

**STANDING COMMITTEE ON LABOUR
(2008-09)**

(FOURTEENTH LOK SABHA)

MINISTRY OF LABOUR AND EMPLOYMENT

*[Action taken by the Government on the Recommendations/Observations contained in the
Twenty Eighth Report of the Standing Committee on Labour on Demands for Grants for
the year 2008-2009]*

THIRTY SECOND REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

October, 2008/Asvina, 1930 (Saka)

THIRTY SECOND REPORT

**STANDING COMMITTEE ON LABOUR
(2008-09)**

(FOURTEENTH LOK SABHA)

MINISTRY OF LABOUR AND EMPLOYMENT

[Action taken by the Government on the Recommendations/Observations contained in the Twenty Eighth Report of the Standing Committee on Labour on Demands for Grants for the year 2008-2009]

Presented to Lok Sabha on 24.10.2008

Laid in Rajya Sabha on 24.10.2008



LOK SABHA SECRETARIAT
NEW DELHI

October, 2008/Asvina, 1930 (Saka)

CONTENTS

	PAGE(S)	
<i>COMPOSITION OF THE COMMITTEE</i>		<i>(iii)</i>
<i>INTRODUCTION</i>		<i>(iv)</i>
CHAPTER I	Report.....	1
CHAPTER II	Recommendations/Observations which have been accepted by the Government.....	
CHAPTER III	Recommendations/Observations which the Committee do not desire to pursue in view of the Government's reply.....	
CHAPTER IV	Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee and which require reiteration.....	
CHAPTER V	Recommendations/Observations in respect of which replies of the Government are interim in nature	

APPENDICES

- I. Minutes of the sitting of the Committee held on 21.10.2008.
- II. Analysis of the Action Taken by Government on the Recommendations contained in the Twenty Eighth Report (Fourteenth Lok Sabha)

**COMPOSITION OF THE STANDING COMMITTEE ON LABOUR
(2008-2009)**

Shri Suravaram Sudhakar Reddy-CHAIRMAN

MEMBERS

LOK SABHA

2. Shri Furkan Ansari
3. Shri Ramdas Bandu Athawale
4. Shri Subrata Bose
5. Shri Santasri Chatterjee
6. Shri Thawar Chand Gehlot
7. Shri Munawar Hasan
8. Smt. Sushila Kerketta
9. Shri Mohammad Tahir Khan
10. Shri Virendra Kumar
11. Shri Rajesh Kumar Manjhi
12. Shri Basangouda R. Patil
13. Shri Devidas Pingle
14. Shri Chandra Dev Prasad Rajbhar
15. Shri Mohan Rawale
16. Shri Dhan Singh Rawat
17. Shri Kamla Prasad Rawat
18. Smt. C. S. Sujatha
19. Shri Paras Nath Yadav
20. Vacant
21. Vacant

RAJYA SABHA

22. Chowdhary Mohammad Aslam
23. Shri Rudra Narayan Pany
24. Shri Narayan Singh Kesari
25. Shri K. Chandran Pillai
26. Shri Gandhi Azad
27. Smt. Renubala Pradhan
28. Shri Arjun Kumar Sengupta
29. Vacant
30. Vacant
31. Vacant

SECRETARIAT

- | | |
|---------------------|------------------------------|
| 1. Shri S.K. Sharma | - Secretary |
| 2. Shri Brahm Dutt | - Joint Secretary |
| 3. Shri R.K. Bajaj | - Director |
| 4. Shri N.K. Pandey | - Deputy Secretary |
| 5. Ms.Mili George | - Senior Executive Assistant |

INTRODUCTION

I, the Chairman of the Standing Committee on Labour having been authorised by the Committee to submit the Thirty-second Report on their behalf, present this Report on the action taken by the Government on the recommendations contained in the Twenty-Eighth Report of the Standing Committee on Labour (Fourteenth Lok Sabha) on Demands for Grants of the Ministry of Labour and Employment for the year 2008-2009.

2. The Twenty-Eighth Report was presented to Lok Sabha and also laid in Rajya Sabha on 22nd April, 2008. The Ministry of Labour and Employment furnished their replies indicating action taken on the recommendations contained in that Report on 27th August, 2008. The report was considered and adopted by the Standing Committee on Labour at their sitting held on 21.10.2008.

3. An analysis of the action taken by Government on the recommendations contained in the Twenty-Eighth Report of the Standing Committee on Labour (Fourteenth Lok Sabha) is given in Appendix-II.

New Delhi;
October, 2008
Asvina 1930 (Saka)

SURAVARAM SUDHAKAR REDDY,
CHAIRMAN,
STANDING COMMITTEE ON LABOUR.

CHAPTER I

REPORT

1. This Report of the Standing Committee on Labour deals with the action taken by the Government on the recommendations/observations contained in the Twenty-Eighth Report (14th Lok Sabha) on the Demands for Grants for the year 2008-09 relating to the Ministry of Labour and Employment which was presented to Lok Sabha and laid in Rajya Sabha on 22nd April, 2008.

2. The Ministry of Labour and Employment were requested to furnish action taken replies to the recommendations contained in the Twenty-Eighth Report within three months from the presentation of the Report i.e. by 22nd July 2008. It contained 15 recommendations/observations. The action taken replies of the Government in respect of all the recommendations contained in the Report were received on 27th August 2008. These have been categorized as under:-

- (i) Recommendations/Observations which have been accepted by the Government – Rec. Sl.Nos. 1, 2, 3, 4, 5, 7, 9, 10, 13 and 14.
- (ii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government's reply – NIL.
- (iii) Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee and which require reiteration – Rec. Sl.Nos. 6, 11, 12 and 15.
- (iv) Recommendation/Observation in respect of which replies of the Government are interim in nature – Rec. Sl.No.8.

3. The Committee desire that action taken replies in respect of recommendations contained in Chapter I and final action taken replies in respect of recommendations contained in Chapter-V for which only interim replies have been given by the Government may be furnished to them at the earliest and in any case not later than 3 months of the presentation of the Report.

4. The Committee will now deal with the action taken by the Government on some of their recommendations which need reiteration or merit comments in the succeeding paragraphs.

A. Overall Performance-Improving Planning Process and Strengthening Monitoring Mechanism

(Rec. Sr. No.1, Para 3.10)

5. The scrutiny of Demands for Grants (2008-09) of the Ministry of Labour and Employment revealed that the total outlay of Rs.2,498.03 crore (Plan Rs.771.50 crore & Non-Plan Rs.1,726.53 crore) for the year 2008-09 marked an increase of more than Rs.600 crore over the allocation for the previous year 2007-08 (Rs.1,897.27 crore). However, the scheme-wise/programme-wise scrutiny brought out that the percentage of expenditure incurred on execution of some of the important schemes during the year 2007-08 was far from satisfactory. Holding of Lok Adalats, Rehabilitation of Bonded Labour, Elimination of Child Labour, Rashtriya Swasthya Bima Yojana, Information Technology, Grants-in-aid to research and academic institutions, etc. were some of the glaring examples in this regard. In this context, the Committee asked the Ministry to take immediate steps to improve its planning process and strengthen its monitoring mechanism for optimum utilization of funds.

6. In their action taken reply furnished to the Committee, the Ministry has inter-alia stated as follows:-

“It has been the constant endeavour of the Ministry to formulate plan schemes with utmost care and monitor their effective implementation. The position relating to individual schemes are mentioned below:-

..... The ‘Rashtriya Swasthya Bima Yojana’ for BPL families in Unorganised Sector was launched on 1st October, 2007. The unorganized sector worker and his family (a unit of five) will be covered under the scheme. The scheme will be implemented in a phased manner and all 6 crore BPL workers are to be covered in five years starting with 1.2 crore in 2008-09 and 6 crore by 2012-13. The total sum insured would be Rs.30,000/- per family per annum on a family floater basis. The premium will be shared on 75:25 basis by Centre and State Government. The beneficiary would be entitled to cashless transactions through smart card. The benefits under the scheme have started accruing w.e.f 01.04.2008. An Inter-Ministerial Approval and Monitoring Committee has been constituted. The Committee assesses the State government proposals and grants approval to ensure that credible implementation arrangement are in place. Apart from that, the regional officers of Directorate General Labour Welfare (DGLW) would address the Grievances of the concerned. During the year 2007-08 amount given as Grants-in-aids was re-appropriated to MH 2230 to incur administrative expenses to implement the scheme. The administrative expenses were incurred on National and State level workshops to sensitize the representatives of State Governments/ Nodal Agencies, Insurance Companies and other stakeholders with regard to smart card operations, specially the Key Management System, purchase of hardware/software and SCOSTA smart card.....”

