

**REPORT OF THE  
WORKING GROUP  
ON  
“LABOUR LAWS &  
OTHER REGULATIONS”  
FOR THE  
TWELFTH FIVE YEAR PLAN  
(2012-17)**



**MINISTRY OF LABOUR &  
EMPLOYMENT**

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## PREFACE

Labour laws constitute an essential component of Labour Policy in India aimed at imparting certain basic rights to workers as enshrined in our Constitution. I am happy to note that for the Twelfth Five Year Plan (2012-17), the Planning Commission constituted a Working Group on this important subject of Labour Laws & Other Labour Regulations.

Labour law reforms are an ongoing and continuous process and the Government has been introducing new laws and amending the existing ones in response to the emerging needs of the workers in a constantly dynamic economic environment. It therefore becomes imperative that before the beginning of the next Plan we take stock and identify thrust areas for further reforms. Taking the benefit of a large number of recommendations made by various Commissions and Committees in the past and also the rich inputs given by the members of the Working Group, the Report has framed a set of recommendations to indicate the way forward. It is hoped that these would be useful for the formulation of the Twelfth Five Year Plan.

I appreciate the efforts put in by the Convener of the Working Group Dr. Vinita Kumar, Shri K.M. Gupta, Economic Adviser, Dr. Onkar Sharma, Senior Fellow, V.V. Giri National Labour Institute, Officers and Staff of Coordination Section of the Ministry of Labour & Employment, who were instrumental in organizing meetings and preparing the report. I would also like to convey my sincere thanks to all the Members of the Working Group for their fullest cooperation and for giving invaluable suggestions to improve the plight of workers in a manner that should hopefully promote greater inclusive growth on a sustainable and long term basis in the coming years.

**( P.C. Chaturvedi )**

Secretary

Ministry of Labour & Employment

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(2007-12)**

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## **I Introduction**

The Planning Commission, vide its Order No. Q-20017/4/2011-LEM/LP dated 26.04.2011 constituted a “Working Group on Labour Laws & Other Labour Regulations” under the Chairmanship of Secretary (Labour & Employment). The composition and the terms of reference of the Working Group is enclosed as **Annexure-I**.

The Working Group met on 30.05.2011, 27.07.2011 and 20.08.2011 to deliberate on the existing labour laws and the need for review of these laws in order to protect the interest of workers more effectively while at the same time promoting growth of industry, employment and productivity of workers in a healthy and harmonious work environment. The minutes of these meetings are placed at **Annexure-II, III and IV**, respectively.

## ***II Historical Background of Labour Policy & Labour Laws***

India’s Labour Policy is mainly based on Labour Laws. The labour laws of independent India derive their origin, inspiration and strength partly from the views expressed by important nationalist leaders during the days of national freedom struggle, partly from the debates of the Constituent Assembly and partly from the provisions of the Constitution and the International Conventions and Recommendations. The relevance of the dignity of human labour and the need for protecting and safeguarding the interest of labour as human beings has been enshrined in Chapter-III

(Articles 16, 19, 23 & 24) and Chapter IV (Articles 39, 41, 42, 43, 43A & 54) of the Constitution of India keeping in line with Fundamental Rights and Directive Principles of State Policy. The Labour Laws were also influenced by important human rights and the conventions and standards that have emerged from the United Nations. These include right to work of one's choice, right against discrimination, prohibition of child labour, just and humane conditions of work, social security, protection of wages, redressal of grievances, right to organize and form trade unions, collective bargaining and participation in management. Our labour laws have also been significantly influenced by the deliberations of the various Sessions of the Indian Labour Conference and the International Labour Conference. Labour legislations have also been shaped and influenced by the recommendations of the various National Committees and Commissions such as First National Commission on Labour (1969) under the Chairmanship of Justice Gajendragadkar, National Commission on Rural Labour (1991), Second National Commission on Labour (2002) under the Chairmanship of Shri Ravindra Varma and the National Commission for Enterprises in the Unorganised Sector (NCEUS) (2009) under the Chairman of Dr. Arjun Sengupta. In addition there have been a number of judicial pronouncements on labour laws which have helped to arrive at a better interpretation of these laws and at times given a new direction to their implementation.

### **III. Constitutional Framework**

Under the Constitution of India, Labour is a subject in the concurrent list where both the Central and State Governments are competent to enact legislations. As a result , a large number of labour laws have been enacted

catering to different aspects of labour namely, occupational health, safety, employment, training of apprentices, fixation, review and revision of minimum wages, mode of payment of wages, payment of compensation to workmen who suffer injuries as a result of accidents or causing death or disablement, bonded labour, contract labour, women labour and child labour, resolution and adjudication of industrial disputes, provision of social security such as provident fund, employees' state insurance, gratuity, provision for payment of bonus, regulating the working conditions of certain specific categories of workmen such as plantation labour, beedi workers etc. This is how we have 44 labour legislations, which are categorized as follows: -

Sl.No.	Name of the Act
<b>(a) Labour laws enacted and enforced by Central Government</b>	
1.	The Employees' State Insurance Act, 1948
2.	The Employees' Provident Fund and Miscellaneous Provisions Act, 1952
3.	The Dock Workers (Safety, Health and Welfare) Act, 1986
4.	The Mines Act, 1952
5.	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976
6.	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labor Welfare Fund Act, 1976
7.	The Mica Mines Labour Welfare Fund Act, 1946
8.	The Beedi Workers Welfare Cess Act, 1976
9.	The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972

10.	The Cine Workers Welfare (Cess) Act, 1981
11.	The Beedi Workers Welfare Fund Act, 1976
12.	The Cine Workers Welfare Fund Act, 1981
<b>(b) Labour laws enacted by Central and enforced by both the Central as well as the State Governments</b>	
13.	The Child Labour (Prohibition and Regulation) Act, 1986.
14.	The Building and Other Constructions Workers' (Regulation of Employment and Conditions of Service) Act, 1996.
15.	The Contract Labour (Regulation and Abolition) Act, 1970.
16.	The Equal Remuneration Act, 1976.
17.	The Industrial Disputes Act, 1947.
18.	The Industrial Employment (Standing Orders) Act, 1946.
19.	The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
20.	The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988
21.	The Maternity Benefit Act, 1961
22.	The Minimum Wages Act, 1948
23.	The Payment of Bonus Act, 1965
24.	The Payment of Gratuity Act, 1972
25.	The Payment of Wages Act, 1936
26.	The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
27.	The Building and Other Construction Workers Cess Act, 1996
28.	The Apprentices Act, 1961

<b>(c) Labour laws enacted by Central Government and enforced by the State Governments</b>	
29.	The Employers' Liability Act, 1938
30.	The Factories Act, 1948
31.	The Motor Transport Workers Act, 1961
32.	The Personal Injuries (Compensation Insurance) Act, 1963
33.	The Personal Injuries (Emergency Provisions) Act, 1962
34.	The Plantation Labour Act, 1951
35.	The Sales Promotion Employees (Conditions of Service) Act, 1976
36.	The Trade Unions Act, 1926
37.	The Weekly Holidays Act, 1942
38.	The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
39.	The Workmen's Compensation Act, 1923
40.	The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
41.	The Children (Pledging of Labour) Act 1938
42.	The Bonded Labour System (Abolition) Act, 1976
43.	The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
44.	The Unorganized Workers' Social Security Act, 2008
<b>(d) There are also labour laws enacted and enforced by the various State Governments which apply to respective States</b>	

Besides, both Central and State Governments have formulated Rules to facilitate implementation of these laws.

In a dynamic context laws need to be reviewed from time to time. Hence, review / updation of labour laws is a continuous process in order to bring them in tune with the emerging needs of the economy including attaining higher levels of productivity and competitiveness, increasing employment opportunities, attracting more investment for growth, etc.

#### **IV Legislative Initiatives Recently Taken / Proposed to be Taken**

Review / updation of labour laws is a continuous process and changes are effected in labour laws from time to time by the Government in order to bring them in tune with the emerging needs of the economy and after detailed discussion with the stakeholders. The following Acts were amended recently:

##### **(i) Acts Amended Recently**

**The Employees' Compensation Act, 1923 (earlier called 'the Workmen's Compensation Act, 1923) was amended w.e.f 18.01.2010 to, inter-alia:**

- increase the wage ceiling limit from Rs.4,000/- to Rs.8,000/- per month for the purpose of calculating compensation;
- enhance the compensation for death, disablement, funeral expenses;
- allow reimbursement of the actual medical expenses on treatment of injuries caused during work without any ceiling;
- make compensation gender neutral;
- dispose cases of compensation within a period of three months from the date of reference.

**The Payment of Gratuity Act, 1972 was amended through notification dated 31.12.2009 to:**

- cover teachers in educational institutions w.e.f. 04.04.1997;
- Enhance the ceiling on gratuity from Rs.3.5 lakh to Rs.10 lakh w.e.f. 24.05.2010.

**The Employees' State Insurance Act, 1948 was amended w.e.f. 01.06.2010 to:**

- improve the quality of service under the scheme;
- enable ESI infrastructure to be used to provide health care to workers in the unorganized sector.

**The Plantations Labour Act, 1951 was amended w.e.f. 01.06.2010 to:**

- provide safety and occupational health care to plantations workers.

**The Industrial Disputes Act, 1947 was amended w.e.f.15.09.2010 to:**

- amplify the term 'appropriate government' defined under section 2(a) of the Act;
- enhance the wage ceiling from Rs.1,600/- to Rs.10,000/- per month to cover workmen working in supervising capacity;
- provide direct access for the workman to the Labour Court or Tribunal in case of disputes arising out of Section 2(A) of the Act;
- expand the scope of qualifications of Presiding Officers of Labour Courts or Tribunals;
- establish Grievance Redressal Machinery;
- empower the Labour Court or Tribunal to execute awards

The scope of the **Sales Promotion Employees (Conditions of Service) Act, 1976** was expanded w.e.f. 01.02.2011 to include 10 additional industries, i.e., Cosmetics, soaps, household cleaners etc.; Readymade garments, etc.; Soft drinks manufacturing industries; Biscuits and confectioneries; Ayurvedic, Unani, etc.; Automobiles including accessories, etc.; Surgical equipments, etc.; Electronics, computers, etc.; Electrical appliances; Paints and varnishes.

