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# **Labour Legislation in Indian States**

by

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*International Labour Office*

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# Labour Legislation in Indian States

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*Continuing the series of articles already published in the International Labour Review*<sup>1</sup> on various aspects of conditions of labour in India, Dr. Das describes in this study the progress of labour legislation in Indian States. Several of these States have developed modern industry and enacted labour legislation, regulating labour conditions in factories, mines, and plantations, and making provision for the welfare of workers in general, in such matters as the abolition of labour under contracts involving criminal penalties, regulation of the payment of wages and relief from indebtedness, the payment of workmen's compensation and maternity benefit, the development of trade unions, and the settlement of industrial disputes. This survey of the present state of labour law in the Indian States is of special interest in view of the increased attention which is now being paid by the International Labour Organisation to Asiatic problems, as evidenced by the Director's recent report on "Problems of Industry in the East".<sup>2</sup>

**I**NDIAN States form an important part of the Indian Empire. Out of an area of 1,575,107 square miles and a population of 338 million in the whole of the Empire in 1931<sup>3</sup>, the Indian States had together an area of 712,508 square miles and a population of 81.81 million, or 45 per cent. and 24 per cent. respectively. The total number of Indian States is 562, but they

<sup>1</sup> Vol. XXII, No. 5, Nov. 1930 : "Labour Legislation in India" ; Vol. XXIV, Nos. 4-5, Oct.-Nov. 1931 : "Woman Labour in India" ; Vol. XXVIII, No. 6, Dec. 1933, and Vol. XXIX, No. 1, Jan. 1934 : "Child Labour in India".

<sup>2</sup> Studies and Reports, Series B, No. 29. Geneva, 1933.

<sup>3</sup> Compiled from *Census of India*, 1931, Vol. I, Part II, Table 1, excluding Burma and Aden, which have recently been separated from India.

vary considerably in size from petty States such as Lawa in Rajputana, with 19 square miles, to the large State of Jammu and Kashmir with 84,516 square miles. Several other States, such as Hyderabad, Mysore, Gwalior, Indore, Baroda, Travancore, and Cochin, are comparable to some of the European States in both area and population.<sup>1</sup>

Indian States are still mostly agricultural, but modern industries have already appeared in some of them. According to an enquiry made by the Government of India in 1929-30<sup>2</sup>, 48 States had factories, mines, plantations, or transport systems, although only a few of them had achieved any measure of industrial importance. The recent industrial development of these States is best indicated by the fact that the paid-up capital of the joint-stock companies between 1911-12 and 1935-36 increased from 0.34 to 13.17 crores of rupees in the case of those registered in Indian States and from £5.88 million to £13.86 million in the case of those registered abroad but at work in these States.<sup>3</sup>

The growth of modern industry has been followed by the rise of labour legislation. According to the enquiry by the Government of India mentioned above, 22 States had labour regulations of some kind or other in 1929-30, and there is no doubt that more States have since then taken action to regulate labour conditions in different industries. Some of the larger States have an elaborate system of labour legislation. These labour measures may be described with reference to such specific industries as factories, mines, and plantations, as well as to such general subjects as labour under penal sanction, protection of wages, workmen's compensation, maternity benefit, trade unions, and trade disputes.

#### FACTORY LEGISLATION.

The most important organised industries in Indian States are factories, especially in connection with the spinning and

<sup>1</sup> The area in square miles and the population in millions (in brackets) of the large States are as follows : Hyderabad, 82,698 (14.43) ; Kashmir, including Jammu, 84,516 (3.64) ; Mysore, 29,326 (6.55) ; Gwalior, 26,867 (3.52) ; Indore, 9,518 (1.81) ; Baroda 8,164 (2.44) ; Travancore, 7,025 (5.09) ; Cochin, 1,480 (1.20).