7. The Committee notice that the Rashtriya Swasthya Bima Yojana was launched for BPL families in the Unorganised Sector on 1st October 2007 to cover all the 6 crore BPL workers in a phased manner in a time frame of five years. The total sum insured would be Rs.30,000/- per family per annum. To assess the proposals from State Governments, grants approval and to ensure the existence of credible implementation machinery, an Inter-Ministerial Committee has been constituted. Even though the benefits have started accruing to the beneficiaries since 1st April, 2008, no details have been made available to the Committee regarding the actual number of beneficiaries under the scheme covered so far. The Ministry in their reply has given only the details regarding administrative processes involved in the implementation of the scheme and re-appropriation in Grants-in-aid to incur these administrative expenses for the purpose. The Committee feel that the preliminary exercise for the scheme should have been completed well before the launch of the scheme. The Committee, therefore, recommend that annual targets should be fixed for the purpose and all out efforts should be made to achieve the targets with a view to achieve the main objective of the Scheme to cover the 6 crore BPL workers within a period of five years.

B. Judicious spending of allocated amount in North – Eastern States
(Rec. Sr. No.3, Para 3.12)

8. The Committee had expressed their concern to find various schemes approved for implementation in the North Eastern States were not being implemented properly. The budget allocation of Rs.34.50 crore for the year 2007-08 was subsequently reduced to Rs.26.50 crore at RE stage. Even this amount could not be spent as the total actual expenditure on various schemes of North Eastern States is just Rs.15.88 crore. The reasons for shortfall in expenditure were due to certain administrative/technical constraints. The Committee were not at all inclined to accept the explanation given by the Ministry in this regard. The Committee, therefore, recommended that every effort be made by the Ministry to judiciously expend the entire allocated amount for the development and welfare of the North Eastern States to avoid reduction at the RE stage.

9. In their action taken reply furnished to the Committee, the Ministry has stated as follows:-

“During 2007-08, Plan allocation for Ministry of Labour and Employment was Rs.345.00 crore (including Rs.19.52 crore as CW). Out of this amount, as per Government directives, 10% of the budget i.e. 34.50 crore was earmarked for North-Eastern, which was reduced to Rs.26.50 crore at RE stage. The Ministry, however, was able to spend Rs.31.14 crore during 2007-08.

Under the scheme ‘Establishment of new Industrial Training Institutes (ITIs) in the North Eastern States and Sikkim’, 25 new ITIs are being established and 35 existing ITIs are being strengthened and modernized with an outlay of 100 crore. A budget provision (BE) of Rs.25 Crore was made in Financial Year 2007-08. Out of the above budget provision, an amount of Rs.21.01 Crore (84% of the BE) was released to various North Eastern States for completing the activities on civil construction, equipment procurement and recurring expenditure component.

Under another Centrally Sponsored Scheme namely “Reforms and Improvement of Vocational Training Services rendered by the Central and State Government” – Vocational Training Improvement Project [VTIP] with World Bank assistance, 12 ITIs from the North Eastern State were taken up for funding during 2007-09 and an amount of Rs. 9.97 crore was released to these ITIs. It is therefore submitted that, in all, an amount of 30.98 crore was released to ITIs in the North Eastern States [Rs.21.01 crore towards CSS on NE States and Rs. 9.97 crore for 12 ITIs of North Eastern States under VTIP scheme], thereby utilizing the full budget allocation of Rs.25 crore. Further, additional requirement was met by re-allocating of funds from other schemes.

Implementation of plan schemes in North-East is being monitored constantly.”

10. The Committee note that as against BE of Rs.34.50 crore, actual expenditure during the year was Rs.31.14 crore. The Committee have also been informed that establishment of 25 new ITIs and upgradation of 35 existing ITIs with an outlay of Rs.100 crore have been the core areas of spending of funds. Under another scheme, 'Vocational Training Improvement Project', World Bank assistance was ensured to 12 ITIs in these States. The Committee feel that this will provide an opportunity to the youth of North-Eastern States to acquire skill to earn their livelihood. The Committee expect the Ministry to provide necessary funds to make 25 new and 35 upgraded ITIs functional at the earliest. Needless to re-emphasise that constant monitoring should be done for timely completion of these projects. Efforts should also be made to plan more such schemes for vocational training to cover Information Technology, Communication and Computer related areas so that educated population get good jobs.

C Employees' Provident Fund Organisation (EPFO) - Action against defaulting establishments

(Rec. Sr. No.5, Para 3.27)

11. The Committee's examination had revealed that there was persistent default on the part of the employers' to deposit the provident fund contribution in the Office of the Provident Fund Commissioner (EPFO) though the amount is deducted from the wages of the employees regularly. The Committee were given to understand that on identification of default in remitting the employees' share on the basis of Computerized Compliance Tracking System (CCTS) action is taken under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. However, EPFO has no system of blacklisting the defaulting establishments. The periodical and regular scrutiny is undertaken only in respect of the major defaulters. The Committee, therefore, desired that a suitable mechanism apart from Computerized Compliance Tracking System (CCTS) be devised to identify the defaulting establishments for initiating penal action against them including black listing.

12. In their action taken reply furnished to the Committee, the Ministry has stated as follows:-

"The employer is required to comply with the provisions of the Act suo-moto, which includes timely remittance of dues. However, inspite of various deterrents provided in the Act (i.e. penalties under section 14 of the Act, etc) certain establishments still tend to default. Nonetheless, the recommendations made by the Committee are being placed before the Sub-Committee on "Strategic Adjustments in Compliance 2001 programme" for consideration and evolving a suitable mechanism for checking default."

13. The Committee had deprecated the persistent default on the part of the employers' to deposit the provident fund contribution in the office of the Provident Fund Commissioner (EPFO) though the amount is deducted from the wages of the employees regularly. The Ministry has now come out with the fact that so called punitive measures provided for in the Act are not effective in deterring possible offenders. Otherwise, establishments would not have shown such defaulting tendency. The Committee, therefore, earnestly urge the Government to impress upon

the Sub-Committee on “Strategic Adjustments in Compliance 2001 Programme” to devise a suitable mechanism apart from Computerised Compliance Tracking System (CCTS) to identify and initiate stringent penal action against defaulting establishments. The Committee may be apprised of the decision taken by the Sub-Committee within three months.

D Enhancement in wage ceiling

(Rec. Sr. No. 6, Para 3.28)

14. The Committee noted that the present wage ceiling of Rs.6,500/- for the purpose of coverage under Employees' Provident Fund Organisation is in vogue since 1 June 2001. The Government also does not propose to enhance the wage ceiling on the plea that raising of wage ceiling would have a wider impact on the Employees' Pension Scheme, 1995 (EPS) and hence unless the impact on the pension scheme is fully taken care of, the rise in the wage ceiling may not be appropriate. The Committee, therefore, strongly recommended that the assessment of the impact of rise in wage ceiling on pension scheme be carried out in a time bound manner and the rates of pension under EPS, 1995 accordingly be revised at the earliest. The Committee further recommended that the rate of contribution could be structured in such a way that it nullifies the possible adverse impact on Employees' Pension Scheme, 1995 after the wage ceiling for the purpose of coverage is increased.

15. In their action taken reply furnished to the Committee, the Ministry has stated as follows:-

“As enhancement of wage ceiling would result in an increase in Actuarial deficit in the Employees' Pension Fund, an appropriate decision to increase wage ceiling could be taken as soon as a suitable solution is arrived at. The Committee's recommendation that the rate of contribution can be restructured to nullify the impact on the Employees' Pension Scheme, 1995 would be placed before the 'Pension Implementation Committee' and the 'Committee for Comprehensive Review of the Employees' Pension Scheme, 1995'. “

16. The Committee are not convinced with the reply of the Government that enhancement of wage ceiling would result in an increase in Actuarial deficit in the Employees' Pension Fund. Accordingly, they should re-examine the whole issue in the context of the Committee's recommendation. The Committee would await the Government response.

E Employees' State Insurance Corporation (ESIC) - Increase in beneficiaries - Augmenting existing infrastructure

(Rec. Sr. No.8, Para 3.38)

17. The Committee noted that there has been a substantial increase of 8,38,004 employees, 10,08,968 Insured Persons (IPs), 3,91,473 beneficiaries as on 31 March 2007 against their number in 31 March 2006. However, the Committee were pained to note that the number of Branch Offices have decreased from 646 to 620, beds in other hospitals from 3,128 to 2,896, Employees State Insurance Corporation dispensaries from 1,422 to 1,388, medical officers from 6,992 to 6,890 and Insurance Medical Practitioners from 2,041 to 1,942 during the same period. The re-organisation and rationalization undertaken by the States to ensure optimum utilization of existing infrastructure which was necessitated due to gross under-utilisation of Employees State Insurance Corporation dispensaries, hospitals, etc. was cited to be the reason behind the reduction in infrastructural facilities. The Committee were given to understand that the augmentation of the infrastructural facilities in case of requirement would be done as per the norms and requirements of the State Governments. The Committee recommended that all out efforts should be made to put an end to the system of duality in administration to the extent possible with regard to the execution of ESI Scheme so that the health needs of the insured persons are well taken care of.