## **(ii) New Bills Introduced**

In addition to the above, two new bills were introduced in the Parliament in March 2011. These were as follows:

**The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment Bill, 2011** was introduced in the Rajya Sabha on 23.03.2011. The main proposals of the new Bill, 2011 are to:

- Change the definition of small establishments to cover 10-40 workers as against 10-19 workers in the Principal Act;
- Increase the number of Acts to be covered under the Principal Act from 9 to 16;
- Simplification and consolidation of returns to one form for very small and small establishments and maintenance of 1 register for very small establishments and 2 registers for small establishments.
- Maintenance of registers and returns in computer, floppy, diskette or other electronic media and return submitted through e-mail;

**The Mines Act, 1952 Amendment Bill** was introduced in Rajya Sabha on 23.03.2011 to make it more relevant and effective in the present economic scenario. The new Bill proposes to:-

- Impose heavier fines and increase terms of imprisonment for any violation of the provisions of the Act affecting the safety and security of workers;
- Cover the whole of India including areas coming under the jurisdiction of Territorial Waters, Continental Shelf , Exclusive Zones and other Maritime Zones Act, 1976;
- Revise the definitions of “owner”, “foreign company” and directors living abroad relevant to present times.

**(iii) Amendment Proposals at various stages of consideration**

- It is proposed to amend the Minimum Wages Act, 1948 to, inter-alia, make National Floor Level Minimum Wage statutory and applicable to all “other” employments.
- It is proposed to amend the Contract Labour (Regulation and Abolition) Act, 1970 to ensure that in case contract labour perform the same or similar kind of work as the workmen directly appointed by the Principal Employer, they shall be entitled to the same wage rates, holidays, hours of work and social security provisions. Furthermore, whenever a contract worker is engaged through a contractor, the contract agreement between the Principal Employer and the contractor shall clearly indicate the wages and contribution towards social security schemes and other benefits to be paid by the contractor to the contracted workman.
- It is proposed to amend the Factories Act, 1948 to introduce new terms like ‘hazardous substance’, ‘disability’ etc., redefine certain other terms and provide for new provisions on Health, Safety, Hazardous Process, Welfare, Working Hours for Adults, Employment of Young Persons, Annual Leave with wages and Penalties &

Procedures including provision of flexibility in the matter of employment of women during night in factories.

- It is proposed to amend the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction Workers Cess Act, 1996 to overcome difficulties experienced by States / UTs in effective implementation of these Acts.
- It is proposed to amend the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 to bring down the threshold limit from 20 and above to 10 and above for coverage of establishments.
- It is proposed to amend the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959, inter-alia, to change the nomenclature of 'Employment Exchange' to 'Employment Guidance and Promotion Centre' to give primacy to employment promotion, vocational guidance and counseling and also to bring more establishments under the Act for the purpose of submitting employment returns to obtain more realistic labour market information.
- It is proposed to amend the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 to make it gender neutral and for entitlement to social protection measures.
- It is proposed to amend the Apprentices Act, 1961, in order to bring more establishments under the framework of Apprenticeship Training Scheme and also to revamp the system by emphasizing qualitative improvement through activating training in actual workplace environment.

## **V Views of the Stake Holders on Labour Laws**

Based on deliberations in the Working Group Meetings, the following views emerged on labour laws and other labour regulations

### **(i) Views of Central Trade Unions:**

- There should be amendment in the Payment of Bonus Act, 1965 to remove the ceiling.
- Labour laws should be applied universally and there should not be categorization like applicable to 5-10 or 20 employees.
- Instead of having too many labour laws, these should be rationalized in 5-6 groups.
- There are so many definitions in the labour laws and all are different for different laws. Definitions should be one and applied to all laws uniformly.
- There is no Act for protecting the collective bargaining by workers and strikes have been declared illegal by the Courts. Sometimes conciliation is not the proper way to redress the grievances and provision of strike (Right to strike) should be incorporated in labour laws, though it may be the last resort. There should be a provision that if 2/3<sup>rd</sup> or 3/4<sup>th</sup> (or any such number as may be decided) of workers decide to go on strike, it cannot be declared illegal.
- Chapter V (b) of the Industrial Disputes Act, 1947 mentions about number of employees upto 100. In the era of computerization numbers of employees per unit are reducing so the law should be applicable to all without restriction of numbers.

- There should be a law for migrant labours. Migrant workers are not provided even minimum wages and they should be protected.
- The system of contract labour/casual labour in Government departments should be abolished.
- Due to already overburdening of judicial system, a separate independent judicial system for labour issues may be created, instead of handing over power to Labour Department.
- There should be codification of Labour Laws.
- Without referring to the 'decent work' agenda, problem of labour cannot be addressed.
- There should be fixation of National level Minimum Wage for simplicity and to avoid disputes.
- Suggestion of payment of wages through cheques can work provided every worker has a bank account and is acquainted with the procedures involved.
- The enforcement machinery is inadequate for implementing labour laws.
- Planning Commission should develop a tripartite mechanism by which they can discuss the issues of labour reforms.
- The definition of 'workmen', as provided in the Industrial Disputes Act, 1947 should be applicable to all labour laws.
- The implementation machinery for the labour laws, i.e. the Labour Department should be provided more teeth and it must have stringent penal powers for non-compliance of labour laws.
- No contract labor should be employed wherever the job is permanent.
- The concept of self-certification by employers is not acceptable.

## **(ii) Views of Employers:**

- The recommendation of the Second Labour Commission for clubbing of 18 laws into a single law to be applicable for small industries as Small Industries Regulation Act (SIRA), should be implemented.
- The small scale sector is the greatest source of employment so it must be ensured that the entrepreneurs are not harassed. The laws should be different and simplified for the small scale sector for facilitating growth of this sector, though benefits for the workers should not be compromised.
- A single, simplified and comprehensive Act for the small scale sector should be there as it is cumbersome for small units to comply with the various provisions of labour laws.
- It is not simple to have *uniform labour laws* as objective of every labour Act is different and also it cannot be under single definition.
- For social security of workers, if there is only one Act then there has to be single rate of contribution. What should be this single rate as there are several sources of social security such as provident funds, employees' state insurance?
- The “decent work” should be fundamental agenda of the Ministry of Labour to start with.
- Wage payments should be made through cheques and RBI should change its policy so that even zero balance in accounts can be maintained.
- Many laws like the Industrial Disputes Act 1947 have become archaic in the present scenario.
- Records should be maintained in electronic format.

- Definitions in labour laws may be simplified.
- Regarding contract labour, every industry has different needs and it may not be possible to keep every worker on muster roll with demand for labour changing with business cycle.
- Government should be only a facilitator in the promotion of industry.
- Social security benefits should also be available to employers especially in the small scale sector.
- Most of the small scale units are suppliers to the large industrial units who avail the benefits from the products of these small scale units while employing less labour force. Therefore, there should be a system of cross subsidization where the large corporates should provide more contribution for provident funds and social security in comparison to small scale units. This will encourage the growth of small scale sector and thus promote employment also.
- Contract labour system cannot be abolished though it should be ensured that the contract labour is not exploited.
- The provision of collective bargaining may not be applicable to the small scale sector.
- Regarding amendment to the Minimum Wages Act, 1948, the different components of the minimum wage should be clearly defined.
- While supporting that minimum wages should be paid to contract workers it may not be desirable to equate the wages of a contract worker with wages of a regular worker with many more years of experience.
- Equating the wages of contract labour with that of regular worker will not be appropriate, as the selection process for a contract worker and

regular worker differ and also the quality and skill of both may be different.

- The suggestion of self-certification by the employers is welcome as it is already done for Income Tax where everybody files his own income tax return.
- There is a need for provision of collective bargaining agent for a simple and less time consuming method.

### **(iii) Views of State Governments**

- Under the Minimum Wages Act, 1948, all payments should be made through Cheque and there should be a uniform system for all.
- There is no adequate law governing the migrant labours.
- Judiciary is overburdened and not able to deliver in time.
- Regarding bonded labour, the case of brick kiln workers is relevant to be pondered upon where the owner has to pay advance to hire the workers for their kiln but as per the Act when he pays the advance he becomes liable under the Bonded labour Act, though in reality this may not be bonded labour. So there is a need for revisiting this issue of brick kiln workers.
- In Hazardous industries, many labours migrate from one State to another but no record is maintained anywhere. An Inter State Council or any other mechanism should be made to look into this issue.
- One law should take care of all whether it is organized or unorganized class of workers.
- There should be some method for resolving disputes and it should not always be through slogan shouting, strikes etc. Issues should be solved through goodwill and not with confrontation.

- Regarding Trade Union Law, we have to redefine the organizational requirement for redressal issue of grievances of workers and trade Unions should not necessarily be flag bearers of political parties.
- The Second National Commission on Labour had suggested clubbing of various laws and this can be done in phases.
- Enforcement of labour laws is difficult since the number of laws and industrial units have increased manifold while labour enforcement machinery has not expanded commensurately.
- The Labour Department should be strengthened to enforce the labour regulations and the Planning Commission should make financial provision for employing adequate number of Labour Enforcement Officers (LEO) in States.
- The Financial Memorandum contained in the Bills presented to Parliament during the enactment of Labour Laws should include the financial requirements of the Labour Department for implementing the new law.
- There should be a provision for compounding of offences under labour laws as this will make the enforcement much quicker and effective.
- The fines imposed under labour laws are not sufficiently deterrent as the quantum of fines has not been revised over time. Sometimes it becomes more profitable to violate the labour laws rather than to implement it.
- The scope of Trade Union Act, 1926 also needs to be revised with a provision of de-registration of Unions.
- The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 needs to be revised and made

implementable as in its present form it probably has never been implemented. In case of a city like Delhi where people travel from surrounding areas to and fro for work, whether this can be treated as migration.

- Regarding common definitions, we need to go slowly as there are different requirements in different industries and accordingly definitions have been framed under every Act.
- Regarding the Minimum Wages Act, 1948, wages should be defined clearly giving basic and DA so that social security benefits and other allowances can be properly reflected. The honorarium provision should be clearly specified and kept separate.
- Definition of 'appropriate government' as defined in the Industrial Disputes Act 1947 may be made universal.
- There is need for focusing on long term employer-employee relationship. Codifying the labour laws should focus on evolving an employment code to take care of all issues related to worker-employer relationship and the compensation part may be tailored in it.
- The idea of common definitions is welcome but it is not clear whether this will be done through a parallel overriding law or through amendments in all laws simultaneously. A beginning could be made with common definitions for one set of laws.
- Regarding the Building & Other Construction Workers (Cess) Act, 1996, the application of this law should not be voluntary and the condition of "90 days" leads to misuse. Further the ceiling of 5% on Administrative expenses on implementation of law is impractical and inadequate as a machinery to implement the law has to be created.

Also, the granting of permission for prosecution under this Act should be decentralized.