<sup>2</sup> This enquiry into labour legislation in Indian States was undertaken by the Government of India on behalf of the International Labour Office. Cf. "Labour Legislation in India", in *International Labour Review*, Vol. XXII, No. 5, Nov. 1930.

<sup>3</sup> *Statistical Abstract for British India*, 1923, Tables 269 and 273 ; 1938, Tables 177 and 181.

weaving of cotton, for which there were 62 mills<sup>1</sup> with a paid-up capital of over 6.11 crores<sup>2</sup>, possessing 26,279 looms and 1,212,530 spindles, and employing an average daily number of 63,571 workers, in 1935-36. In 1935 there were 1,550 factories of all classes employing an average daily number of 242,800 workers; 677 were perennial factories and 873 seasonal factories, employing respectively an average daily number of 177,852 and 64,948 workers. The most important of these factories were textile mills and cotton ginneries and presses, comprising respectively 172 and 729 factories, employing an average daily number of 90,262 and 51,578 workers.<sup>3</sup>

The largest numbers of factories of all kinds, as well as of factory workers, are to be found in the States of Hyderabad, Baroda, Mysore, and Indore, which had respectively 368, 168, 198 and 163 factories, and employed an average daily number of 49,490, 27,409, 26,924 and 21,680 workers, possessing together over one-half of the factories and employing over one-half of the factory workers.<sup>4</sup>

The most important labour legislation in Indian States relates to factories. According to the enquiry by the Government of India referred to above, 18 States<sup>5</sup> had some kind of measures for regulating labour conditions in factories in 1929-30 and a few more have since then enacted Factories Acts.<sup>6</sup> Most

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<sup>1</sup> *Statistical Abstract for British India, 1938, Table 203.* Of these mills, 14 were in Baroda, 7 in Indore, 7 in Mysore, 6 each in Hyderabad and Gwalior, 1 each in Travancore and Cochin, and the remainder in various other States, except 3, which were in Pondicherry (the French Settlements).

<sup>2</sup> *Ibid.* This excludes paid-up capital of £156,580 and 10 millions francs and debentures of over 1.24 crores.

<sup>3</sup> Compiled from *Large Industrial Establishments in India in 1935* (Government of India, 1937). These figures include only factories employing an average daily number of 20 persons or more.

<sup>4</sup> *Ibid.* The number of factories and factory workers in Indore refers to the year 1934-35. Cf. *Labour Gazette* (Bombay), Jan. 1937, pp. 347-348. Kashmir had 21 factories and 21,400 workers, and Travancore and Cochin together had 203 factories and 21,843 workers.

<sup>5</sup> The following States, with the dates of enactment in brackets, have Factories Acts: (1) Indore (1904); (2) Barwani (1906); (3) Cochin (1908); (4) Jaora (1909); (5) Travancore (1913); (6) Marwara (1913); (7) Baroda (1914); (8) Mysore (1914); (9) Rajkot (1915); (10) Hyderabad (1917). Among the other States having factory legislation may be mentioned the following: (1) Cambay; (2) Porbandar; (3) Nandgaon; (4) Kholapur; (5) Jind; (6) Bhavnagar; (7) Tonk; (8) Faridkot.

<sup>6</sup> Among the States which have recently undertaken factory legislation, definite information is available only from Junagadh, which passed a Factories Act in May 1935, basing its provisions on the Indian Factories Act of 1911, as modified up to 1931, and excluding State-owned factories from its application (*Labour Gazette*, Bombay, Nov. 1935, p. 197). A Factories Bill was introduced in the legislature of Rampur in March 1936 (*The Statesman* (Delhi), 18 March 1936).

of these measures provide for a minimum age for admission to employment, maximum hours of work for men, women, and children, including in some cases weekly holidays and rest intervals, and safety and sanitation. Some of them provide for inspection and the appointment of special factory inspectors. As a rule, they are based upon the earlier factory legislation of the Government of India, but with the amendment and re-enactment of the Indian Factories Act some of the large and important States have also brought their Factories Acts up to date.