18. In their action taken reply furnished to the Committee, the Ministry has stated as follows:-

“ ESIC has taken number of steps to remove the difficulties being faced by duality of control in administration of Medical Scheme in the States:-

1. Revolving Fund Scheme has been introduced to ensure smooth flow of funds. Under this Scheme, the part of the fund is kept with the Sr. State Medical Commissioner / SMC at the level of Regional Office and the payments are issued by the Regional Office on receipt of valid sanctions of the State Govt. Under this Scheme, the funds are being released for provision of super specialty treatment to insured persons and their families, drugs and dressings, repair and maintenance of equipments etc.
2. ESI Corporation has taken over one Hospital in each State to be run as Model Hospital under the Model Hospital Scheme. The total expenditure on running of the Model hospital is being borne by the ESI Corporation outside the ceiling. These Model hospitals are being staffed as per norms and are being modernized with latest equipments.
3. ESI Corporation has approved taking over of ESI Scheme in the States who give the consent for the same. State Govt. of Madhya Pradesh and Bihar have given the consent for take over of the Scheme.”

19. The Committee have taken note of the steps taken by the ESIC in removing the difficulties faced due to duality of administration. However, they are apprehensive about the results of such a move as there is still overlapping of jurisdiction as far as the benefits to the ensured persons are concerned. The Committee regret to observe that Ministry in their reply has not provided the reasons for gross-underutilization of the existing infrastructure which has led to the sharp decrease in beds, dispensaries, medical officers, etc. while the number of beneficiaries availing various services of the ESIC are increasing manifold year after year. The Committee are deeply distressed to note that even when the existing infrastructure would be insufficient in meeting the ever growing medical requirements, the Corporation has drastically reduced the same. The Committee expect the Ministry to have proper and strict monitoring of the model hospitals being run by the ESIC.

F Contract Labour - Ascertaining exact number of Contract Workers

(Rec. Sr. No.11, Para 3.53)

20. The Committee had expressed their unhappiness to find that no estimate of contract workers in the country was available with the Government. Although the Ministry has stated that the contract labour is employed to meet the exigencies of the situation and their number varies, it is an established fact that contract workers are mostly employed by establishments in the jobs that are perennial in nature. Their services are being availed of for decades together without being provided with the bare minimum facilities and wages, not to speak of social security coverage and regularization of employment. The Committee, therefore, strongly recommended that all the essential steps should be taken henceforth to devise a suitable and foolproof mechanism to ascertain the exact number of contract workers employed in the various establishments of the public and the private sector. To achieve this objective, the services of the Regional Labour Commissioners, Trade Unions and other bodies representing the contract workers may be requisitioned.

21. In their action taken reply furnished to the Committee, the Ministry has stated as follows:-

“The Central Government is the appropriate Government in respect of only a small number of establishments under various labour enactments including the Contract Labour (R&A) Act, 1970. Considering the fact that State Governments are the appropriate Governments in respect of the majority of the establishments, the States/UTs have also to be necessarily associated so as to give effect to any mechanism for ascertaining the exact number of contract workers in the country. Since, labour is state subject, it is not feasible for Central Government to evolve any mechanism on its own. In fact Ministry of Labour & Employment has initiated action for associating the State Govts. but that is likely to take considerable time.”

22. The Committee find the reply of the Government evasive and entirely unsatisfactory. The Committee feel that contract workers are one of the most neglected sections of the workforce but without whom working of most of the establishments would come to a standstill. They are employed in large number in various sectors, but are not given their dues they are entitled to. The Government in their reply has placed the onus of ascertaining the exact number of these workers on the respective State Governments. Even the figures of contract workers working in the

offices of the Union Government are also not available. The Committee, therefore, reiterate their earlier recommendation and call upon the Government to initiate suitable steps to ascertain the number of contract workers in the country. This being a massive exercise, the cooperation of all concerned, viz., State Governments, RLCs, Trade Unions and other bodies representing the contract workers, etc. may be sought to achieve the target.

G Payment of wages through cheques

(Rec. Sr. No. 12, Para 3.54)

23. The Committee's examination had revealed that there was a steady increase in the number of irregularities that have been detected over the last couple of years regarding the implementation of Contract Labour (Regulation and Abolition) Act, 1970. Of these, the most important had been the payment of proper wages to the contract workers. Since they do not have any bargaining power, contract workers are exploited by paying them less than the minimum wages and coercing them to sign on higher amounts. Payment of wages to the workers through cheques will drastically reduce their chances of exploitation. The Committee, therefore, strongly recommended the payment of wages to the contract workers must be mandatory disbursed through cheques to end their exploitation. The Committee had recommended that in cases where work done by the contract labour is perennial in nature, the concerned principal employer/contractor should ensure that the contract worker get fair wage i.e. equivalent to basic pay + DA of a fresh regular employee of the organization.

24. In their action taken reply furnished to the Committee, the Ministry has stated as follows:-

"In the context of the above recommendation of the committee the effect on the existing legal provisions regarding the mode of payment to workers are as follows:-

(i) Rule 69 of Contract Labour (Regulation & Abolition) External Rule, 1971

"All wages shall be paid in current coin or currency or in both."

(ii) Section 11(1) of Minimum Wages Act, 1948

"Minimum wages payable under this Act shall be payable in cash."

(iii) Section 6 of Payment of Wages Act, 1936

"All wages shall be paid in current coin or currency notes or in both.

Provided that the employer may after obtaining the written authorisation of the employed person pay him wages either by cheque or by crediting the wages in his bank account.

Hence, a case involving change in the any mode of payment of wages to contract labour will attract all the three enactments mentioned above simultaneously, it is not felt feasible to effect any change in all these legislations.

Apart from the legal requirements it is also pointed out that illiterate contract labourers may not be in a position to open accounts in the bank particularly in places outside their home after going through the ordeal and hassles involved in opening an account. Their problems again get aggravated when they are required to stay at one place for a short duration. The workers also face liquidity problem also. The time involved in encashing the cheques may compound the same. Lastly, if for any reason whatsoever, the cheque remains unencashed, the worker will not have any money to meet his daily chores, thereby defeating the very purpose of payment of wages by cheque."

25. The Committee are unable to accept the view of the Government that it is not feasible to effect any change in all these legislations. The prohibitive interpretation of various statutes, i.e, Rule 69 of Contract Labour (Regulation & Abolition) External Rule, 1971, Section 11 (1) of Minimum Wages Act, 1948 and Section 6 of Payment of Wages Act, 1936 appears to be an attempt on the part of the Government to remain rigid as these clauses do not preclude the Government from taking any reformative and progressive measures facilitating the end of the exploitation of the contract workers. Other reasons for not disbursing payment through cheque are illiteracy among the contract workers and the ordeal and hassles in opening of the bank accounts. These arguments are an exercise aimed at fishing for excuses for an act of omission by the Government. After all, banking exercise has nowadays become so common that it will be preposterous to infer that any individual will not be able to open and operate his/her bank account.

It is a known fact that the workers are made to sign on amounts higher than what they are actually paid, thereby exploiting the hapless workers of their due statutory benefits. Therefore, appropriate mechanism will have to evolved to check these kind of malpractices. Taking note of these facts, the Government should not shy away in going for amending age old related Acts of 1936, 1948 and 1971. The Committee would await conclusive action taken by the Ministry in the matter.

H Determining number of child workforce

(Rec.Sr. No.14, Para 3.72)

26. The Committee were unhappy to note that there was no mechanism to determine the number of child labour in the country other than the census carried out by the Registrar-General of India which is treated as authentic. The periodicity of census by the Registrar-General of India was after a gap of ten years. However, the Government had decided to conduct a district-wise child labour survey in the country with the help of the NSSO. The move, though belated, is commendable. The Committee, therefore, urge upon the Government to draw a strategy wherein the periodical survey of child labour is automatically taken care of.

27. In their action taken reply furnished to the Committee, the Ministry has stated as follows:-

“The Government of India has already initiated process to conduct a nation-wide child labour specific survey. Modalities of detailed survey are being worked out with NSSO. It may be mentioned here that as per the NCLP Scheme, the project Societies are given funds twice during a Plan Period to conduct child labour survey in their districts. These surveys are conducted by the districts with the help of NGOs and other stakeholders, like universities, trade unions, employers, etc.”

28. The Committee are satisfied to note that the Government has already initiated the process to conduct nation-wide child labour specific survey to determine the number of child labour in the country. Keeping in view the enormous task ahead, the Committee call upon the Government to draw a foolproof strategy for the purpose in order to achieve the desired results. The Committee also expect that Ministry of Labour and Employment will take necessary steps to accomplish the desired objectives within a time bound manner.

I. Eradication of child labour menace

(Rec. Sr. No.15, Para 3.73)

29. The Committee observed that the figure of child labour continues to remain worrisome despite all efforts under the National Child Labour Policy (NCLP) Scheme to eliminate it. Although the Government had framed a policy to eliminate the child labour, it had not borne the desired fruits. Hence, a thorough review and revision of the policy is the need of the hour. The involvement of multiple agencies, *i.e.* various Ministries of the Government of India and other agencies may not only delay the finalisation of the reviewed scheme but may also make it more complicated. Hence, the Committee called upon the Government to take steps, honestly and positively, in such a way that all efforts undertaken in this regard involving multiple agencies commensurate with the enormity of the task for the successful achievement of the desired results.