- Regarding Employees Compensation Act, 1923, there is huge delay in disposal of cases. There should be a provision of a floor level minimum compensation in these cases to be given immediately.
- On the Child Labour (Prohibition) Act, 1986, it could be considered to make employment of a child below the 14 years age illegal in the employment code to support the implementation of Right to Education Act.
- Alternately, more number of activities may be included under the schedule of this Act, where child labour is prohibited. Prohibition of child labour from “meat shop” / abattoir is strongly recommended.
- Laws should be clubbed as suggested by the Second National Commission on Labour and there should be a single composite law for Industrial Relations.
- Tripartite mechanism or alternate dispute redressal system should be incorporated in the law in addition to the system of collective bargaining.
- The Employment Exchanges (Compulsory Notification of Vacancy) Act, 1959 needs complete overhauling. Today with the digitization of the Employment Exchanges, digital sharing of data on registered job seekers should be made mandatory for all Employment Exchanges.
- An insurance scheme should be started for the retrenched workers from the time the industry commenced operations, so that workers were not put to hardship later.
- The concern raised by ILO on self-certification may be considered before a stand is taken on this issue.

- A mechanism in form of “joint inspection” may be evolved as the goal is the economic development of the country. This can be started in MSME sector but the provisions of labour inspection should not be completely given up.
- Under the Unorganized Workers Social Security Act, 2008, the definition of ‘State’ should be broadened to include “UTs with Legislatures” also. In future also, similar provisions may be made to broaden the definition of “State”.

#### **(iv) Views of Central Ministries**

- **Ministry of Micro, Small and Medium Enterprises (MSME) Sector** suggested for running of joint awareness campaign about labour regulations for the benefit of small scale entrepreneurs.
- MSME suggested for simplification of penal provisions in the labour laws for the small scale sector.
- MSME supported the clubbing of laws in groups and also suggested that the multiplicity of provisions in different laws should be avoided
- MSME suggested for moving from a regulatory system to an incentive based system on implementation of labour laws with incentives to MSE being linked to compliance with labour laws.
- **Ministry of Heavy Industries and Public Enterprises** suggested setting up a common body at the Central level for interpretation of labour laws which should be binding for all concerned. The Labour laws should be such that they help in business growth and do not become a hindrance to growth of economy.

- It was suggested that there should be some reasonable restriction regarding number of trade unions within an organization by stipulating that the union should have at least 10% of the total strength of workers.
- **Planning Commission** agreed that the issue of labour laws reforms needs more deliberations and objected to clubbing of Acts as different laws have different purposes.

## **VI Recommendations of the Working Group**

The Working Group considered the views of various stakeholders and came to the following conclusions and broad recommendations:

### **(i) Consolidation, Simplification and Rationalization of Labour Laws**

Codification of labour laws is a desirable long term goal. However, certain practical difficulties may arise in operationalising this. In view of this the Working Group agreed with the suggestion of the Second National Commission on Labour and NCEUS that labour laws should be consolidated in a few cognate groups to reduce multiplicity of laws for better enforcement and more effective compliance. This should also help in moving closer to a uniform labour policy on common issues.

The Working Group therefore recommends that labour laws should be clubbed under the following four major cognate groups: -

#### **(A) Laws governing Industrial Relations**

- The Industrial Disputes Act, 1947
- The Industrial Employment (Standing Orders) Act, 1946.
- The Trade Unions Act, 1926

An attempt may be made to consolidate the above laws into one law i.e. Industrial Relations Act.

**(B) Laws governing Wages**

- The Equal Remuneration Act, 1976
- The Minimum Wages Act, 1948
- The Payment of Bonus Act, 1965
- The Payment of Wages Act, 1936

The above four Acts may be consolidated into one Act i.e. Payment of Wages Act.

**(C) Laws governing Social Security**

- The Employees' State Insurance Act, 1948
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Payment of Gratuity Act, 1972

The definition of establishments, eligibility criteria, etc. in the above Acts may be harmonized for purposes of consolidation.

**(D) Laws governing Working Conditions & Welfare**

- The Factories Act, 1948
- The Maternity Benefit Act, 1961
- The Workmen's Compensation Act, 1936
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Inter-State Migrant Workers(RE&CS) Act, 1979

**(E) Welfare Cess Laws**

All Cess Act and Welfare Fund Acts can be clubbed into one Act.

The above individual Acts will need harmonization of definitions and coverage before they can be consolidated.

Simplification and rationalization of labour laws will require examination of labour laws individually. In the process provisions which have outlived their existence may be deleted. If necessary, certain laws may be considered for being repealed. A consensus will have to emerge from the stakeholders regarding this.

## **(ii) Common Definitions**

Having common definitions is a pre-requisite for codification / consolidation of labour laws. At present different terminologies and definitions used in various labour laws create confusion and complications in effective compliance and enforcement. For purposes of consolidation and also for effective implementation, the Working Group suggests the following common definitions:

### **A. “Establishment” –**

A place or places where some systematic activity is carried out with the help and co-operation of employee. This definition can be used for all labour laws. For each cognate group given above, the definition of establishment in terms of minimum number of workers employed will have to be the same.

### **B. “Employee” –**

In various labour laws various terminologies such as workman, worker, labour, employee are used with different meanings. It may be considered to replace all these by word “Employee.” However, if it is not feasible to have the common definition of “employee” for all 44 labour laws,

it may be considered to have a common definition of the term “employee” for the cognate groups given above.

**C. “Wage”-**

The definition of wage given in the Payment of Wages Act, 1936 may be considered for adopting in all labour laws.

**D. “Employer”-**

A uniform definition of “employer” can be “the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent.”

**E. “Appropriate Government”-**

For the laws, which are enforced by the Central Government as well as by the State Governments a simple and uniform definition of appropriate Government is very essential. The definition of “appropriate Government” provided in the Industrial Disputes Act, 1947 can be adopted for this purpose.

The Working Group felt that with consolidation of labour laws and with harmonization of key definitions in select cognate groups, the disputes regarding applicability of Acts to separate classes of establishments and different categories of workers may reduce. This should also result in better compliance, reduction in cost of administration of the laws and improved implementation with lesser registers and returns to be maintained. In the long run, it may even have a positive impact on expansion of regular employment with simplification of rules and procedures under various legislations.

**(iii) Protecting Interest of Workers in the Unorganised Sector**

The Working Group recognized that for around 94 per cent of the workforce being employed in the unorganized sector there is an urgent need to protect their interest by providing them the minimum living wage, improved regulatory activities, basic social security and labour welfare schemes and improved health and safety facilities. The living standards of this segment of the workforce need urgent attention since the workers in this sector have no security of job and are often deprived of the basic rights under various labour laws. The enactment of the Unorganized Workers Social Security Act, 2008 is a step in the right direction but still much more needs to be done.

It is suggested that the core conventions and recommendations of ILO on decent working conditions need to be fully incorporated in the laws for the unorganized sector. Law for domestic workers in accordance with ILO convention and Floor Level Social Protection discussed in the 100<sup>th</sup> Session of the International Labour Conference of ILO could be further deliberated upon for adopting new initiatives during the 12<sup>th</sup> Plan.

**(vi) Amendments in certain key Acts which should have far reaching impact on living standards of workers**

The Working Group recommends that proposed amendments in the Minimum Wages Act, the Contract Labour Act and the Factories Act which are currently at various stages of consultation should be put on fast track during the 12<sup>th</sup> Five Year Plan. The amendments of these Acts should have

far reaching impact on labour standards and help fulfill the objective of inclusive growth. Some of the main amendment proposals are as follows: -

**a) Amendment in the Minimum Wages Act, 1948**

There should be one single statutory National Floor Level Minimum Wage (NFLMW) for the entire nation below which wages in any employment cannot be paid. A single wage rate by its very simplicity will be easy to understand and implement. Standardization of minimum wages under NFLMW should also reduce procedural complications in implementation of the law and enhance compliance.

The Minimum Wages Act defines wages to include basic, DA and HRA. Some employers split the consolidated wages announced by the Government into these heads so that they do not have to pay PF etc on the full Minimum Wage announced by the Government. They also then do not pay Gratuity on the HRA component. One of the following solutions can be considered:

- Wage in Minimum Wages Act to be defined as basic and DA only.
- Section 20 to be amended to provide for the recovery of the amount determined by the Authority, as arrears of land revenue as is done in Payment of Gratuity Act so that the Authority does not have to file an application before the Court.
- Section 22 B (a) – Filing of claim application and its being upheld should not be a condition precedent to the initiation of prosecution proceedings.
- The Minimum Wages Act should also provide for Payment of Wages by remittance in bank account of the employee.

**b) Amendment of the Contract Labour Act, 1970**

It is recommended to amend the Contract Labour Act so that contract workers get the same wages, facilities and benefits as regular employees. So even if contract workers have no security of tenure, they would get better salaries with health cover and social security benefits under the Employees' State Insurance Corporation and Employees' Provident Fund, respectively.

**c) Amendment in the Factories Act, 1948**

In the global scenario where technologies are changing at a rapid pace, the worker has to face new hazards and risks to his life. Against this background, the Factories Act, 1948 should be amended to re-define hazards to ensure better operational safety and health standards. Furthermore, with women workers increasingly joining the workforce, especially in IT/ITES and export enclaves, the proposed amendments also seek to address concerns like security, transportation, congenial workplace, etc. to promote their employment.

**d) Amendment in Building and other Construction Workers (RE&CS) Act (1996).**

- Registration to be made mandatory like in the PF and ESI laws.
- Pre- service of 90 days of workers be waived.
- Renewal of membership be done after 3 years.

The definition of employer in the BOCW(RE&CS) Act rightly includes the Contractor as the Act has provisions relating to safety, health and welfare which have to be the joint responsibility of both the PE and the

contractor. The same definition is used in the BOCW(RE&CS) Cess Act but here it creates a problem as the Principal Employer and contractor shift the responsibility to each other. Since the entire cost has to be ultimately borne by the owner, it is proposed that in the cess Act, the employer be defined as only the owner and not the contractor. This would eliminate a lot of confusion.

**e) Amendment in The Trade Unions Act,1926**

The Act needs to be a complete code in itself including recognition, machinery for the resolution of intra union dispute and deregistration.

**f) Amendment in the Employees' Compensation Act, 1923:**

- Compensation payable to the employees should be insured. It has been seen in some cases, where a number of employees die, that the employer is not able to pay compensation as he just does not have that much money.
- In case the order is not passed by the Authority in three months, the Act should have a provision similar to the Industrial Disputes Act to ensure that the proceedings after three months are valid and do not lapse.

