. Divya, had attended the aforesaid ‘Consultation Workshop’ on 02.05.2017, a letter was written to the ILO on 16.05.2017 requesting them to intimate whether they had endorsed the provisions of the proposed code. The reply dated 24.05.2017 received from the ILO shows the discomfort of the ILO in replying to the specific infirmities enumerated in the letter dated 16.05.2017. They tried to be diplomatic to cover up their embarrassment. But their reply read together with the letter dated 16.05.2017 proves that they had not endorsed any of the provisions of the impugned code, except in having given the draft framework on the lines of Recommendation No. 202 of Convention No. 102. It is, thus, clear that the bureaucrats at the Centre are abusing the presence of the authorities of the ILO and ISSA to give the impression that the mala fide Labour Code meant to dismantle the time-tested structure with the intention to privatize social security with no had got the approval of the ILO and ISSA.

Already, the International Labour Organisation has, in November 2010, blamed India for its notorious informal labour practices. “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” Times of India - 16.11.2010. 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". In this situation, instead of improving the functioning of the organisation by making it corruption-free mainly at the top, the Respondents are taking steps again and again to dismantle the scheme and hand it

over to the ultra-rich businessmen to enable themselves to become richer by paying less than the benefits available now.

### **ESI Fund, the best managed one - ET**

Adequate surplus in an insurance against 'Anxiety', says the Noble Prize Winner Economist Paul Krugman. It is essential in the insurance field. The surplus in the ESIC was not a flab. Moreover, such a surplus got generated from the 1950s when the ESIC had Chapter VI, providing for Employers' Special Contribution, collected from all over the nation from the employers who were not in the implemented area. Moreover, the ESIC was managing its funds best. This was appreciated by the newspaper Economic Times too in on 05.02. 2003. The system of managing funds was improved in the subsequent four years, by collecting daily offer from various nationalised banks every afternoon and depositing the money with them in Savings Bank account, instead of Current Account. But these essential facts are either not understood by those who chose to run down the ESIC.

The ESI Scheme has so far, for the past 65 years from its very inception, been funded only by the employees and the employers. There is no monetary contribution of any kind by the Central Government. When the present ruling party wants, practically, to dismantle the Scheme, by alleging that the scheme was holding people hostages, it should have taken the preliminary steps to ascertain the opinion of the beneficiaries by conducting Customer Satisfaction Survey, at least. But, the persons in power who want to hand over the property of the ESI Corporation (the 8 medical college buildings under construction, referred to in the Press Note dated 23.03.2015) to private businessmen, connive at levelling unfounded allegations against their own scheme, with the unholy aim of abdicating the responsibility cast on them to run the organization corruption-free. The intention to privatise the concept of social security has not yielded positive results in any nation of the world, as would be testified to by the International Labour Organisation itself.

### **Parliamentary majority is not a carte blanche**

The courts cannot give absolute amending powers to the elected representatives of the people. Courts had time and again ruled upon the amending power of the representatives of the people. There is a subtle but vital difference between the power given to the people under the Constitution and the power given to the representatives of the people.

**“691.** It is also necessary to bear in mind that the power to amend the Constitution is conferred on Parliament, a body constituted under the Constitution. The people as such are not associated with the amendment of the Constitution. From the preamble we get that it is the people of this country who conferred this Constitution on themselves. The statement in the preamble that the people of this country conferred the Constitution on themselves is not open to challenge before this Court. Its factual correctness cannot be gone into by this Court which again is a creature of the Constitution. The facts set out in the preamble have to be accepted by this Court as correct. Anyone who knows the composition of the Constituent Assembly can hardly dispute the claim of the members of that Assembly that their voice was the voice of the people. They were truly the representatives of the people, even though they had been elected under a narrow franchise. The Constitution framed by them has been accepted and worked by the people for the last 23 years and it is too late in the day now to question, as was sought to be done at one stage by the Advocate-General of Maharashtra, the fact, that the people of this country gave the Constitution to themselves.