30. In their action taken reply furnished to the Committee, the Ministry has stated as follows:-

“Review of policy of the Government towards elimination of child labour is a continuous process. Since child labour is primarily a socio-economic problem, Government is laying lot of stress on multi-pronged and holistic approach to tackle the problem. Various efforts are being made for convergence of national Child Labour Project (NCLP) Scheme with the welfare schemes of other Ministries, to that the families of these child workers get covered under the schemes for their economic empowerment. As a result of the active coordination with other Ministries, they are issuing instructions to the State Governments to cover child labour and their families under their Schemes.”

31. The Committee are not satisfied with the general reply of the Ministry that Government is laying stress on multi-pronged and holistic approach to tackle the problem. Evidently, in the execution of any scheme which involves more than one Ministry, the entire process tends to be cumbersome and time consuming. The Committee feel that for the successful implementation of the policies and schemes for the elimination of child labour, steps should be taken by the Ministry of Labour and Employment in right earnest enlisting the support of the other bodies. The Committee

would like the Ministry of Labour and Employment to fix specific objectives and targets on yearly basis under the NCLP and 11th Five Year and all efforts should be made to achieve them.

*CHAPTER-II***RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY
THE GOVERNMENT****(Rec. Sr. No.1, Para 3.10)**

The scrutiny of Demands for Grants (2008-09) of the Ministry of Labour and Employment reveals that the total outlay of Rs.2,498.03 crore (Plan Rs.771.50 crore & Non-Plan Rs.1,726.53 crore) for the year 2008-09 marks an increase of more than Rs.600.00 crore over the allocation for the previous year 2007-08 (Rs.1,897.27 crore). However, the scheme-wise/programme-wise scrutiny displays that the percentage of expenditure incurred on execution of some of the important schemes during the year 2007-08 is far from satisfactory. Holding of Lok Adalat, Rehabilitation of Bonded Labour, Elimination of Child Labour, Rashtriya Swasthya Bima Yojana, Information Technology, Grants-in-aid to research and academic institutions, etc. are some of the glaring examples in this regard. The Committee are disappointed to find that in some of the other schemes like construction of houses for beedi workers and low-income occupation clusters, social security for unorganized sector workers, there has been no expenditure. The Committee also do not appreciate the reasons put forth by the Ministry for less spending and no spending at all on the Schemes such as not holding sufficient number of Lok Adalats, non-receipt of utilization certificates in respect of Rehabilitation of Bonded Labour, etc. The Committee are of the considered opinion that it is certainly a matter of grave concern as it shows that the schemes were formulated without proper study and home work. Monitoring and coordination with other implementing agencies is also an area which requires utmost attention for improvement. The Committee, therefore, desire that the Ministry should take immediate steps to improve its planning process and strengthen its monitoring mechanism for optimum utilization of funds. It will help in achieving the objectives of schemes/projects of the Ministry. The Committee desire to be apprised of the action taken in this regard.

Reply of the Government

It has been the constant endeavour of the Ministry to formulate plan schemes with utmost care and monitor their effective implementation. The position relating to individual schemes are mentioned below:-

The Grants-in-aid Scheme aims at providing financial assistance in the form of Grants-in-aid to Research & Academic Institutions, Voluntary Organisations & Non-Governmental Organisations for undertaking research in approved labour related matters for securing policy inputs to enrich future labour policies. There is direct relationship between good study proposals received/ approved and expenditure incurred. Moreover, the studies so conducted under the Scheme are need based and have recommendations, which are relevant to concerned subject matter Division(s) in the Ministry. However, releases are made after receipt of proper utilization certificates, in respect of the earlier releases, their scrutiny and approval of the Competent Authority. During 2007-08, an expenditure of Rs.15.00 lakh was incurred in the Scheme against Rs.25.00 lakh (BE) and Rs.15.00 lakh (RE) i.e., RE allocation was fully utilized.

Grants under the Centrally Sponsored Plan Scheme for rehabilitation of Bonded Labour etc. are released to the States/UTs on receipt of complete proposals and clearance of utilization certificates for the grants released to the State concerned during the previous years. The Budget Estimates are proposed on the basis of anticipated proposals and also the incomplete proposals in which the Ministry had sought clarifications from the State Governments. In pursuance of the Supreme Court order dated 11.11.1997, National Human Rights Commission (NHRC) has been involved in the overseeing/reviewing the implementation of Bonded Labour System (Abolition) Act, 1976 and the Centrally Sponsored Scheme for rehabilitation of bonded labour etc. Further NHRC has appointed Special Rapporteurs to make periodic visits to district and interact with local people. NGOs and Government functionaries to ascertain the position at the ground level. Their reports are studied by the NHRC and follow up action initiated. Sensitization Workshops are also being held at various places by the NHRC in collaboration with the Ministry of Labour and Employment for the frontline staff and district functionaries. This shows the deep commitment both of the political system and bureaucracy towards eliminating the menace of bonded labour system. Under the direction of the Prime Minister's Office, a Special Group constituted under the Chairpersonship of Union Labour and Employment Secretary has been monitoring the implementation of the Bonded Labour System (Abolition) Act, 1976 and the Centrally Sponsored Scheme for rehabilitation of bonded labour etc. by holding frequently region wise meetings. Twelve region-wise meetings of the Special Group have been held till now.

The 'Rashtriya Swasthya Bima Yojana' for BPL families in Unorganised Sector was launched on 1st October, 2007. The unorganized sector worker and his family (a unit of five) will be covered under the scheme. The scheme will be implemented in a phased manner and all 6 crore BPL workers are to be covered in five years starting with 1.2 crore in 2008-09 and 6 crore by 2012-13. The total sum insured would be Rs.30,000/- per family per annum on a family floater basis. The premium will be shared on 75:25 basis by Centre and State Government. The beneficiary would be entitled to cashless transactions through smart card. The benefits under the scheme have started accruing w.e.f 01.04.2008. An Inter-Ministerial Approval and Monitoring Committee has been constituted. The Committee assesses the State government

proposals and grants approval to ensure that credible implementation arrangement are in place. Apart from that, the regional officers of Directorate General Labour Welfare (DGLW) would address the Grievances of the concerned. During the year 2007-08 amount given as Grants-in-aids was re-appropriated to MH 2230 to incur administrative expenses to implement the scheme. The administrative expenses were incurred on National and State level workshops to sensitize the representatives of State Governments/ Nodal Agencies, Insurance Companies and other stakeholders with regard to smart card operations, specially the Key Management System, purchase of hardware/software and SCOSTA smart card.

The funds allocated in 2007-08 for the Plan Schemes for elimination of child labour were fully utilized for NCLP Scheme, Grant-in-aid Scheme and INDUS Project. An amount of Rs.140.13 crore was allocated for NCLP Scheme, Rs.12.00 crore for INDUS Project and Rs.1.47 crore for Grant-in-aid Scheme, i.e., a total of Rs.163.60 crore was allocated during 2007-08. The savings (unspent) amount is less than Rs.1.00 lakh during 2007-08. Thus, it can be seen that the funds allocated have been fully utilized. Efforts will also be made to fully utilize the funds allocated during 2008-09.

The Scheme of Lok Adalat has been conceived as an alternate Grievance Redressal Machinery for conciliation of Industrial Disputes. The Lok Adalats provide a platform to the litigant parties an opportunity to settle their disputes in a short time span thereby avoiding the otherwise time consuming process. However, the settlement of industrial disputes through Lok Adalats depends on the mutual willingness of the litigant parties. The CGITs play the role of facilitator only. In the present scenario of Industrial Relations there is an increase in awareness of labour rights among the workers and the scheme is gaining momentum gradually. The scheme is also being promoted by the CGITs as it helps disposing of more cases, thereby reducing pendency at their end. Consequently, the utilisation of funds allocated for the said scheme is also increasing gradually (Rs.0.47 lakh in 2006-07; Rs. 0.50 lakh in 2007-08). Recently a Conference of Presiding Officers of all CGIT-cum-Labour Courts was organised in December, 2007 with a view to encourage and to hold more Lok Adalats.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Comments of the Committee

{Please see Paragraph No.7 Chapter-I of the Report}

Recommendation (Sr. No.2, Para 3.11)

The Committee observe that the financial norms of the Government clearly mandate spreading of expenditure evenly during the four quarters and discourage the rapid utilization of funds in the last quarter. The close scrutiny of the progressive quarterly figures reveals a very dismal picture as far as the percentage of expenditure of the Revised Estimates during the four quarters is concerned. It was 1.94 % in the first quarter, 6.68 % in the second quarter, 7.78 % in the third quarter and 49.50 % in the fourth quarter. This kind of pacing of expenditure is a matter of great concern as the efforts to achieve the targets set out under each scheme remain tardy during most of the period and the last minute rush of spending coupled with half-hearted and haphazard efforts result in skewed fulfilment of targets or non-fulfilment of targets. The Committee have been emphasizing time and again in the past also that pacing of expenditure in every quarter should be even to the possible extent. The Committee is unhappy to find that the Ministry has not taken any action on their earlier recommendations on the matter. While taking a strong view, the Committee reiterates their earlier recommendation that the schemes should be drawn in such a way to ensure that expenditure in every quarter of the financial year be evenly distributed.