**(vii) Enhancing Eligibility Criteria and Indexing of Benefits**

In a number of Acts such as those relating to Payment of Wages, ESI, EPF, Employees' Compensation, etc., there is a well defined eligibility criteria in terms of wage ceiling. This also gets eroded with inflation reducing the number of workers who are entitled to benefits under these Acts. The eligibility criteria should be reviewed at a given periodicity, say 3-

5 years to take into account the erosion in the wage ceiling limits through amending the rules rather than amendment of Act.

The benefits in monetary terms in the Acts are subject to erosion in real terms on account of inflation. To protect the real value of the monetary benefit provided under the various laws, a provision should be considered for indexing the benefits under the Acts involving monetary payments. Such an indexing is provided for the Minimum Wages Act, 1948 though application of VDA but is not available in other Acts where an absolute monetary ceiling is placed on the quantum of benefit such as for payment of gratuity, employees' compensation, maternity benefit, etc.

#### **(viii) Recommendations for Improving Enforcement of Labour Laws**

Strengthening of enforcement machinery by way of increasing the manpower, improving infrastructure, etc. is essential for effective implementation of labour laws. At present the ratio of enforcement officer to industrial establishment is very low. Over the years the number of Acts, number of establishments and number of workers have increased manifold. The Working Group, therefore, suggests a complete review of the strength of the enforcement machinery. Creation of an All India Service for labour administration to provide professional experts in the field of labour administration, autonomous bodies and labour adjudications could help. This could be accompanied with well laid out institutional mechanisms for up gradation of skills, induction of greater professionalism, introduction of performance assessment parameters and well defined incentives and disincentives for officers dealing with enforcement of labour laws.

The Working Group also felt that proper enforcement of labour laws can be done through the vigil of trade unions. Collective bargaining process

should increasingly be relied upon for resolution of labour disputes. Holding Lok Adalats should also be encouraged to enable faster disposal of cases. A database should be built on all aspects relating to industrial relations and the officers of the Labour Departments should have access to such database through computer connectivity. The flow of statistics from the States to the Centre should also be streamlined, made more efficient and faster.

In addition to codification and simplification of Labour Laws it is also suggested for creating online single window system for making compliance as user friendly, simple and for bringing transparency. Employers can seek the registration, license etc. online and can also file returns etc. online.

The Working Group also considered the system of penalties under various Acts and the need to introduce changes in these for better enforcement. Most of the labour laws have lost their efficacy because of very meager penalties. There is a viewpoint that penalties should be graded depending on the seriousness of offence, the number of times the offence has been committed and the capacity to pay. Compounding of offence is a well recognized criteria for imposing penalties. In addition there should also be a provision to change it through rules rather than amendment of Acts. Similar to the benefits, penalties too could be indexed.

#### **(ix) Recommendations for Easing Compliance Burden of Labour Laws**

Employers are of the view that enforcement should not lead to harassment and “Inspector Raj” that perpetrates corruption and raises compliance costs. In case of disputes on claims or other grievances, the redressal procedure is sometimes very complicated and time consuming.

Many of the cases land in courts where the judiciary is overburdened and valuable time of inspectors is wasted in visiting courts.

There is a view point that for minor offences for which punishment by way of fine is provided, senior Officer of Labour Department should be empowered to adjudicate these cases. This would reduce the time taken in disposing complaints and also reduce the burden on courts.

There is an enforcement gap in some of the labour laws. The Working Group recommended identifying the reasons for non-implementation of certain Acts. The Working Group considered various suggestions for reducing the compliance burden of labour laws. Inspections should follow Convention 81 of the ILO where sovereign functions of the State cannot be delegated to a third party. However, complaint based inspections; self certification, etc. can complement the present system without substituting it. The Government is already endeavoring to simplify and rationalize inspections wherever possible while fully protecting the interest of workers. In order to reduce the compliance burden on 'very small' and 'small' establishments employing upto 19 workers and 40 workers respectively, the Government of India introduced the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Bill, 2011 in the Rajya Sabha on 23.03.2011. The Bill is presently pending before the Standing Committee of Parliament. The Bill also provides for simplification and rationalization of returns and registers including maintenance of records on computers and e-filing. Care is to be taken to ensure that workers' interests are fully protected and that maintenance of all essential data as per requirements of respective Acts is not compromised.

**Annexure-I**

No. Q-20017/4/2011/LEM/LP  
Government of India  
Planning Commission  
(Labour, Employment & Manpower Division)

Yojana Bhavan, Sansad Marg,  
New Delhi- 110001  
Dated 07/04/2011.

**Order**

**Constitution of Working Group on Labour Laws & Other Labour Regulations for the Twelfth Five Year Plan (2012-17).**

In the context of preparation of 12<sup>th</sup> Five Year Plan it has been decided to set up a Working Group on Labour Laws & Other Labour Regulations.

The composition of the Working Group on Labour Laws & Other Labour Regulations will be as follows:

- |    |   |                 |
|----|---|-----------------|
| 1. | Secretary,<br>Ministry of Labour & Employment,<br>Shram Shakti Bhawan,<br>New Delhi-110001.                         | <b>Chairman</b> |
| 2. | Secretary (or nominee),<br>Ministry of Law & Justice, A-Wing,<br>Shastri Bhawan, New Delhi-110001.                  | Member          |
| 3. | Secretary (or nominee),<br>Ministry of Heavy Industries &<br>Public Enterprises, Udyog Bhawan,<br>New Delhi-110001. | Member          |
| 4. | Secretary (or nominee),<br>Ministry of Micro, Small & Medium<br>Enterprises, Udyog Bhawan,<br>New Delhi-110001.     | Member          |
| 5. | Pr. Secretary (Labour),<br>Govt. of Madhya Pradesh, Mantralaya,<br>Vallabh Bhavan, Bhopal – 462004.                 | Member          |

6. Pr. Secretary (Labour),  
Govt. of Andhra Pradesh,  
L- Block, Floor – 3, Room No. 308,  
Secretariat Office,  
Hyderabad – 500022. Member
7. Pr. Secretary (Labour),  
Govt. of Gujarat 5<sup>th</sup> Block, 6<sup>th</sup> Floor,  
Sachivalaya,  
Gandhinagar – 382010. Member
8. Pr. Secretary(Labour),  
Government of N.C.T. Of Delhi  
5, Sham Nath Marg,  
Delhi - 110054. Member
9. Dr. Bibek Debroy,  
Secretary-General, PHD Chamber of  
Commerce & Industry,  
PHD House,  
4/2 Siri Institutional Area  
August Kranti Marg, New Delhi 110016. Member
10. Director,  
International Management Institute,  
B-10, Qutub Institutional Area, Tara  
Crescent,  
New Delhi-110016. Member
11. Dr. Subhashish Gangopadhyay,  
Managing Trustee & Research Director,  
India Development Foundation  
4101, Near Orchid Square  
DLF Phase -IV  
Gurgaon - 122002. Member
12. Director General,  
V.V. Giri National Labour Institute,  
Sector-24, Noida,  
District – Gautam Budh Nagar, UP- 201  
301. Member
13. Dr. M.K.Pandhe,  
Vice President,  
CITU, 13-A, Rouse Avenue,  
New Delhi-110002. Member

14. Dr. G. Sanjeeva Reddy,  
President,  
Indian National Trade Union Congress,  
“Shramik Kendra”,  
4, Bhai Veer Singh Marg,  
New Delhi-110001. Member
15. Shri C.K. Sajjinarayanan,  
President,  
Bhartiya Mazdoor Sangh,  
Gayatri Link Road, Ayatole,  
Trichur – 680003,  
Kerala. Member
16. Chairman or Representative of the  
Employers’ Federation of India,  
Army & Navy Building,  
148, Mahatama Gandhi Road,  
Mumbai – 400 001. Member
17. Shri Manish Sabharwal,  
CEO, Team Lease Services Pvt. Ltd.,  
House No. 26,  
Palmgrove Road of Victoria Road,  
Bangalore – 560047. Member
18. Shri Vishram Jamdar,  
President, Laghu Udyog Bharti,  
Anand Rao Vide Smriti Parisar,  
184, Shivaji Nagar, Nagpur – 440016. Member
19. Shri Aseem Sarode,  
Flat No. 302, Anil Houshing Society,  
Oppt. Kamla Nehru Park  
Off Bhandarkar Road, Pune-411004. Member
20. Dr. Ajeenkya D. Patil,  
D.Y. Patil Group,  
D.Y. Patil Building,  
Opposite MIG Colony,  
Worli, Mumbai – 400 025. Member

- |     |  |          |
|-----|--|----------|
| 21. | Shri Ashish Sharma, Advocate,<br>K-14-B, Saket,<br>New Delhi- 110017.  | Member   |
| 22. | Adviser (LEM) or nominee,<br>Planning Commission   | Member   |
| 23. | Labour & Employment Adviser,<br>Ministry of Labour & Employment, GOI,<br>Shram Shakti Bhawan,<br>New Delhi-110001. | Convener |

2. The Terms of Reference of the working group will be as under :

- a) To review Labour Laws and other Labour Regulations and to suggest modifications which would help to expand regular wage employment.
- b) To suggest appropriate measures so as to ensure healthy industrial relations and promote productivity among workers.
- c) To review the enforcement of existing labour laws and regulations and suggest modifications if any, required for expanding regular wage employment.
- d) To suggest initiatives in the legislative and administrative domain that will strike a balance between protecting the interests of labour and the need for providing operational flexibility to companies which might contribute to a faster growth in employment in organized sector.
- e) To examine the need for special measures that need to be taken for Special Economic Zones (SEZs), Industrial Parks, Export Zones and other locations/activities that foster creation of large new employment opportunities.
- f) To examine the nature of existing labour laws in relation to regulatory activities, provision of social security and labour welfare in the smaller establishments.

- g) To suggest an approach towards contract labour, in particular the measures to provide social security.
- h) To identify the Laws which, i) are no longer needed and need to be repealed; ii) are in harmony with climate of economic liberalization and hence need no change; and iii) require changes and revision in the rules, regulations, orders and notifications etc. issued there under.
- i) To examine the extent of coverage of labour through the monitoring and reporting system at State and Central Govt. level in regard to the implementation of the Labour Laws.
- j) Any other issue(s) concerning Labour Laws & Other Labour Regulations with the consent of the Chairman of the Working Group.

3. The Chairman of the Working Group may co-opt any other person as Member of the Working Group if considered necessary.

4. The Working Group will submit its report by 31<sup>st</sup> July, 2011. LEM Division of the Planning Commission will provide secretariat service for the Working Group.