**692:** When a power to amend the Constitution is given to the people, its contents can be construed to be larger than when the power is given to a body constituted under the Constitution. Two-thirds of the members of the two Houses of Parliament need not represent even the majority of the people in the country. Our electoral system is such that even a minority of voters can elect more than two-thirds of the members of either House of Parliament. That is seen from our experience in the past. That apart our Constitution was framed on the basis of consensus and not on the basis of majority votes. It provides

for the protection of the minorities. If the majority opinion is taken to be the guiding factor, then the guarantees given to the minorities may become valueless. It is well known that the representatives of the minorities in the Constituent Assembly gave up their claim for special protection which they were demanding in the past because of the guarantee of Fundamental Rights. Therefore, the contention on behalf of the Union and States that two-thirds of members in the two Houses of Parliament are always authorised to speak on behalf of the entire people of this country is unacceptable” (*Para 691 and 692 - Kesavanandha Bharathi Vs. State of Kerala - 1973) 4 SCC*).

The Labour Code affects the Right to Health of the people by, arbitrarily, curtailing the benefits provided by the public institution, the ESI Corporation, violating Art. 21 of the Constitution. The only thing that the proposed Labour Code can be made use of is to use it to demonstrate before the world how a Welfare Law should not be made by the rulers. Just because a group is in majority in the Parliament, it cannot do all that it wishes to do, just because of that majority. Advanced democratic nations do go even for Referendum on issues which have major impact on the social and economic life of the people of the nation. If only the politicians in power listen to the sage advice of Prof. Adharkar, the Father of Social Security in India, and follow the 8 Fundamental Principles laid down by him and fulfil his 4 Assumptions in running the scheme, they can really make Social Security in India real and really beneficial.

Dr. B. R. Ambedkar had said insurance sector must be only with the Government and that the government would be able to generate money through it for various public purposes without borrowing otherwise. “Dr. Ambedkar recognises the importance of insurance in providing the state with “the resources necessary for financing its economic planning, in the absence of which it would have to resort to borrowing from the money market at high rates of interest” and proposes the nationalisation of insurance. He categorically stated: “State socialism is essential for the rapid industrialisation of India. Private enterprise cannot do it and if it did, it would produce those inequalities of wealth which private capitalism has produced in Europe and which should be a warning to Indians.” (*Frontline – 02.08.2002*). The exploitation of common man by the economically mightier rich will be more acute, if and when the Labour becomes enforceable. Edwin E. Witte had said that “All or most of the institutional economists have been pragmatists, studying facts, not for their own sake, but to solve problems and to make this a better world to live in”. But Indian politicians do otherwise. They are in a hurry to please the rich and ditch the poor. “The Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014” is a move in the wrong direction, where there will be total slavery in the nation.



The Indian politicians and bureaucrats are pursuing a path which is not followed by the UK, Germany, Japan, Switzerland or the Scandinavian countries. These leaders mislead the masses. A simple analysis of the employment position in the beverage industry after the entry of two MNCs would show that the opportunity of employment has become less than what it was in 1990.

### Preventing concentration of Wealth

Art. 39 of the Indian Constitution says, “The State shall, in particular, direct its policy towards securing - ....

- (b) that the ownership and control of the material resources of the community are so **distributed** as best to sub serve the common good;
- (c) that the operation of the economic system does not result in the **concentration** of wealth and means of production to the common detriment;...”

But what happened in the recent past is breath-taking. When 53% of the nation’s wealth was in the hands of 1% of the population, the ultra-rich, in January 2016, it has phenomenally grown to 73% in January 2018. The politicians in power so willingly allow themselves to be used by these business-interests to work against the 99% people of the nation. The Oxfam in its report titled ‘**An economy for the 99 per cent**’, suggested that “**it is time to build a human economy that benefits everyone, not just the privileged few**”. But, the politicians in power would not listen.



Because, all round development of the nation does not benefit the politicians who happen to be in power. Nor would a public sector organisation that caters to the social security needs of the people pay hefty donation to the political party in power, while private organisations reward them in numerous ways.

#### Concentration of wealth in January 2016



#### Concentration of wealth in January 2018



### Bribery legalised through crony Electoral Bonds

If only the bureaucracy is made to function transparently, which can be easily done, **the amount snatched away from the employers as bribe by the officials and politicians and the extraordinary quantum of money paid to the ruling dispensations as Corporate funding of elections, can easily be stopped and that amount can be made to be paid to the workers of the factories and establishments as legitimate additional wages, boosting the economy of the nation and the all-round welfare of the working population.** The electoral bonds born out of sinister motives is a matter of shame for a civilised nation.