Reply of the Government

The progress of expenditure is reviewed regularly by Bureau Heads. Moreover, the progress (financial & physical) of the Plan Schemes of the Ministry of Labour & Employment was reviewed regularly at the level of Member (LEM) in the Planning Commission on quarterly basis, now being held on half yearly basis from 2005-06. Secretary (L&E) also reviews the pace of expenditure in periodical meetings with Divisional Heads and Financial Adviser to identify the main hurdles and steps to overcome them. However, the reasons for not having even pacing of quarterly expenditure during 2007-08 are indicated below.

A scheme is being implemented as "Reforms and Improvement of Vocational Training Services rendered by the Central and State Government" - Vocational Training Improvement Project [VTIP] with World Bank assistance. The scheme was approved by the Cabinet Committee on Economic Affairs (CCEA) on 2nd August 2007. Funds under the scheme were received during the month of November under 1st Supplementary Demands for Grant. Further, the agreement on the scheme with the World Bank was signed on 2nd November 2007 and thereafter, the project became effective from 17th December 2007. In view of the above, funds to the State Governments/UTs could be released only during the fourth quarter of financial year 2007-08.

In addition to the above, the scheme on Up-gradation of 1396 ITIs through Public Private Partnership, was approved by CCEA in October 2007 and funds under the scheme was received in December 2007. Therefore all the releases under the scheme commenced only in the 4th quarter of financial year 2007-08. Similarly the scheme for North East and J&K namely 'Establishment of new Industrial Training Institutes (ITIs) in the North Eastern States, Sikkim and Strengthening and modernization of ITIs in Jammu & Kashmir", was approved for continuation by the CCEA on 23rd August 2007 and therefore, release of funds to these State Governments could commence only during the end of 2nd quarter of 2007-08.

However, efforts are being made to release funds uniformly, in every quarter of the financial year 2008-09.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Recommendation (Sr. No.3, Para 3.12)

The Committee note with serious concern that various schemes approved for implementation in the North Eastern States are not being implemented properly. The budget allocation of Rs.34.50 crore for the year 2007-08 was subsequently reduced to Rs.26.50 crore at RE stage. Even this amount could not be spent as the total actual expenditure on various schemes of North Eastern States is just Rs.15.88 crore. The reasons for shortfall in expenditure are due to certain administrative/technical constraints as given by the Ministry. The Committee is not at all inclined to accept the explanation given by the Ministry in this regard. The Union Government accords top priority for the development of North Eastern States in order to bring them at par with other developed States of the country. To achieve this objective, Government of India has earmarked 10% of the total budgetary allocation every year to the North Eastern States. Any laxity on this front may add to the problems of this sensitive region of the country. The Committee, therefore, recommend that every effort be made by the Ministry to judiciously expend the entire allocated amount for the development and welfare of the North Eastern States to avoid reduction at the RE stage.

Reply of the Government

During 2007-08, Plan allocation for Ministry of Labour and Employment was Rs.345.00 crore (including Rs.19.52 crore as CW) . Out of this amount, as per Government directives, 10% of the budget i.e. 34.50 crore was earmarked for North-Eastern, which was reduced to Rs.26.50 crore at RE stage. The Ministry, however, was able to spend Rs.31.14 crore during 2007-08.

Under the scheme 'Establishment of new Industrial Training Institutes (ITIs) in the North Eastern States and Sikkim', 25 new ITIs are being established and 35 existing ITIs are being strengthened and modernized with an outlay of 100 crore. A budget provision (BE) of Rs.25 Crore was made in FY 2007-08. Out of the above budget provision, an amount of Rs.21.01 Crore (84% of the BE) was released to various North Eastern States for completing the activities on civil construction, equipment procurement and recurring expenditure component.

It may however be added here that, under another Centrally Sponsored Scheme namely "Reforms and Improvement of Vocational Training Services rendered by the Central and State Government" - Vocational Training Improvement Project [VTIP] with World Bank assistance, 12 ITIs from the North Eastern State were taken up for funding during 2007-09 and an amount of Rs. 9.97 crore was released to these ITIs. It is therefore submitted that, in all, an amount of 30.98 crore was released to ITIs in the North Eastern States [Rs.21.01 crore towards CSS on NE States and Rs. 9.97 crore for 12 ITIs of North Eastern States under VTIP scheme], thereby utilizing the full budget allocation of 25 crore. Further, additional requirement was met by re-allocating of funds from other schemes.

Implementation of plan schemes in North-East is being monitored constantly.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Comments of the Committee

{Please see Paragraph No. 10 Chapter-I of the Report}

Recommendation (Sr. No.4, Para 3.26)

The Committee are constrained to observe that there are about 40 crore workforce working in the country, out of which only 4.44 crore are covered under Employees' Provident Fund Organisation as on 31st March 2007. The reasons for low membership have been attributed to various constraints regarding coverage of establishments due to a number of factors such as employment of minimum of 20 employees, wage ceiling, exclusion clause under section 16 of the Act and applicability of the Act to the establishment/industries specified in Schedule I of the Act or notified by the Government. Coverage of establishments is a continuous process and for the purpose various steps like Compliance 2001 programme, special coverage drives, etc. are resorted to for achieving the target. However, Compliance 2001 programme did not deliver the desired results as the establishments to which the Act applies are required to comply with the provisions of the Act suo moto. Hence, some strategic adjustments in the said programme are stated to be under consideration of the appropriate authorities (Central Board of Trustees, Employees' Provident Fund). The Committee express their apprehension whether strategic adjustments in Compliance 2001 Programme alone will

help in proper and sufficient coverage of all the establishments. The Committee, therefore, strongly recommend that a multi-pronged and result oriented strategy be devised focusing on routine surveys, creation of intelligence circles for gathering information, earmarking of areas to enforcement officers, launching of special coverage drives from time to time and all other steps which are considered proper for enhancing the coverage.

Reply of the Government

A Sub-Committee under the Chairmanship of Jt. Secretary (Social Security) has already been constituted by the Chairman, Central Board of Trustees, Employees Provident Fund to examine the issue of strategic adjustments in the Compliance 2001 programme for enforcing compliance and to formulate a comprehensive proposal for placing before the Board. The Sub-Committee is examining the issue in detail and is expected to submit its report shortly.

As regards recommendations of the Committee regarding Creation of Intelligence Circles and launching of Special Coverage Drives, it is submitted that Intelligence Circles are already in existence and Special Drives are also launched from time-to-time for bringing the coverable establishments under the purview of the Act.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Recommendation (Sr. No.5, Para 3.27)

The Committee observe that there has been persistent default on the part of the employers' to deposit the provident fund contribution in the Office of the Provident Fund Commissioner (EPFO) though the amount is deducted from the wages of the employees regularly. The number of defaulting establishments (un-exempted sector) as on 31 March 2005, 2006 and 2007 was 40,608, 76,476 and 72,554, respectively which includes those establishments which had defaulted in remittance of employees' share of contribution. The Committee are given to understand that on identification of default in remitting the employees' share on the basis of Computerized Compliance Tracking System (CCTS) action is taken under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. However, EPFO has no system of blacklisting the defaulting establishments. The periodical and regular scrutiny is undertaken only in respect of the major defaulters. The Committee feels distressed at the present practice being adopted towards defaulting employers/establishments. This approach not only deprives the employees of their rightful claims but also encourages the dishonest employer to indulge in malpractices. The Committee, therefore, desire that a suitable mechanism apart from Computerized Compliance Tracking System (CCTS) be devised to

identify the defaulting establishments for initiating penal action against them including black listing.

Reply of the Government

The employer is required to comply with the provisions of the Act suo-moto, which includes timely remittance of dues. However, inspite of various deterrents provided in the Act (i.e. penalties under section 14 of the Act, etc) certain establishments still tend to default. Nonetheless, the recommendations made by the Committee are being placed before the Sub-Committee on "Strategic Adjustments in Compliance 2001 programme" for consideration and evolving a suitable mechanism for checking default.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Comments of the Committee

{Please see Paragraph No.13 Chapter-I of the Report}

Recommendation (Sr. No.7, Para 3.29)

The Committee are distressed to note that a large number of vacancies exist in various cadres of the Employees' Provident Fund Organisation. As against 23,344 sanctioned staff strength there were only 19,510 persons in position during 2006-07. The Committee feel that the absence of sufficient staff to carry out the numerous functions of the organization will not only erode its efficiency but will also snuff out the confidence of the subscribers regarding getting services promptly. The explanation of the Ministry that appropriate action for filling up of the vacant posts is taken from time to time is not acceptable to the Committee because despite the efforts made by the Government for filling up the positions, a large number of vacancies still remain unfilled. Considering the gigantic task ahead to be carried out by the organization due to the sharp increase in the number of beneficiaries coupled with the fact that services are to be provided to the satisfaction of subscribers, adequate staff should be put in place without any further delay. The Committee earnestly desire that all out efforts should be made to fill up the vacant positions in the organization in a time bound manner. The Committee further desire to be apprised of the steps taken in this direction.