5. The expense towards TA/DA of the official members will be met by respective Govt. Departments /Institutions to which they belong. The TA/DA of non-official members shall be governed by the provisions of SR190(A) as per the entitlement of Group-A officers of the Govt. **They shall be permitted to travel to & fro for the meeting by Air (cheapest economy class only by Air India).**

6. Smt. A. Srija, Director (Labour, Employment & Manpower), Room No. 319(A), Yojana Bhawan, New Delhi, Tel. 23096710 or 23042335) will be the nodal officer for this Working Group.

Sd/-  
(Jeewan Sharma)  
Deputy Secretary to the Government of India

To

Chairman and all the Members (incl. Convener) of the Working Group.

Copy to :

1. PS to DCH/ MOS(Planning)/ Members/Member-Secretary, Planning Commission.
2. All Principal Advisers/ Sr. Consultants/ Sr. Advisers/Advisers/ HODs in Planning Commission.
3. Prime Minister's Office, South Block, New Delhi.
4. Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
5. Information Officer, Planning Commission.
6. Joint Secretary (Administration), M/o Labour & Employment.
7. Director (Finance), Planning Commission.

Sd/-  
(Jeewan Sharma)  
Deputy Secretary to the Government of India

**MINUTES OF THE FIRST MEETING OF THE “WORKING GROUP ON LABOUR LAWS & OTHER LABOUR REGULATIONS” SET UP BY THE PLANNING COMMISSION IN PREPARATION OF THE 12<sup>TH</sup> FIVE YEAR PLAN HELD AT 3.30 P.M. ON 30.05.2011 UNDER THE CHAIRMANSHIP OF SECRETARY (LABOUR & EMPLOYMENT) IN COMMITTEE ROOM, ‘C’ WING, SHRAM SHAKTI BHAWAN, NEW DELHI.**

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The first meeting of the “Working Group on Labour Laws & other Labour Regulations” set up by the Planning Commission in preparation of the 12<sup>th</sup> Five Year Plan was held at 3.30 P.M. on 30.05.2011 under the Chairmanship of Secretary (Labour & Employment) in Committee Room, ‘C’ wing, Shram Shakti Bhawan, New Delhi. The list of participants is Annexed.

2. Labour & Employment Adviser, Ministry of Labour & Employment welcomed the participants to the Meeting of the Working Group and made a brief Power Point Presentation on the issues for consideration of the Working Group. Referring to the terms of references of the Working Group and highlighting the initiatives taken so far by the Ministry for the benefit of labour, she mentioned the following points for consideration of the Working Group:-

- How to protect the interest of workers more effectively, especially in the unorganized sector?
- How to promote growth of industry, employment and productivity of workers while ensuring protection of workers’ rights and maintaining healthy industrial relations?

- Which are the labour laws that need to be repealed or amended?
- How to improve the coverage of labour laws?
- How to improve enforcement / implementation of labour laws?

3. Secretary (L&E) stated that multiplicity of labour laws and non-uniformity in definitions of key terms such as workers, establishments etc. are old issues, often discussed in various meetings in the past but without much progress. There are divergent views of Employers' and Employees' on these issues and how to resolve it in a given timeframe is a major challenge. He expressed the hope that this Working Group, instead of making general prescriptions, will provide specific guidance as to how to move ahead on the matter in a prescribed time frame and who should be given the task. He thereafter, invited the views of the participants on the subject.

4. Shri M. K. Pandhe from CITU, thanked the Government for constitution of the Working Group to ponder upon the important issues concerning labour. He mentioned about the Ramanujam Committee, which could not provide fruitful outcome because adequate facilities were not provided to it by the Government. Raising various issues concerning the labour he asked for the amendment in the Payment of Bonus Act, 1965 to remove the ceiling. Further he pointed out about the labour flexibility so that labour laws can be applied to a vast majority of workers. He

mentioned that in the IT sector no labour laws are applied though it provides for a large worker population. He also mentioned about the anomalies in the Minimum Wages Act and Contract labour Act. Government itself is violating laws as in Postal Department more than 3 lakh workers are employed on contract basis. He demanded that labour laws should be applied universally and there should not be categorization like applicable to 5-10 or 20 employees.

5. Shri Vishram Jamdar from Laghu Udyog Bharti (LUB) mentioned about the recommendation of the Second Labour Commission for clubbing of 18 laws into a single law to be applicable for small industries as Small Industries Regulation Act (SIRA). Government should consider moving in that direction. He said that there is unanimity that worker should get adequate remuneration and social security and no employer will disagree on it. However, the laws should be simple as the moment the laws become complicated other factors arise and inspection machinery takes advantage of it. He pointed out that the Social Security Act proposed in 2005 was good and why not that be implemented. The small scale sector is the greatest source of employment so it must be ensured that the entrepreneurs are not harassed. He differentiated between industry and enterprises and said that when a small scale entrepreneur comes to know that he can be put behind bars for non compliance of certain regulations, he gets disheartened. The laws should be different and simplified for the small scale sector for facilitating growth of this sector.

**6. Principal Secretary (Labour), Government of Madhya Pradesh said that he has provided his written comments to the Ministry. He mentioned that under the Minimum Wages Act, 1948 , all payments should be made through Cheque and there should be a uniform system for all. He also mentioned that time period for this Working Group to submit its Report is very short. Additional Chief Secretary (Labour), Government of Gujarat mentioned about the migrant labours working in Gujarat and there is no adequate law governing them. He agreed with the point mentioned in the Agenda that Judiciary is overburdened and not able to deliver in time. Regarding bonded labour, he cited the example of brick kiln workers where the owner has to pay advance to hire the workers for their kiln but as per the Act when he pays the advance he becomes liable under the Bonded labour Act, though in reality this may not be bonded labour. So there is a need for revisiting this issue of brick kiln workers. In Hazardous industries, many labour migrate from one State to another but no record is maintained anywhere. He suggested that Inter State Council or any other mechanism should be made to look into this issue. He said that he will send detailed comments in writing later on.**

**7. Shri Shyam Sunder Sharma, Legal Cell In-charge, Bharatiya Mazdoor Sangh (BMS) said that the labour legislations are the outcome of the struggle against the great exploitation of the workers during 19<sup>th</sup> Century so labour laws should be in favour of worker class and not the employers whereas now a days the**

**Government seems to be more concerned about employers than the labour class. He suggested that instead of having too many labour laws, these should be rationalized in 5-6 groups. There are so many definitions in the labour laws and all are different for different laws. Definitions should be one and applied to all laws uniformly. Also the applicability of labour laws is different for every Act whereas this should be same and limitation on the basis of size or numbers should be removed. Laws should be applicable to all and every section of workers whether organized or unorganized. He said that there is no Act for protecting the collective bargaining by workers and strikes have been declared illegal by the Courts. Sometimes conciliation is not the proper way to redress the grievances and provision of strike (Right to strike) should be incorporated in labour laws, though it may be the last resort. There should be a provision that if 2/3<sup>rd</sup> or 3/4<sup>th</sup> (or any such number as may be decided) of workers decide to go on strike, it cannot be declared illegal. Chapter V (b) of the Industrial Disputes Act, 1947 mentions about number of employees upto 100. In the era of computerization numbers of employees per unit are reducing so the law should be applicable to all without restriction of numbers.**

**8. Shri Manish Sabharwal, (Team Lease Services Private Limited) stated about 3 variables: 92% workers in unorganized sectors; 12% workers in manufacturing sector; and 50% in self-employment. He mentioned that the issue should be seen from the demand side and here the skill development comes into picture. When 92% are uncovered by the labour laws being in unorganized sector, why so**

**much focus on labour laws who are reducing the elasticity of growth. The challenge is increase in job creation as without employers there will be no employee. He suggested for plumbing approach and divides the bucket into two. Something which is non-negotiable i.e. minimum wages, social security and safety of workers and everybody should agree on these. But regarding materiality it should not be emphasized much upon. Skill crisis is closely related to demand and growth requires skills.**

**9. Principal Secretary (Labour), Government of NCT of Delhi thanked for associating Government of Delhi with this Working Group formed to consider the issue of labour. He suggested for considering the issue from open mind and out of box thinking is called for. He deliberated upon a lot of issues such as definitions clause in labour laws, working conditions, child labour Act, migration of labours, social security aspect etc. He said that if we take Act by Act amendment, it would be very exhaustive exercise. He suggested that one law should take care of all whether it is organized or unorganized class of workers. He mentioned that there should be some method for resolving disputes and it should not always be through slogan shouting, strikes etc. Issues should be solved through goodwill and not with confrontation. Regarding Trade Union Law, he suggested that we have to redefine the organizational requirement for redressal issue of grievances of workers and trade Unions should not necessarily be flag bearers of political parties.**

**10. Shri P. K. Sharma of PHD Chambers of Commerce & Industries said that it is not simple to have uniform labour laws as objective of every labour Act is different and also it can not be under single definition. He mentioned that for social security of workers, if there is only one Act then there has to be single rate of contribution. What should be this single rate as there are several sources of social security such as provident funds, employees' state insurance?**

**11. Shri S. Sahu, Additional Development Commissioner, SSI, Ministry of Micro, Small and Medium Enterprises (MSME) Sector mentioned that Ministry of MSME is running awareness programmes in MSME and if the Ministry of Labour & Employment can collaborate with the Ministry of MSME, joint awareness campaign about labour regulations can be run for the benefit of small scale entrepreneurs. He suggested for simplification of penal provisions in the labour laws for the small scale sector.**

**12. Intervening again, the representative of BMS suggested that as pointed out by the Government of Gujarat representative, there should be a law for migrant labours. Migrant workers are not provided even minimum wages and they should be protected. He opposed the system of contract labour/casual labour in Government departments and demanded that this system should be abolished. Agreeing with the overburdening of judicial system he suggested that instead of handing over power to Labour Department, a separate Independent judicial system for labour issues may be created.**

**13. Shri K.N.Pathak, Joint Adviser , Planning Commission said that Planning Commission has to finalize the Twelfth Five Year Plan by 1<sup>st</sup> April 2012 and that is why time constraint for submission of Report by this Working Group by 31<sup>st</sup> July 2011 is there, so that the Steering Group on Labour under the Member Planning Commission can look into this Report and include in the 12<sup>th</sup> Plan. He said that worker can not be seen in isolation and it is required to see how best the harmony can be maintained in labour-employer relationship.**