Moreover, the manner in which the politicians in power have facilitated receipt of foreign funds for elections shows that our society is slipping out of the category of civilised democracies. It is a matter of further shame that the "Attorney-General KK Venugopal had questioned the need for voters to know source of political funds. Venugopal also cited right to privacy and fear of victimisation to justify anonymity for donors. The specious nature of Venugopal's arguments ought to be embarrassing for the government itself." (*Times of India – Editorial titled 'Poisonous bonds: Electoral bonds must be transparent or go' – 13.04.2019*). "There is another insidious danger in the electoral bonds system. Around the time it was introduced the government also amended provisions of Foreign Contribution Regulation Act, creating a pathway for foreign funding of political parties. When juxtaposed with electoral bonds, there is a danger to sovereignty in decision-making." (*Times of India – Editorial titled 'Transparency needed' – 29.11.2019*).

The reckless manner in which the present dispensation is making money through questionable methods would prove that it is not interested in the welfare of the people but only the rich and ultra-rich. Times of India had castigated the ruling party about the crony bonds, which is against national interest. The editorial dated 20.03.2019 read thus:

"The important point here is that the donor's identity is kept secret from the public, while being known to the government. Not only does it have disadvantages associated with cash donation, it compounds problems by giving a disproportionate and unfair advantage to the ruling party. It's not a coincidence that about 95% of political funding through electoral bonds went to BJP last financial year.

The electoral bond scheme, by its design, makes funding opaque. An amendment to income tax legislation removes the need to reveal the identity of the donor. In another legislative change, companies which donate to political parties no longer have to disclose this in their financial statements. A series of legislative changes therefore have removed even a semblance of public scrutiny over donations to

political parties, which degrades the quality of democracy and enhances the possibility of crony capitalism as governments wield enormous discretionary power in economic policy making.

This toxic combination looks even more alarming when juxtaposed with other legislative changes. Last year, FCRA was amended in a manner which opens the door to foreign funding of political parties. The US and UK ban foreign funding of elections for very good reason – it's the difference between being a democracy and a banana republic. But India has moved from a ban to opening the door along with guaranteed anonymity. These issues are to come up for hearing soon in the Supreme Court. When the relevant legislative changes are juxtaposed with Constitution's fundamental rights and prior judgements, the electoral bond scheme doesn't hold water.

India needs to clean up its political funding. The government's argument that opacity is necessary to protect privacy of the donor is indefensible. Privacy in political funding can only breed corruption. It also imperils national security as foreigners can anonymously buy influence with ruling political parties. In the US, President Donald Trump faces serious charges of having received Russian campaign funding and could be impeached if the charges are proved. In India, there are no analogous legal barriers if a similar case comes up. The Supreme Court must move swiftly to remedy this anomalous state of affairs."

But, the greed of the ruling party does not allow it to see reason. Consequently, they please the rich and get alms from them and destroy the welfare system established for the labour.

### **The coterie of the greedy rich and the dishonest powerful**

It is, ultimately, the cleverness and not honesty of the persons which carries the day. The greedy rich, the servile politicians in power, the sheepish ILO and the unfaithful bureaucrats join hands together to work against the poor in India. They do not want to enforce even the suggestion given by their own Task Force when they were in opposition, on 31.01.2011 to bring back the black money stashed abroad. It is that unholy nexus that makes them to snatch away even the existing time-tested benefits extended to the working population, under ESI Act. The extent to which the politicians in power are used by the ultra-rich to do their bidding against the interests of the common public would become evident from the surreptitious clauses inserted in the Financial Sector Development and Relief Bill, 2019 .



It is now left to the commoners to prevent this kind of Labour-Code from being made law. It is the duty of the thinkers among them to stand up and expose the misdeeds of the rulers and stop the nation from being looted by the ugly ultra-rich more and more. It is their duty to speak up!



"I am only one; I cannot do everything.  
Still, I am one; I can do something.  
Because I cannot do everything,  
I will not desist from doing something that I can do".

**-Helen Keller**

Images: Courtesy, Web.