Reply of the Government

For the purpose of increasing staff strength at various levels and re-structuring the Organisation to make it more efficient and user friendly a Sub-Committee of CBT, EPF headed by Additional Secretary (L&E) is currently seized of the issue and considering the study report received from XLRI. The Committee is completing job on fast track basis. After receiving the recommendations of the Committee, appropriate decision would be taken.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Recommendation (Sr. No.9, Para 3.39)

The Committee observe that at present the Employees' State Insurance Act, 1948 is applicable to all non-seasonal factories using power in the manufacturing process and employing 10 or more employees and non-power using factories employing 20 or more employees. The scheme has also been extended to shops and establishments, preview theatres, cinemas, hotels, restaurants, road transport undertaking and newspaper establishments, etc. employing 20 or more employees. The Committee appreciates the Government's proposal for amending the criterion for the purpose of coverage by reducing the number of workers under the Corporation from 20 to 10 irrespective of the fact that the establishments are functioning with or without power. With the passage of time and technological advancements even the ceiling of 10 persons in an establishment has become redundant. With less number of workers/employees, more volume of work with high economic output is now possible due to computerization and mechanization. In this scenario, the condition of minimum 10 or more workers in an establishment for the purpose of coverage will deprive most of the workers from the benefits of social security. The Committee, therefore, strongly recommends that the social security benefits under the Employees State Insurance Corporation should invariably be extended to all establishments irrespective of the number of workers engaged therein.

Reply of the Government

The ESI Act, 1948, has the potential to cover all wage earners. However, in view of the fact that the provision of medical care by the concerned State Governments is a pre-requisite before extending the Scheme to any sector of employment, the scope of coverage of the Scheme is being extended gradually in a phased manner depending upon the infrastructure created for providing medical care. As recommended by the Standing Committee of Parliament, various Review Committees have also recommended that the Scheme should be extended to all establishments by reducing the threshold for coverage in a phased manner.

Accordingly, the threshold, which was 20 initially, was reduced to 10 for power using factories and 20 for non-power using factories. A Sub-Committee of the Corporation has also reviewed the various provisions of the ESI Act and recommended reducing the threshold to 10 irrespective of whether power is used in manufacturing process or not. Accordingly, necessary amendment in the ESI Act is under process. In the second phase, the same can be reduced to factories employing 5 or more workers and finally, removing the threshold limit altogether depending upon augmentation of facilities for providing medical care by all the State Governments.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Recommendation (Sr. No.10, Para 3.40)

The Committee are constrained to observe that ESI hospitals at Kolhapur and Bibvewadi were constructed at the request of State Government of Maharashtra and are ready for commissioning since 1997. Similarly, the hospital at Chinchwad also remains to be commissioned despite being ready since long. The State Government of Maharashtra has not taken over these hospitals till date. Initially, the State Government had proposed to run the hospital at Kolhapur through third party participation. The approval of Employees State Insurance Corporation (ESIC) has been sought in this regard. The Employees State Insurance Corporation, however, has no provision in the Employees' State Insurance Act, 1948 for allowing third party participation to run the hospital. Now, Employees State Insurance Corporation is taking action for making necessary amendment in the Employees' State Insurance Act, 1948 to make the hospital operational. The Committee regret to note that this is a classic case of lack of coordination between the ESIC and the State Government, besides being an act of short sightedness on the part of Employees State Insurance Corporation. The Committee, therefore, urge upon the Government to bring forward an amendment in the Act at the earliest. The Committee further recommend that ESIC should also explore all possible avenues to make the hospitals operational without any further delay even if they are to be owned and operated by Employees State Insurance Corporation itself till such an amendment is brought forward.

Reply of the Government

1. ESI Corporation has approved amendments in ESI Act for running of the hospitals through third party participation and opening of unutilized capacity in ESI Hospitals to general public on user charges basis. The Employees' State Insurance Corporation (ESIC), a statutory autonomous body under the Ministry, has health facilities available for the organized sector workers throughout India. Government has decided that the excess capacity of ESIC facilities can be utilized to implement Rashtriya Swasthya Bima Yojana also. An Ordinance has been promulgated in this regard.

2. Regarding commissioning of hospitals, it is informed that ESI Hospital Chinchwad was already commissioned by ESI Corporation in Feb., 2003 and has now been handed over to the State Govt. of Maharashtra on [14.4.08](#). The ESI Hospital at Chinchwad and Bibvewadi will be run by the State Govt. of Maharashtra and in lieu ESI Corporation has taken over ESI Hospital, Andheri, Mumbai to be run as Model Hospital. Further, as informed by Director, ESIS, Maharashtra, the proposal to commission ESI Hospital, Kolhapur by State Govt. of Maharashtra has been sent to the govt. for approval by Director, ESI, Maharashtra.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Recommendation (Sr. No.13, Para 3.62)

The Committee are distressed to observe that the organizational set up of the Chief Labour Commissioner is riddled with inherent weaknesses. The workload of the organization is disproportionately heavier vis-à-vis its staff strength. The responsibilities assigned to it are of vital importance as harmonious industrial relations is the touchstone of judging the success or otherwise of the organization. The increasing number of establishments and the geographical areas under various functionaries of the organization is a matter of concern as they are not able to pay as much attention as is required to various issues before them. Only 56 Assistant Labour Commissioners (Central) {(ALCs)(C)} who form the backbone of the organization and 162 Labour Enforcement Officers {(LEOs) (Central)}, are currently in position. They are required to perform various functions for maintaining cordial industrial atmosphere through mediation and conciliation, enforcement of labour laws and discharge of quasi-judicial functions. Besides, they are also to implement various labour laws. Even the head of the organization is over burdened supervising 15 officers who are directly reporting to him. This is against the basic principle of Office and Management. On an average, one ALC has to handle around 9,000 industrial dispute cases every year. It is humanely impossible to handle these many cases and to do justice to every case. Resultantly, cases keep on piling up vitiating the industrial atmosphere. The Committee, therefore, strongly recommend that the necessary action should begin in right earnest to review the functioning of the Office of the Chief Labour Commissioner with a view to bring in radical changes in its functioning and to fill up all the vacant positions at the earliest to make it more efficient and result-oriented.

Reply of the Government

In order to secure better conciliation, preventive mediation and more effective enforcement of Labour Laws, a scheme to further strengthening the Central Industrial Relations Machinery was approved in the Sixth Five Year Plan. As a result, three more Regions at Guwahati, Chandigarh and Bangalore were created during 1981-82. Three more new regions with Headquarters at Patna and Nagpur and one post of Deputy Chief Labour Commissioner (Central) at Bombay with supporting staff were created during the financial year 1988-89 under the Seventh Five Year Plan. During 1990-91, one post of Deputy Chief Labour Commissioner (Central) at Bangalore with supporting staff was created. Consequent on Cadre Review of CLS Officers two more Regions with headquarters at Dehradun and Raipur were created in the year 2005 by adjusting the existing Staff and Officers without creating any new post.

Consequent to restructuring/cadre review in 2004 up-gradation and resultant abolition of 11 posts of ALCs (C) were carried out. LEOs (C) and ALCs (C) are the cutting edge of the organization. Now due to increase in workload and new challenges in

industrial relations enforcement of labour laws posed by liberalization, globalization and privatization more posts need to be created. Seeking exemption of the posts required for legal and statutory functions pertaining to this organization from the purview of the ADRP Scheme is also being considered.

So far as LEOs (C) are concerned, requisition has been sent to UPSC for filling up 11 posts. For filling up another 10 posts that have been fallen vacant after June 2005, recommendations of Screening Committee are yet to be received. MOL&E has been requested to expedite the process of finalisation screening and also to fill up vacant post in grade V, IV, III as early as possible.

Regarding Group "C" & "D" posts there are 22 posts of UDC vacant in various regional offices in CLC(C) organization. The departmental examination for filling up these vacancies has already been conducted and the posts are expected to be filled up shortly on the basis of result of this examination. Besides this, there are 6 posts of Office Superintendent vacant at present. Necessary action to convene the meetings of DPC for filling up these posts is presently under process and appointments to the vacant posts are expected to be made in a few weeks.