The leading State in the development of factories is Hyderabad, which has also made considerable progress in factory legislation since 1917, when the first Act was passed. The existing Factories Act (IV) of 1928<sup>1</sup> is applicable to any premises using power machinery and employing 20 persons or more. But in the exercise of the power granted by the Act the Government extended its scope in 1935 to include all rice mills in which power machinery is used and not less than 10 persons are employed on any day in the year<sup>2</sup>, and in 1936 to include *bidi* (cigarette) factories in which not less than 20 persons are simultaneously employed on any day in the year.<sup>3</sup>

The second important State as regards the development of factories is Baroda, which has been a pioneer State in social legislation. The Baroda Factories Act of 1914 was based on the Indian Factories Act of 1911 and brought into operation on 1 February 1914. With a view to giving effect to various amendments of the Indian Factories Act, the Baroda Factories Act of 1914 was amended by the Factories Amendment Act (XXI) of 1930, which was brought into operation on 1 August of the same year.<sup>4</sup>

The next important State in respect of the development of factories is Mysore, which has also undertaken factory legislation on the lines of the Indian Factories Act since 1914. The Factories Regulation of 1925 was based on the Indian Factories (Amendment) Act of 1922, thus giving effect to the Hours of Work (Industry) Convention and the Weekly Rest (Industry) Convention, as incorporated in the British Indian legislation.

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<sup>1</sup> The Hyderabad Factories Act No. IV of 1387 Fasli, assented to on 1 Oct. 1928.

<sup>2</sup> *Indian Labour Journal*, 8 Dec. 1935.

<sup>3</sup> Cf. *Industrial and Labour Information*, Vol. LVIII, No. 11, 15 June 1936, pp. 332-333; Vol. LIX, No. 12, 21 Sept. 1936, p. 383.

<sup>4</sup> The Baroda Factories Act (XXI) of Samvat 1936 (19 June 1930).

The Regulation of 1925 was again consolidated and amended by the Mysore Factories Regulation (1) in 1936. Most of the amendments followed closely the provisions of the Indian Factories Act of 1934. This came into force on 1 April 1936.<sup>1</sup>

Factory legislation has also made progress in other important States. The first State to undertake factory legislation was in fact Indore, which passed a Factories Act in 1904 and consolidated and amended it by the Indore Factories Act (VIII) 1929, brought into operation on 1 July 1929.<sup>2</sup> Cochin passed its Factories Act as early as 1908. The Travancore Factories Regulation was passed in 1913 on the basis of the Indian Factories Act of 1911 and was amended several times between 1922 and 1931. In 1935 the Government of Travancore decided to bring its Factories Regulation into conformity with the Indian Factories Act of 1934 and introduced an amending Bill into the legislature on 19 July 1935. The Bill is still under consideration.<sup>3</sup>

Some idea of the provisions of factory legislation in Indian States may be formed from those of Hyderabad, Baroda, Mysore, and Indore, with special reference to (1) definition, (2) minimum age, (3) hours of work, (4) health and safety, and (5) administration.

#### *Definition.*

A factory is defined by all these States as any premises using power machinery and employing 20 (30 in Baroda) or more persons. The Government of Hyderabad is granted power to apply the legislation to any premises either using power machinery and employing 10 persons or more or not using power machinery but employing 20 persons or more: and the Governments of Baroda and Mysore are granted power to apply it to any premises employing 10 persons or more, whether using power machinery or not. The Mysore Regulation also makes a distinction between seasonal and non-seasonal factories, the former working for a season of 180 days or less in the year.

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<sup>1</sup> The Mysore Factories Regulation (I) of 1936 received the assent of the Maharajah on 11 Jan. 1936. Mysore also passed a Regulation (IV) in 1929 relating to cotton ginning and pressing factories, which, although mostly a trade measure, gives power to factory inspectors to sanction the plans of new factories.