**He also supported the concern raised by Shri Manish Sabharwal regarding skill development and employability of a vast majority of workers joining the labour force. He said that here our focus is on organized sector but the challenge is how to cover the unorganized sector which constitute the 92% of the worker population. They are the key players in the employment growth and if the labour laws could take care of them then only this Working Group will deliver much closer to its mandate.**

**14. Summing up the discussions, Secretary (L&E) thanked the participants for their views and stated that in order to proceed further we should consider certain core areas suggested below:-**

- (i) Out of the 44 Central Acts, what is the possibility of clubbing some Acts into Groups, without diluting the objectives of these Acts?**
- (ii) Individually, which of the Acts require to be amended and in what manner?**

- (iii) Some provisions of labour laws are non-negotiable such as minimum wages, social security, occupational safety and health. It needs to be deliberated what further improvements should be made in these as also other labour laws so that administrative cost of implementation is reduced, procedures are simplified, misuse is minimized and the employers cannot find loopholes in it.**
- (iv) As regards the MSME sector, there is an anomaly in the definition based on the investment limits in the MSME Act and definition based on number or workers employed under labour laws. Proposal for a separate law for MSME Sector can be promoted if the benefit to labour in the MSME Sector are not compromised, for instance, there is no case that PF for MSME Sector should be 8% while for others it should be 12% , or any differential treatment of MSME Sector as suggested in the Arjun Sengupta Report.**
- (v) In Gujarat there are some regions where flexibilities have been incorporated in labour laws. The Government of Gujarat should conduct an evaluation study to find out whether the conditions of labour have been compromised in these regions.**
- (vi) There is some scope for common definitions in some of the Acts for example in the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and the Employees' State Insurance Act, 1948 which needs further examination.**

**14. Secretary (L&E) concluded the discussions stating that this Working Group should deliberate on the issues in detail and make specific suggestions with specific timelines for being completed in the 12<sup>th</sup> Five Year Plan. He mentioned that the next meeting could be held in June to firm up views on the above items.**

**The meeting ended with thanks to chair.**

## Annexure

**List of Participants to the First Meeting of The “Working Group On Labour Laws & Other Labour Regulations” set up by the Planning Commission In Preparation of the 12<sup>th</sup> Five Year Plan held on at 3.30 P.M. 30.05.2011 under the Chairmanship of Secretary (Labour & Employment)**

\*\*\*\*\*

1.	<b>Secretary, Ministry of Labour &amp; Employment, - Chairman</b>
2.	<b>Dr. Vinita Kumar, Labour &amp; Employment Adviser, Ministry of Labour &amp; Employment</b>
3.	<b>Shri K.M.Gupta, Economic Adviser, Ministry of Labour &amp; Employment</b>
4.	<b>Shri S.R. Joshi, Deputy Director General, DGLW Office.</b>
5.	<b>Shri N.K.Prasad, Chief Labour Commissioner (Central), New Delhi.</b>
6.	<b>Shri V. Murali, Deputy Chief Labour Commissioner (Central), New Delhi.</b>
7.	<b>Ms. Vandana Sharma, Director, Occupational Safety &amp; Health, Ministry of Labour &amp; Employment</b>
8.	<b>Shri S.K. Tripathi, Under Secretary, Coordination Section</b>
9.	<b>Shri B.L.Choudhary, Addl. Legal Adviser Ministry of Law &amp; Justice,</b>
10.	<b>Shri V.Sethuraman, Deputy Secretary, Ministry of Heavy Industries &amp; Public Enterprises</b>
11.	<b>Shri Samarendra Sahu, Additional Development Commissioner, Ministry of Micro, Small &amp; Medium Enterprises</b>
12.	<b>Dr. Pukhraj Maroo, Pr. Secretary (Labour), Government of Madhya Pradesh</b>

13.	<b>Shri Varesh Sinha, Pr. Secretary (Labour), Government of Gujarat.</b>
14.	<b>Shri B.V.Selvaraj, Pr. Secretary (Labour &amp; Employment), Government of N.C.T. of Delhi.</b>
15.	<b>Shri P.K.Sharma, Legal Adviser, PHD Chamber of Commerce &amp; Industry</b>
16.	<b>Prof. N.N.Akhouri , International Management Institute,</b>
17.	<b>Shri V.P.Yajurvedi, Director, V.V.Giri National Labour Institute Noida</b>
18.	<b>Dr. M.K. Pandhe, Vice President, CITU</b>
19.	<b>Shri Shyam Sunder Sharma, Incharge, Legal Cell BMS.</b>
20.	<b>Shri Manish Sabharwal, Chairman Team Lease Services Pvt. Ltd</b>
21.	<b>Shri Vishram Jamdar, President, Laghu Udyog Bharati</b>
22.	<b>Shri Asim Sarode, Advocate</b>
23.	<b>Shri Ashish Sharma, Advocate</b>
24.	<b>Shri K.N. Pathak, Joint Adviser, Planning Commission,</b>
25.	<b>Shri Onkar Sharma, Fellow, V.V. Giri National Labour Institute</b>
26.	<b>Shri C.P.Tripathi, Labour Commissioner, Govt. of NCT Delhi</b>
27.	<b>Shri Piyush Sharma, Joint Labour Commissioner, NCT Delhi.</b>

**MINUTES OF THE SECOND MEETING OF THE “WORKING GROUP ON LABOUR LAWS & OTHER LABOUR REGULATIONS” SET UP BY THE PLANNING COMMISSION IN PREPARATION OF THE 12<sup>TH</sup> FIVE YEAR PLAN, HELD AT 11.00 A.M. ON 27.07.2011 IN COMMITTEE ROOM, ‘C’ WING, SHRAM SHAKTI BHAWAN, NEW DELHI.**

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The second meeting of the “Working Group on Labour Laws & other Labour Regulations” was held on 27.07.2011. The list of participants is at **Annexure**.

2. While welcoming the participants, Labour & Employment Adviser conveyed the inability of Secretary (L&E) to chair the meeting as he had to attend another important Meeting outside Delhi. She mentioned that based on the deliberations held in the first Meeting of the Working Group held on 30.05.2011 and also the inputs received from some of the members of the Group, Draft recommendations have already been circulated for consideration of the Members. Thereafter she invited the Members to put forward their views on the Agenda items.

3. Shri M. K. Pandhe from CITU, said that it is not possible to finalize views on such important issues of labour laws in only 2 Meetings. He asked for more time to finalize the Report. Referring to the agenda circulated, he mentioned amalgamation of labour laws may dilute their very purpose and may not be successful. He reminded the members of the earlier efforts of clubbing the ESI and EPF Acts which could not succeed. He expressed concern at the increasing contractualisation of labour force. While welcoming the suggestion of giving same wages and other benefits to the contract labour as that to regular workers, he wanted to know why anyone would like hire contract labour after this

change. He mentioned that he will be providing some additional suggestions also.

4. Representative from CII mentioned that on the issue of compliance of labour laws, much needs to be done. Since we are in an electronic era, he suggested that records should be maintained in electronic format. Definitions in labour laws may be simplified. Regarding contract labour, he mentioned that every industry has different needs and it may not be possible to keep every worker on muster roll with demand for labour changing with business cycle. He however welcomed the suggestion of clubbing of health and safety laws.

5. Joint Labour Commissioner, Government of Delhi mentioned that the Second National Commission on Labour had suggested clubbing of various laws and this can be done in phases. He expressed the view that enforcement of labour laws is difficult since the number of laws and industrial units have increased manifold while labour enforcement machinery has not expanded commensurately. He suggested that there should be a provision for compounding of offences under labour laws as this will make the enforcement much quicker and effective. The fines imposed under labour laws are not sufficiently deterrent as the quantum of fines has not been revised over time. Sometimes it becomes more profitable to violate the labour laws rather than to implement it. The scope of Trade Union Act, 1926 also needs to be revised with a provision of de-registration of Unions. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 needs to be revised and made implementable as in its present form it probably has never been implemented. He cited the example of Delhi where people travel from surrounding areas to and fro for work and whether this

can be treated as migration. Regarding common definitions he suggested that we need to go slowly as there are different requirements in different industries and accordingly definitions have been framed under every Act. Regarding the Minimum Wages Act, 1948 he expressed the view that wages should be defined clearly giving basic and DA so that social security benefits and other allowances can be properly reflected. Definition of 'appropriate government' as defined in the Industrial Disputes Act 1947 may be made universal. He suggested for complete prohibition of child labour across board.

6. It was clarified to him that child labour is completely prohibited only for hazardous industries and to have it prohibited universally, it will require a wider discussion and debate. Regarding the Building & Construction Workers Cess Act, he suggested that registration of workers may be made mandatory. For the purpose of regulation of employment and Cess, the employer should be owner of the project and not the contractor.

7. Representative of Ministry of Heavy Industries and Public Enterprises said that the agenda circulated by the Ministry of Labour & Employment was forwarded to the Public Sector Enterprises and the Ministry of Heavy Industries will be sending its comments in writing shortly. He suggested setting up a common body at the Central level for interpretation of labour laws which should be binding for all concerned. The Labour laws should be such that they help in business growth and do not become a hindrance to growth of economy. He also suggested that there should be some reasonable restriction regarding number of trade unions within an organization by stipulating that the union should have at least 10% of the total strength of workers.

8. Representative of the Planning Commission agreed that the issue of labour laws reforms needs more deliberations. He mentioned that the problems of workers in organized and unorganized sector are different and therefore it may be difficult for the law to cover both sectors simultaneously. He also objected to clubbing of Acts as different laws have different purposes.

9. Representative from Bhartiya Mazdoor Sangh appreciated the concern of the Government to reform the labour laws. However, he suggested that keeping in view the importance of the issue this cannot be tackled in just two meetings. He said that message should be conveyed to the Planning Commission that this important issue of amendment in labour laws cannot be decided in a hurry. There is a traditional tripartite mechanism to look into labour issues. Other Ministries are encroaching upon the domain of Ministry of Labour & Employment, Labour Ministry should oppose it. He suggested that there should be codification of Labour Laws on the lines prepared long back. He said that the general tone of the present questionnaire seems to be anti-worker. According to him, the concept of SEZ is a national tragedy and we should have comprehensive review of the labour laws based on their bearing on national development. There should also be some mention of ILO conventions. Without referring to the 'decent work' agenda, problem of labour cannot be addressed. The concept of decent work should be included in the document. He pointed to the draft recommendations circulated where it was mentioned that a comprehensive amendment is being considered in the Factories Act, 1948. He suggested that this should be discussed in detail.