In addition to these promotional posts there are 53 direct recruitment posts of LDCs, JHT, Driver and Group "D" posts which are to be filled up on direct recruitment basis. The proposals for obtaining approval of the Screening Committees for the year 2005-06 and 2006-07 are pending for consideration of the Screening Committee as per the present policy of the Government. These will be filled up as per the approval of screening committee as and when received.

In the existing organizational structure, 15 numbers of Deputy Chief Labour Commissioners are directly reporting to Chief Labour Commissioner (C), who is the head of Department. Consequent to the Cadre review of Central Labour Service in year 2004, 7 number of posts of Dy. Chief Labour Commissioners was added to the then 8 number of Dy. CLCs, making the total number to 15, taking into account the increase in workload and administrative exigencies. However, 2 posts viz; Jt. Chief Labour Commissioner (C) and Chief Adviser Labour Welfare which existed prior to Cadre Review in between CLC (C) & Dy. CLC (C) were abolished.

It may be mentioned here that the cadre review of CLS is due in the year 2009 when the issue of control / supervision by the Head of Deptt. i.e. CLC (C) can be befittingly addressed by reviving / upgrading the required number of posts in between CLC (C) and Dy. CLCs (C).

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Recommendation (Sr. No.14, Para 3.72)

The Committee are constrained to note that there is no mechanism to determine the number of child labour in the country other than the census carried out by the Registrar-General of India which is treated as authentic. The periodicity of census by the Registrar-General of India is after a gap of ten years. Even this census is not focused on child labour only. This is only one of the aspects of the numerous functions of the Registrar-General of India. As per the last such census conducted in the year 2001, there existed 1,26,66,377 child labour in various States of the country. Even this figure does not reflect the actual number of the child labour in the country. However, the Government has decided to conduct a district-wise child labour survey in the country with the help of the NSSO. The move, though belated, is commendable. The Committee, therefore, urge upon the Government to draw a strategy wherein the periodical survey of child labour is automatically taken care of. The involvement of various agencies, *viz.* State governments, trade unions, NGOs, employers and all other bodies directly or indirectly associated with child labour, must be considered as part of the strategy to determine the child workforce in the country so that effective steps may be taken to eradicate the menace of child labour in a phased manner.

Reply of the Government

Government of India has already initiated process to conduct a nation-wide child labour specific survey. Modalities of detailed survey are being worked out with NSSO. It may be mentioned here that as per the NCLP Scheme, the project Societies are given funds twice during a Plan Period to conduct child labour survey in their districts. These surveys are conducted by the districts with the help of NGOs and other stakeholders, like universities, trade unions, employers, etc.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Comments of the Committee

{Please see Paragraph No. 28 Chapter-I of the Report}

CHAPTER-III

**RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE
TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLY**

-- N I L --

CHAPTER-IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES FO THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation (Sr. No.6, Para 3.28)

The Committee note that the present wage ceiling of Rs.6,500/- for the purpose of coverage under Employees' Provident Fund Organisation is in vogue since 1 June 2001. The Government also does not propose to enhance the wage ceiling on the plea that raising of wage ceiling would have a wider impact on the Employees' Pension Scheme, 1995 (EPS) and hence unless the impact on the pension scheme is fully taken care of, the rise in the wage ceiling may not be appropriate. The Committee are of the firm opinion that the current ceiling has lost its significance in the wake of adequate increase in the wages of the workers due to changed employment scenario. Therefore, keeping the wage ceiling at Rs.6,500/- no more holds good. The increase in wage ceiling cannot be put on hold for the reason that its impact on pension scheme is yet to be assessed. The Committee take note of the fact that the rates of pension have not been revised since last many years and it is insufficient to fulfill the basic requirements of the pensioners. Needless to emphasize, the Ministry will take note of inflation/price rise and cost of living factors while reviewing the pension scheme. The Committee, therefore, strongly recommend that the assessment of the impact of rise in wage ceiling on pension scheme be carried out in a time bound manner and the rates of pension under EPS, 1995 accordingly be revised at the earliest. The Committee further recommends that the rate of contribution can be structured in such a way that it nullifies the possible adverse impact on Employees' Pension Scheme, 1995 after the wage ceiling for the purpose of coverage is increased. The Committee feels that this step will bring a large number of workers within the fold of Employees' Provident Fund Organisation providing them social security coverage.

Reply of the Government

As enhancement of wage ceiling would result in an increase in Actuarial deficit in the Employees' Pension Fund, an appropriate decision to increase wage ceiling could be taken as soon as a suitable solution is arrived at. The Committee's recommendation that the rate of contribution can be restructured to nullify the impact on the Employees' Pension Scheme, 1995 would be placed before the 'Pension Implementation Committee' and the 'Committee for Comprehensive Review of the Employees' Pension Scheme, 1995'.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Comments of the Committee

{Please see Paragraph No.16 Chapter-I of the Report}

Recommendation (Sr. No.11, Para 3.53)

The Committee is deeply concerned to observe that no estimate of contract workers in the country is available with the Government. Outsourcing of jobs has become the order of the day not only in the private sector but also in the public sector. Although the Ministry has stated that the contract labour is employed to meet the exigencies of the situation and their number varies, it is an established fact that contract workers are mostly employed by establishments in the jobs that are perennial in nature. Their services are being availed of for decades together without being provided with the bare minimum facilities and wages, not to speak of social security coverage and regularization of employment. As per the provisions of the existing labour Acts, the contractors are primarily responsible for wages and other social security benefits of the contract workers and the principal employer simply does not play any role in ensuring that all the statutory dues and benefits are being extended to these workers. This segment of the workforce is employed even in the strategic sectors like defence, railways, telecom, coalmines, petroleum, etc. Absence of a mechanism to determine the number of such workers starkly portrays the apathetic attitude of the Government towards this important but neglected workforce of the country. Various statutory measures regarding the welfare, social security and minimum wages of the contract workers are meaningless without the record of the number of such beneficiaries. The Committee, therefore, strongly recommends that all the essential steps should be taken henceforth to devise a suitable and foolproof mechanism to ascertain the exact number of contract workers employed in the various establishments of the public and the private sector. To achieve this objective, the services of the Regional Labour Commissioners, Trade Unions and other bodies representing the contract workers may be requisitioned.

Reply of the Government

The Central Government is the appropriate Government in respect of only a small number of establishments under various labour enactments including the Contract Labour (R&A) Act, 1970. Considering the fact that State Governments are the appropriate Governments in respect of the majority of the establishments, the States/UTs have also to be necessarily associated so as to give effect to any mechanism for ascertaining the exact number of contract workers in the country. Since, labour is state subject, it is not feasible for Central Government to evolve any mechanism on its own. In fact Ministry of Labour & Employment has initiated action for associating the State Govts. but that is likely to take considerable time.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Comments of the Committee

{Please see Paragraph No. 22 Chapter-I of the Report}

Recommendation (Sr. No.12, Para 3.54)

The Committee note that there is a steady increase in the number of irregularities that have been detected over the last couple of years regarding the implementation of Contract Labour (Regulation and Abolition) Act, 1970. In the year 2006-07 itself, there were 77,422 violations of the Act. This figure relates only to the Central sphere. As per the statute, the interests of the contract workers are protected in terms of wages, hours of work, welfare, health and social security. Other amenities include canteen facilities, rest rooms, first aid facilities and other basic necessities at the place of work. Needless to emphasize, efforts should be made to impart training and provide safety equipments to the workers. Of these, the most important is the payment of proper wages to the contract workers. Since they do not have any bargaining power, contract workers are exploited by paying them less than the minimum wages and coercing them to sign on higher amounts. This is the most prevalent form of exploitation being perpetrated on the contract workers. The absence of legislation making it obligatory upon the Principal Employer/Contractor for paying the wages of contract workers through cheques has compounded the problem. According to the Government there are many workers who are not willing to accept the payment by cheque because they are not familiar with bank procedures and also due to their migratory/casual nature of job, etc. and hence it would not be appropriate to bind the workers for payment by cheques. The Committee, however, feel this approach is unfriendly to the interest of the workers. Payment of wages to the workers through cheques will drastically reduce their chances of exploitation. They will become adept in banking procedure after their exposure to it or at the most after one or two transactions. The Committee, therefore, strongly recommends that firstly the system of contract worker should be discouraged. Wherever it is essential to continue with this practice, it must be the sole responsibility of the principal employer to ensure that the contract worker is getting all his statutory dues and social security cover without any dilution. To achieve this goal and to mark the beginning, the payment of wages to the contract workers must be mandatory disbursed through cheques to end their exploitation. The Committee expect that in cases where work done by the contract labour is perennial in nature, the concerned principal employer/contractor should ensure that the contract worker get fair wage i.e. equivalent to basic pay + DA of a fresh regular employee of the organization.

Reply of the Government

In the context of the above recommendation of the committee the effect on the existing legal provisions regarding the mode of payment to workers are as follows :-

- (i) Rule 69 of Contract Labour (Regulation & Abolition) External Rule, 1971

“All wages shall be paid in current coin or currency or in both.”