<sup>2</sup> The Indore Factories Act (VIII) of 1929 received the assent of the Maharajah Holkar on 10 March 1929.

<sup>3</sup> The Travancore Factories Bill, 15 July 1935. This Bill has now been passed (cf. *The Hindu*, 22 Aug. 1936).

### *Minimum Age.*

In all these States a child is defined as a person under the age of 15 years (14 in Indore), and the minimum age for admission to employment is fixed at 12 years (11 in Indore). No child may be employed in a factory unless certified by a certifying surgeon as to his age and physical fitness for work, and unless he has this certificate or its token in his possession while at work. A certifying surgeon is also granted power to revoke any certificate granted to a child if, on re-examination, the child is, in his opinion, no longer fit for employment in a factory. Besides children as defined above, the Mysore Factories Regulation of 1936 has created a new class of protected persons between the ages of 15 and 17 years—adolescents, who must be duly certified for physical fitness before commencing work as adults, and must carry with them the token of such certificate while at work.

### *Hours of Work.*

The maximum hours of work for men are fixed at 60 a week and 11 a day in Hyderabad and Indore, 10 a day in non-seasonal factories and 11 a day in seasonal factories in Baroda, and 54 a week (which may be raised to 56 a week in a continuous process) and 10 a day in non-seasonal factories, and 60 a week and 11 a day in seasonal factories, in Mysore. The maximum hours of work for women are fixed at 10 a day in both seasonal and non-seasonal factories in all these States except Indore, where the limit is 11 hours a day, and those for children at 6 a day in Hyderabad, Baroda, and Indore, and 5 a day in Mysore.

Provisions have also been made for weekly holidays and rest intervals in all these States. The employment of women and children at night is prohibited, and in Mysore the spread-over (the period within which the worker may be employed) is limited to 18 hours in the case of adults and 7½ hours in the case of children. The Mysore and Indore regulations provide for extra pay for overtime or work over and above the maximum hours fixed by the law.

### *Health and Safety.*

Provisions have been made for cleanliness, ventilation, and lighting, drinking water, and sanitary latrines. The Mysore Factories Regulation even gives power to the Government to

make rules: (a) prescribing standards for the cooling properties of the air in factories in which the humidity of the air is artificially increased; (b) regulating the methods used for artificially increasing the humidity of the air; and (c) directing prescribed tests for determining the humidity and cooling properties of the air to be carried out and recorded.

Provisions have also been made in all the States for the safety of machinery, adequate fencing, and protection against fire. The inspector is granted powers to issue orders in writing requiring a factory to carry out special measures for removing danger to human bodies and life before a specified period, or prohibiting the use of any machinery or plant involving immediate danger unless it has been duly repaired or altered. Women and children are prohibited from cleaning or oiling any part of the machinery or from working between the moving or fixed parts and the moving parts of any machinery while it is in motion, under power, and also from employment near the cotton opener, which has often been found dangerous.

The Mysore Factories Regulation gives power to the Government to make rules for (a) specifying an operation involving risks to be hazardous, and prohibiting the employment of women, adolescents, and children, therein, and also for making safety and medical provisions for the employment of men; (b) prohibiting the admission to any specified class of factories or specified parts thereof of children who cannot lawfully be employed therein; (c) requiring a factory employing more than 150 workers to provide an adequate shelter for the use of workers during the rest period; and (d) requiring a factory employing more than 50 women to provide a suitable room for the use of their children under six years of age.

#### *Administration.*

In all these States, the Government is granted power to make rules for administrative purposes, such as the exemption of a certain class of workers from provisions in respect of hours, the prescribing of physical standards to be attained by children and adolescents for admission to employment, and the prescribing of standards of health and safety measures to be achieved by factories, and also of the forms of registers, notices, and returns. The Government may, by notification in the Official Gazette, appoint inspectors for the purposes of the Act, designate officers to act as *ex-officio* inspectors (district magistrates always



acting as *ex-officio* inspectors in their respective districts), and also appoint registered medical practitioners as certifying surgeons.