10. Shri A.C.Pandey, Joint Secretary, Ministry of Labour & Employment mentioned about two recent developments at ILO. One is that the Domestic Workers convention has been adopted this year and Government of India has supported this. The other issue is a floor level of social protection for labour. India has supported this also.

11. Representative of Planning Commission said that consultations have been going on with the State Governments, Trade Unions, Civil Society members and NGOs since last 3-4 months and Planning Commission is trying to accommodate broad spectrum of views. The Commission has opened its website for all for suggestions and views for the preparation of 12<sup>th</sup> Five Year Plan.

12. Shri Michael Dias, representative of Employers Federation of India agreed that the two Meetings are insufficient for finalizing the views on the labour law amendments. He also supported that the “decent work” should be fundamental agenda of the Ministry of Labour to start with. The Tripartite mechanism is waning and needs to be strengthened. Acts have so many provisions but the ground reality is different. The basic issue is wage. Wage payments should be made through cheques and RBI should change its policy so that even zero balance in accounts can be maintained. Many laws like the Industrial Disputes Act 1947 have become archaic in the present scenario. He touched upon several issues such as simplification of labour laws, financial viability of enforcement of labour laws, merging of ESI and EPF laws, etc.

13. Representative of Ministry of MSME said that they will be sending their comments in writing. He supported the clubbing of laws in groups and also suggested that the multiplication of provisions in different laws should be avoided.

14. Representative of INTUC welcomed the idea of simplification of labour laws. However he suggested that certain issues need to be deliberated longer. He appreciated the concept of codification of labour laws. He suggested fixation of National level Minimum Wage for simplicity and to avoid disputes. According to him, contract labour is always exploited and therefore there should be a central mechanism for monitoring it. Even in the Public Sector Enterprises, contract labour is exploited. Tripartite system is weak and is not working properly. The role of National Productivity Council and Central Board of Workers Education needs strengthening. Suggestion of payment of wages through cheques can work provided every worker has a bank account and is acquainted with the procedures involved. He also supported codification of labour laws.

15. Shri M. K. Pandhe, CITU intervened regarding implementation of labour laws. He mentioned that the enforcement machinery is inadequate for implementing labour laws. He suggested that the Planning Commission should develop a tripartite mechanism by which they can discuss the issues of labour reforms. He called for one more Meeting of the Working Group to finalize its recommendations and suggested that the time schedule for submission of Report should be extended to 31<sup>st</sup> August 2011.

16. Shri Vishram Jamdar from Laghu Udyog Bharti (LUB) mentioned that there is as such no anomaly in the definition of MSME sector enterprises as these are clearly based on the limit of investments. He suggested that there should be different laws for the MSME sector, though benefits for the workers should not be compromised. He appreciated the clubbing of labour laws in 5 groups. He said that we are

far away from the ground reality and we should think about the actual problems being faced by the entrepreneurs and workers at the ground level. He mentioned about the problem in online registration of challans on the ESIC website and said that the software is obsolete. The worker should get adequate wages and social security benefits and the implementation of labour laws should be in the spirit of giving genuine benefit to workers. He mentioned that penalties have been increased substantially in the recent past.

17. Summing up the discussions, Labour & Employment Advisor thanked the participants for their valuable suggestions and views and stated that there is no question of reinventing the wheel. A large number of Commissions and Committees have already gone into the issues relating to labour reforms which could form the basis of further discussions and recommendations of the Working Group. Keeping the five year horizon of the 12<sup>th</sup> Plan in mind, the Members could suggest doable reforms including those that do not necessarily entail changes in legislations but at the same time result in better implementation of Labour laws and improve working conditions of labour. The members may like to prioritize their suggestions in this regard. She asked the participants to send their suggestions in writing in the next 2-3 days. On the basis of deliberations held in this Meeting and also inputs received from the participants in writing, a draft Report will be prepared and circulated to all members. This draft will be considered in the third and final Meeting of the Working Group, sometime in August (preferably on Saturday) and thereafter the Report of this Working Group will be finalized.

The meeting ended with a vote of thanks to chair.

## Annexure

### List of Participants to the Second Meeting of The “Working Group On Labour Laws & Other Labour Regulations” set up by the Planning Commission in Preparation of the 12<sup>th</sup> Five Year Plan held on at 11.00 A.M. 27.07.2011

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1.	Dr.Vinita Kumar, Labour & Employment Adviser, Ministry of Labour & Employment <i>... in chair</i>
2.	Shri R. Raghupati, Addl. Secretary, Ministry of Law & Justice
3.	Shri A. C. Pandey, Joint Secretary, Ministry of Labour & Employment
4.	Shri S.R. Joshi, Deputy Director General, Directorate General of Labour Welfare, Ministry of Labour & Employment
5.	Shri V. P. Yajurvedi, Director General, V.V.Giri National Labour Institute, Noida
6.	Shri Manjit Kumar, Deputy Secretary, Ministry of Heavy Industries & Public Enterprises
7.	Shri K. N. Pathak, Joint Advisor, Planning Commission
8.	Shri Harpreet Singh, Assistant Director (Policy), Ministry of Micro, Small & Medium Enterprises
9.	Shri Gautam Roy, Director, Child & Women Labour, Ministry of Labour & Employment
10.	Shri B. L. Tikania, Deputy Secretary, Ministry of Labour & Employment
11.	Shri B. K. Sanwaria, Deputy Chief Labour Commissioner (Central), New Delhi.
12.	Shri V. Murali, Deputy Chief Labour Commissioner (Central), New Delhi.
13.	Shri R. R. Mannewar, Joint Director, Directorate General of Employment & Training , Ministry of Labour & Employment

14.	Shri B. L. Meena, Joint Director, Directorate General of Employment & Training , Ministry of Labour & Employment
15.	Shri R. S. Dangi, Deputy Director, Directorate General of Employment & Training , Ministry of Labour & Employment
16.	Shri S.K. Tripathi, Under Secretary, Ministry of Labour & Employment
17.	Dr. Onkar Sharma, Fellow, V.V. Giri National Labour Institute
18.	Shri L. K. Pandey, Additional Commissioner (Labour), Government of Madhya Pradesh
19.	Shri Ramesh Tiwari, Labour Commissioner, Govt. of NCT of Delhi
20.	Shri Piyush Sharma, Joint Labour Commissioner, Government of NCT of Delhi.
21.	Dr. M.K. Pandhe, Vice President, CITU
22.	Shri C. K. Sajjinarayan, President, Bhartiya Mazdoor Sangh (BMS), Trichur, Kerala
23.	Shri R. Chandrasekharan, President, INTUC, Kerala Branch
24.	Shri Michael Dias, Secretary, The Employers Federation of India
25.	Shri Vishram Jamdar, President, Laghu Udyog Bharati
26.	Shri Samarjit Banerjee, Sr. General Manager (HR), CII

## Annexure-IV

### **MINUTES OF THE THIRD MEETING OF THE “WORKING GROUP ON LABOUR LAWS & OTHER LABOUR REGULATIONS” SET UP BY THE PLANNING COMMISSION IN PREPARATION OF THE 12<sup>TH</sup> FIVE YEAR PLAN, HELD AT 03.00 P.M. ON 20.08.2011 IN COMMITTEE ROOM, ‘C’ WING, SHRAM SHAKTI BHAWAN, NEW DELHI.**

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The third meeting of the “Working Group on Labour Laws & other Labour Regulations” was held at 03.00 P.M. on 20.08.2011. The list of participants is at Annexure.

2. Welcoming the participants, Labour & Employment Adviser conveyed the inability of Secretary (L&E) to chair the meeting as he had to attend to some other urgent matter. She informed the members about the sudden demise of Dr. M.K. Pandhe, Vice President CITU, and Member of this Working Group, on 19.08.2011. Appreciating the contribution of Dr. M.K. Pandhe to the deliberations of this Working Group, she mentioned that Dr. M.K. Pandhe had only a day before sent an e-mail forwarding his comments / views on the subject for consideration of the Working Group. All participants observed one minute silence in condolence of death of Dr. M.K. Pandhe.

3. Thereafter, Labour & Employment Adviser informed the participants that based on the deliberations held in the second Meeting of the Working Group held on 27.07.2011 and also the written comments received from some of the members of the Group, the Agenda for this Meeting had been prepared and circulated for consideration of the Members. She mentioned that the Planning Commission has desired an interim Report to be forwarded to them by 25<sup>th</sup> August, 2011 which has necessitated taking urgent action to finalize the Report of this Working

Group. Thereafter, she invited the Members to put forward their views on the Agenda items.

4. Shri R. Chandrasekheran, INTUC expressed satisfaction over inclusion of his views, deliberated during the previous meeting, in the agenda and mentioned that he had no further comments to add. Shri Sharad Patil, Employers Federation of India paid tribute to Late Dr. Pandhe and recalled his contributions made on labour matters. Discussing the agenda item, he observed that the views expressed in earlier Meetings on some issues such as Contract labour etc., had not been reflected in the Agenda circulated now. He welcomed the idea of simplification of labour laws and mentioned that simplification and self-certification can go hand in hand. He expressed no issue at combining various labour Acts and having common definitions. He, however, observed that there is no mention about the provisions of Chapter V(b) of the Industrial Disputes Act, 1947. He also mentioned about the need for provision of collective bargaining agent for a simple and less time consuming method. He suggested for simplifying the process of recognition of trade unions and indexing the benefits under various labour laws and third party inspections. However, he was of the opinion that equating the wages of contract labour with that of regular worker will not be appropriate, as the selection process for a contract worker and regular worker differ and also the quality and skill of both may be different.

5. Shri B.V. Selvaraj, Principal Secretary (Labour), Government of Delhi mentioned that as he had not received the minutes of the first Meeting, he is not aware whether his views had been included. He suggested for focusing on long term employer-employee relationship. He

mentioned that codifying the labour laws should focus on evolving an employment code to take care of all issues related to worker-employer relationship and the compensation part may be tailored in it. He appreciated the attempt made to draw common definitions but felt that it was not clear whether this will be done through a parallel overriding law or through amendments in all laws simultaneously. He said that a beginning could be made with common definitions for one set of laws.