(ii) Section 11(1) of Minimum Wages Act, 1948

“Minimum wages payable under this Act shall be payable in cash.”

(iii) Section 6 of Payment of Wages Act, 1936

“All wages shall be paid in current coin or currency notes or in both.

Provided that the employer may after obtaining the written authorisation of the employed person pay him wages either by cheque or by crediting the wages in his bank account.”

Hence, a case involving change in the any mode of payment of wages to contract labour will attract all the three enactments mentioned above simultaneously, it is not felt feasible to effect any change in all these legislations.

Apart from the legal requirements it is also pointed out that illiterate contract labourers may not be in a position to open accounts in the bank particularly in places outside their home after going through the ordeal and hassles involved in opening an account. Their problems again get aggravated when they are required to stay at one place for a short duration. The workers also face liquidity problem also. The time involved in encashing the cheques may compound the same. Lastly, if for any reason whatsoever, the cheque remains unencashed, the worker will not have any money to meet his daily chores, thereby defeating the very purpose of payment of wages by cheque.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Comments of the Committee

{Please see Paragraph No.25 Chapter-I of the Report}

Recommendation (Sr. No.15, Para 3.73)

The Committee observe that the figure of child labour continues to remain worrisome despite all efforts under the National Child Labour Policy (NCLP) Scheme to eliminate it. As many as 4.57 lakh children are stated to have been rehabilitated after withdrawing them from hazardous employment and bringing them into mainstream. However, 3.37 lakh children are still enrolled under NCLP scheme for rehabilitation. It is true that child labour is a social and economic problem arising due to poverty and illiteracy, but as a nation state of conscience we cannot permit this malaise to continue howsoever the reasons may be genuine for its existence. Although the Government has

framed a policy to eliminate the child labour, it has not borne the desired fruits. Hence, a thorough review and revision of the policy is the need of the hour. The Government has stated that it will review the policy from time to time in the light of the field level experiences, reports and evaluations placing emphasis on convergence of NCLP Scheme with the developmental schemes of other Ministries like Rural Employment, Urban Development and Poverty Alleviation, Panchayati Raj, Women and Child Development, Social Justice and Empowerment to economically empower the families of these child labour. The involvement of multiple agencies, *i.e.* various Ministries of the Government of India and other agencies may not only delay the finalisation of the reviewed scheme but may also make it more complicated. Hence, the Committee call upon the Government to take steps, honestly and positively, in such a way that all efforts undertaken in this regard involving multiple agencies commensurate with the enormity of the task for the successful achievement of the desired results.

Reply of the Government

Review of policy of the Government towards elimination of child labour is a continuous process. Since child labour is primarily a socio-economic problem, Government is laying lot of stress on multi-pronged and holistic approach to tackle the problem. Various efforts are being made for convergence of national Child Labour Project (NCLP) Scheme with the welfare schemes of other Ministries, to that the families of these child workers get covered under the schemes for their economic empowerment. As a result of the active coordination with other Ministries, they are issuing instructions to the State Governments to cover child labour and their families under their Schemes.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Comments of the Committee

{Please see Paragraph No. 31 Chapter-I of the Report}

CHAPTER-V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT ARE INTERIM IN NATURE

Recommendation (Sr. No.8, Para 3.38)

The Committee note that there has been a substantial increase of 8,38,004 employees, 10,08,968 Insured Persons (IPs), 3,91,473 beneficiaries as on 31 March 2007 against their number in 31 March 2006. However, the Committee are pained to note that the number of branch offices have decreased from 646 to 620, beds in other hospitals from 3,128 to 2,896, Employees State Insurance Corporation dispensaries from 1,422 to 1,388, medical officers from 6,992 to 6,890 and Insurance Medical Practitioners from 2,041 to 1,942 during the same period. The re-organisation and rationalization undertaken by the States to ensure optimum utilization of existing infrastructure which was necessitated due to gross under-utilisation of Employees State Insurance Corporation dispensaries, hospitals, etc. is cited to be the reason behind the reduction in infrastructural facilities. The Committee are given to understand that the augmentation of the infrastructural facilities in case of requirement will be done as per the norms and requirements of the State Governments. The Committee are distressed to note the escapist approach adopted by the Government in toning up the Employees State Insurance Corporation. As it is, the duality of administration with regard to dispensation of medical facilities and other benefits (role and involvement of State Governments) has drastically eroded the efficiency of the organization and confidence of the beneficiaries. To augment the basic medical facilities at the instance of the State Government will hardly do any good to the beneficiaries as no prompt proposal can be expected from the State Governments, keeping in view the past experience. Moreover, this system will also not make anybody accountable for the decline in the services. The Committee, hence, recommend that all out efforts should be made to put an end to the system of duality in administration to the extent possible with regard to the execution of ESI Scheme so that the health needs of the insured persons are well taken care of.

Reply of the Government

ESIC has taken number of steps to remove the difficulties being faced by duality of control in administration of Medical Scheme in the States:-

- a. Revolving Fund Scheme has been introduced to ensure smooth flow of funds. Under this Scheme, the part of the fund is kept with the Sr. State Medical Commissioner / SMC at the level of Regional Office and the payments are issued by the Regional Office on receipt of valid sanctions of the State Govt. Under this Scheme, the funds are being released for provision of super specialty treatment to insured persons and their families, drugs and dressings, repair and maintenance of equipments etc.

- b. ESI Corporation has taken over one Hospital in each State to be run as Model Hospital under the Model Hospital Scheme. The total expenditure on running of the Model hospital is being borne by the ESI Corporation outside the ceiling. These Model hospitals are being staffed as per norms and are being modernized with latest equipments.
- c. ESI Corporation has approved taking over of ESI Scheme in the States who give the consent for the same. State Govt. of Madhya Pradesh and Bihar have given the consent for take over of the Scheme.

[Ministry of Labour and Employment, O.M. No.H-11013/4/2008-Coord. dated 27.08.2008]

Comments of the Committee

{Please see Paragraph No.19 Chapter-I of the Report}

New Delhi;
October, 2008
 Asvina 1930 (Saka)

SURAVARAM SUDHAKAR REDDY,
 CHAIRMAN,
 STANDING COMMITTEE ON LABOUR.

MINUTES OF THE SEVENTH SITTING OF THE STANDING COMMITTEE ON LABOUR
HELD ON TUESDAY, 21ST OCTOBER, 2008

The Committee met from 1500 hours to 1600 hours in Committee Room `C', Parliament House Annexe, New Delhi to consider and adopt draft Thirty-Second and Thirty-Third Reports.

PRESENT

Shri Suravaram Sudhakar Reddy - CHAIRMAN

MEMBERS

LOK SABHA

2. Shri Furkan Ansari
3. Shri Ramdas Bandu Athawale
4. Shri Subrata Bose
5. Shri Santasri Chatterjee
6. Shri Thawar Chand Gehlot
7. Smt. C.S. Sujatha

RAJYA SABHA

8. Shri Narayan Singh Kesari
9. Shri K. Chandran Pillai
10. Smt. Renubala Pradhan

SECRETARIAT

- | | | | |
|----|-------------------|---|------------------|
| 1. | Shri Brahm Dutt | - | Joint Secretary |
| 2. | Shri N. K. Pandey | - | Deputy Secretary |

2. At the outset, the Hon'ble Chairman welcomed the Members and apprised them about the draft Thirty-Second and Thirty-Third Reports on the Action Taken by the Government on the recommendations/observations contained in the Twenty-Eighth Report of the Standing Committee on Labour on Demands for Grants of the Ministry of Labour and Employment for the year 2008-09 and on the subject 'Development Schemes for Handicraft Sector' of the Ministry of Textiles.

3. The Committee first took up the Draft Thirty-Second Report for consideration and adopted the same without any amendments/modifications.

4. XX

XX

XX

5. The Committee then authorized the Chairman to finalise the above Reports and present the same to the Parliament.

6. The Committee also placed on records their appreciation for the service rendered to the Committee by the officers/staff attached to the Committee.

7. XX

XX

XX

The Committee then adjourned.

APPENDIX II

[vide Para 3 of the Introduction]

ANALYSIS OF ACTION TAKEN BY THE GOVERNMENT ON THE TWENTY EIGHTH
REPORT OF THE STANDING COMMITTEE ON LABOUR AND EMPLOYMENT
(FOURTEENTH LOK SABHA)

		<u>Total</u>	<u>Percentage of Total</u>
I.	Total number of Recommendations	15	
II.	Recommendations/Observations which have been accepted by Government (Sl. Nos. 1,2,3,4,5,7,9,10, 13 and 14)	10	66.67%
II.	Recommendations/Observations which the Committee do not desire to pursue in view of Government's replies (NIL)	--	--
III.	Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee and which requires reiteration (Sl. Nos.6,11,12 and 15)	4	26.67%
IV.	Recommendations/Observations in respect of which final replies of Government are interim in nature (Sl. No.8)	1	6.67%
			----- 100% -----