Every factory must give notice in writing of the commencement of its working and must keep registers of adults and children separately in prescribed form and display and maintain, in prescribed form, the periods within which they are to be employed, and no person may be employed except in accordance with these prescribed periods. No prosecutions under these Acts may be instituted except by or with the sanction of the inspector. Penalties are provided for infringement of the law, and the Mysore Factories Regulation provides an enhanced penalty in certain cases after previous conviction for the same offence.

### MINING LEGISLATION

Next to factories, the most important industry in Indian States is mining, especially the production of gold and coal. The former is practically confined to the Kolar gold field of Mysore, but the latter is scattered over several States. The Kolar gold field produced, in 1935, 326,125 ounces of fine gold, as compared with 1,528 ounces mined in British India.<sup>1</sup> The production of coal in Indian States in 1936 was 2,025,130 tons, including 852,739 tons in Hyderabad.<sup>2</sup> The figures for all mining workers are not available, but most of them are engaged in gold and coal mines. The daily average number of workers in gold mines in 1935 in all India was 22,444, a large majority of whom were naturally employed in the Kolar gold mines.<sup>3</sup> The daily average number employed in collieries in Indian States was 18,694 in 1936, including 9,486 in Hyderabad.<sup>4</sup>

Mining legislation has long been in existence in those States which possess coal, gold and other mines, such as Hyderabad, Mysore, Baroda, Indore, and Travancore.<sup>5</sup> Mysore, which employs the largest number of mining workers, enacted a Regulation in 1897 and amended it in 1900. The existing mining legislation was passed on 24 July 1906<sup>6</sup>, but the rules under Sections

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<sup>1</sup> *Statistical Abstract for British India, 1938, Table 206.*

<sup>2</sup> *Indian Coal Statistics, 1936, Table 1.*

<sup>3</sup> *Statistical Abstract for British India, 1938, Table 207.*

<sup>4</sup> *Indian Coal Statistics, 1936, Table 6.*

<sup>5</sup> According to the enquiry of the Government of India in 1929-30, referred to above, only five States, including Patiala, which prohibits the employment of women and children underground in mines, appeared to have mining legislation.

<sup>6</sup> The Mysore Mines Regulation (IV) of 1906.

21 and 37 were brought up to 30 June 1935.<sup>1</sup> The Government of Hyderabad passed the Hyderabad Mines Act in 1911 (1820 Fasli) and brought it into operation in the same year.<sup>2</sup> A Regulation "to provide for the regulation and inspection of mines and for the prospecting for metals and minerals" was passed in Travancore as the Travancore Mines and Minerals Regulation<sup>3</sup> on 8 May 1928 and was at once brought into operation.<sup>4</sup>

Some idea of mining legislation in Indian States may be derived from the enactments of Mysore, Hyderabad, and Travancore, with special reference to (a) definition, (b) inspection, (c) safety, (d) sanitation, (e) hours of work, (f) women and children, (g) boards and committees, and (h) administration.

#### *Definition.*

The Mysore Mines Regulation lays down that a mine is "any place above or below ground where any mining operation is carried on and includes all such portions of the surface of any mining block whereon the right of entry has been acquired by purchase or otherwise by a mining proprietor". The definition of a mine in Hyderabad and Travancore is practically the same. The Travancore Mines and Minerals Regulation of 1928 states that a mine is "any excavation whether subterranean or not, where any operation for the purpose of searching for, or obtaining, minerals has been or is being carried on and includes all works, machinery, tramways and sidings, whether above or below ground, or in or adjacent to or belonging to a mine".