6. Regarding the Building & Other Construction Workers (Cess) Act, 1996 he said that the application of this law should not be voluntary and the condition of “90 days” leads to misuse. Further the ceiling of 5% on Administrative expenses on implementation of law is impractical and inadequate as a machinery to implement the law has to be created. Regarding Employees Compensation Act, 1923 he mentioned about huge delay in disposal of cases. He suggested for provision of a floor level minimum compensation in these cases to be given immediately. On the Child Labour (Prohibition) Act, 1986 he said that it could be considered to make employment of a child below the 14 years age illegal in the employment code to support the implementation of Right to Education Act. Another view is to include more number of activities under the schedule of this Act, where child labour is prohibited. He strongly suggested prohibition of child labour from “meat shop” / abattoir. Laws should be clubbed as suggested by the Second National Commission on Labour and there should be a single composite law for Industrial Relations. Tripartite mechanism or alternate dispute redressal system should be incorporated in the law in addition to the system of collective bargaining. The Employment Exchanges (Compulsory Notification of Vacancy) Act, 1959 needs complete overhauling. Today with the

digitization of the Employment Exchanges, digital sharing of data on registered job seekers should be made mandatory for all Employment Exchanges.

7. Shri Pawan Kumar, BMS mentioned that decision of clubbing of 44 labour laws in 4 laws cannot be taken in a short time. He, therefore, suggested for setting up of a small group to consider which law is to be amended and what should be amended. On the suggestion of common definition of wages, he mentioned that the definition of 'workmen', as provided in the Industrial Disputes Act, 1947 should be applicable to all labour laws. He further suggested that the implementation machinery for the labour laws, i.e. the Labour Department should be provided more teeth and it must have stringent penal powers for non-compliance of labour laws. He opposed the provision of 'self-certification' for the employers. Regarding compliance of labour laws he observed that the strengthening of Labour Departments will result in better compliance. Contract labour is a big issue and the Government is the biggest employer of contract labour. He suggested that no contract labor should be employed wherever the job is permanent. He appreciated that the views of BMS submitted earlier had been incorporated in the draft agenda / report.

8. Shri S. Sahu, Additional Development Commissioner, Ministry of Micro, Small and Medium Enterprises (MSME) broadly agreed with the proposals incorporated in the Agenda. Adding further, he suggested for moving from the regulatory system to an incentive based system in implementation of labour laws. Ministry of MSME could support proposals linking incentives to the micro and small industries with the

compliance of labour laws. Labour & Employment Adviser desired to know whether any decision had been taken regarding linking the definition of MSME units with number of labour force employed rather the investment limits. On this Shri Sahu responded that though Ministry of MSME is debating on the issue, it is yet to arrive at a final decision.

9. Shri R.K. Bhardwaj, Laghu Udyog Bharti appreciated the views of the Planning Commission and the Prime Minister's Office that Government should be only a facilitator in the promotion of industry. He mentioned that the MSME sector is the biggest source of employment in the country. He suggested for a single, simplified and comprehensive Act for the small scale sector stating that it is cumbersome for small units to comply with the various provisions of labour laws. He, however, felt that no compromise should be made on the issue of minimum wages, social security and occupational safety and health issues of the labour. He desired that the social security benefits should also be available to employers especially in the small scale sector. He said that most of the small scale units are suppliers to the large industrial units who avail the benefits from the products of these small scale units while employing less labour force. Therefore, there should be a system of cross subsidization where the large corporates should provide more contribution for provident funds and social security in comparison to small scale units. This will encourage the growth of small scale sector and thus promote employment also. He expressed the view that contract labour system cannot be abolished though it should be ensured that the contract labour is not exploited. He said that exploitation arises because the units are not allowed to employ as per their needs. An employer should be allowed to adjust his work force as the employer, in normal

circumstances does not like to let his skilled and experienced worker go. He also mentioned that the MSME sector do not have resources to provide higher wages. Generally new comers get employment with the MSME sector and after acquiring job skills move to bigger corporates. Thus, MSME sector is also contributing to skill upgradation in the country. He mentioned that provision of collective bargaining may not be applicable to the small scale sector.

10. Shri L.K. Pandey, Additional Labour Commissioner, Government of Madhya Pradesh, mentioned that most of the suggestions included in the Agenda are part of the recommendations of the Second National Commission on Labour. He said that the provisions in respect of Fundamental Rights and Directive Principles of State Policy in the Constitution should be complied and workers' rights and dues should not be compromised. The issue of "labour standardization" was discussed long back in 1998 and it was decided not to pursue it . Deliberating on the items in the Agenda, he supported the views of Delhi Government about the Building & Other Construction Workers (Cess) Act, 1996 and suggested that granting of permission for prosecution under this Act should be decentralized. He was in the favour of starting an insurance scheme for the retrenched workers from the time the industry commenced operations so that workers were not put to hardship later. Regarding definition of "wages" he suggested that the honorarium provision should be clearly specified and kept separate. He desired that the Labour Department should be strengthened to enforce the labour regulations and the Planning Commission should make financial provision for employing adequate number of Labour Enforcement Officers (LEO) in States.

11. Shri Rajiv Kapoor, Confederation of Indian Industry (CII) expressed appreciation that the document circulated is comprehensive and that he agreed on most of the suggestions included in the Agenda. Regarding amendment to the Minimum Wages Act, 1948 he suggested that the different components of the minimum wage should be clearly defined. While supporting that minimum wages should be paid to contract workers he observed that it may not be desirable to equate the wages of a contract worker with wages of a regular worker with many more years of experience. He welcomed the suggestion of self-certification by the employers as it is already done for Income Tax where everybody files his own income tax return.

12. Representative of BMS intervened to say that in case the contract worker is provided minimum wage only, there will be a clash as workers in same organization employed in different States will get different wages and, therefore, it should be an 'industry wise minimum wage'. Regarding self-certification, he cited the example of EPF stating that a large number of employers have not submitted their returns. He, therefore, opposed the idea of self-certification.

13. Joint Labour Commissioner, Government of Delhi mentioned about the lack of sufficient staff and infrastructure in Labour Departments. He suggested that the Financial Memorandum contained in the Bills presented to Parliament during the enactment of Labour Laws should include the financial requirements of the Labour Department for implementing the new law. While the number of labour laws has increased over time the number of labour inspectors is very less to

enforce these laws. He opined that the concern raised by ILO on self-certification may be considered before a stand is taken on this issue.

14. Principal Secretary (Labour), Government of Delhi mentioned that we are at a stage where the industry and labour are not two opposite forces. He suggested that a mechanism in form of “joint inspection” may be evolved as the goal is the economic development of the country. This can be started in MSME sector but the provisions of labour inspection should not be completely given up. Raising another issue, he mentioned that under the Unorganized Workers Social Security Act, 2008, the definition of ‘State’ should be broadened to include “UTs with Legislatures” also. In future also, similar provisions may be made to broaden the definition of “State”.

15. Summing up the discussions, Labour & Employment Adviser thanked the participants for their valuable suggestions and requested the participants to send their written comments / suggestions within the next 2-3 days. She mentioned that since the Planning Commission has set up five other Working Groups on Labour issues covering social security, child labour, skill development, etc. the specific details on the laws governing these could be dealt in those Working Group. Keeping this in mind the members of the Working Group on Labour Laws & Other Labour Regulations should focus on general suggestions for the next five years of the 12<sup>th</sup> Plan including non-legislative measures that could be implemented by executive orders to make labour laws and their implementation more effective.

The meeting ended with a vote of thanks to chair.

Annexure

List of Participants

1.	<b>Dr. Vinita Kumar , Labour &amp; Employment Adviser, Chairman Ministry of Labour &amp; Employment,</b>
2.	<b>Shri K.M. Gupta, Economic Adviser, Ministry of Labour &amp; Employment</b>
3.	<b>Shri B.L. Choudhary, Addl. Legal Adviser, Ministry of Law &amp; Justice, A-Wing, Shastri Bhawan, New Delhi-110001.</b>
4.	<b>Shri Niraj Kumar, Director, Ministry of Heavy Industries &amp; Public Enterprises, Udyog Bhawan, New Delhi-110001.</b>
5.	<b>Shri Samarendra Sahu, Additional Development Commissioner, Ministry of Micro, Small &amp; Medium Enterprises, 7<sup>th</sup> Floor , Nirman Bhawan, New Delhi- 1.</b>
6.	<b>Shri L.K.Pandey, Additional Labour Commissioner , Govt. of Madhya Pradesh, Indore.</b>
7.	<b>Shri B,V.Selvaraj, Principal Secretary (Labour), Government of N.C.T. Of Delhi, 5, Sham Nath Marg, Delhi – 110054</b>
8.	<b>Shri V.P.Yajurvedi , Director General, V.V.Giri National Labour Institute, Gautam Budh Nagar, Noida.</b>
9.	<b>Shri R. Chandrasekharan , President , President ,INTUC Kerala Branch</b>
10.	<b>Shri Pawan Kumar , Zonal Organizing Secretary BMS, Tilak Gali, Paharganj, New Delhi.</b>
11.	<b>Shri Sharad Patil , Secretary General, The Employees' Association, 204 , Janankha, 10, Manuel Gonsalves Road, Bandra (West). Mumbai 400050</b>
12.	<b>Shri R.K.Bhardwaj, National Secretary, Laghu Udyog Bharati, 149 Sector 12, Panchkula .</b>
13.	<b>Shri N.K.Singh, General Secretary, Laghu Udyog Bharati,</b>

14.	<b>Shri K.N.Pathak , Joint Adviser, Planning Commission, Yojana Bhawan, New Delhi.</b>
15.	<b>Shri Ashish Sharma, Advocate, K 14 B Saket , New Delhi 110017.</b>
16.	<b>Dr.Onkar Sharma, Fellow, V.V. Giri National Labour Institute, Sector-24, Noida, District – Gautam Budh Nagar, Uttar Pradesh - 201 301.</b>
17.	<b>Shri Piyush Sharma, Joint Labour Commissioner, NCT Delhi.</b>
18.	<b>Shri Rajiv Kapoor, Confederation of Indian Industry, The Mantosh Sondhi Centre, 23, Institutional Area, Lodhi Road, New Delhi-11003.</b>
19.	<b>Shri Vineet Bhardwaj, Confederation of Indian Industry, The Mantosh Sondhi Centre, 23, Institutional Area, Lodhi Road, New Delhi-11003</b>
20.	<b>Shri T.K.Basu, Deputy Director General, Ministry of Labour and Employment</b>
21.	<b>Shri Animesh Bharati, Director, Ministry of Labour &amp; Employment</b>
22.	<b>Shri V. Murali, Deputy Chief Labour Commissioner (Central), New Delhi.</b>
23.	<b>Ms. Naina Bakshi Regional Labour Commissioner (Central), Hqrs.</b>
24.	<b>Ms. Shakuntala Patnaik, Assistant Director (IR) , Ministry of Labour &amp; Employment</b>
25.	<b>Shri S.K. Tripathi, Under Secretary, Coordination Section</b>