#### *Inspection.*

The Government in all these States is granted power to appoint, by notification in the Official Gazette, an inspector of mines with the necessary power to carry out the object of the Act or of the rules made thereunder. The inspector of mines may, by giving notice in writing or stating particulars or giving

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<sup>1</sup> Rules prescribed under Sections 21 and 37 of the Mysore Mines Regulation (IV) of 1906. Bangalore, 1935.

<sup>2</sup> The Hyderabad Mines Act (No. III) of 1820 Fasli (1911).

<sup>3</sup> The Travancore Mines and Minerals Regulation under Section 14 of Regulation II of 1907 (Regulation No. III of 1103).

<sup>4</sup> Indore made Rules for the grant of exploring and prospecting licences and mining leases in the Holkar State in 1926, but this can scarcely be called mining legislation in the sense of the regulation of the employment of labour.

reasons, require a mine to remedy any matter, thing, or practice, which is dangerous to life and safety within a specified time, or to prohibit the employment of any persons in or about a mine where there is any immediate danger to life and safety until such danger is removed. In the case of a mine's objection to such requisition, the case may be decided by a higher authority to be appointed by the Government, such as a Court of Arbitration (Mysore), or a committee (Hyderabad), or a commission (Travancore). A district magistrate may also exercise the powers and perform the duties of an inspector in his jurisdiction, subject to the general and special orders of the Government.

### *Safety.*

All mining operations carried on in any of the States must be conducted in accordance with the provisions of the Act or Regulation and the rules made thereunder for the prevention of danger to life and safety and for the reporting and investigation of accidents and such other matters connected with the mining operations as may from time to time be prescribed by the Government. A mine may, if called upon by the inspector of mines to do so, make by-laws not inconsistent with the Act or the rules made thereunder for safety, convenience, and discipline, of the persons employed in the mine and, when approved by the Government, these by-laws have the same effect as if enacted by the legislature.

### *Sanitation.*

The Government may from time to time make rules for special sanitation and sanitary administration of any local area within which mining operations may be carried on. The Government of Mysore is granted power to appoint any persons, official or non-official, to constitute a Sanitary Board and invest such Board with powers for the enforcement of the rules. With the previous sanction of the Government, the Sanitary Board may prescribe by-laws and levy taxes, rates, and cesses, within the assigned area. The medical officer of a mining area is made responsible for the proper sanitation of a mine or of any labour camps or colonies in Mysore. The Government of Hyderabad may also appoint a Sanitary Board, of 7 members consisting of two officials, including the president, two non-officials, the health officer, the inspector of mines, and a mine manager, and

may invest the Board with the necessary power for the enforcement of the rules. Both the Hyderabad Act and the Travancore Regulation grant power to the Government to make rules regulating the water supply, sanitation, and conservancy, of any mine, and providing against the accumulation of water, also for the ventilation of mines and the action to be taken in respect of noxious gases.

#### *Hours of Work.*

No provisions have yet been made by Hyderabad and Mysore restricting the hours of work in mines; but the Travancore legislation limits working days to six a week, and hours of work to 11 a day and 54 a week above ground and 42 a week below ground, and prohibits the employment of women in a mine before 6 a.m. and after 6 p.m.

#### *Women and Children.*

A child is defined as any person under 12 years of age in Hyderabad and under 14 years of age in Travancore. The Travancore Regulation prohibits the employment of children both above and below ground and of women below ground. The Government is granted power to make rules prohibiting, restricting, or regulating, the employment of women in Travancore, and of both women and children either below or above ground in Hyderabad, in certain classes of mines or occupations which are attended by danger to the life, safety, and health, of women or children.

#### *Boards and Committees.*

The Hyderabad Act provides for the appointment of (a) a mining board consisting of a public officer as chairman, the inspector of mines, and a Government nominee, together with two representatives of the mines, to serve as an advisory body to the Government and to exercise such powers of an inspector of mines as may be necessary in deciding any matters referred to it, and also of (b) a committee consisting of a chairman to be nominated by the Government, one or two experts on the question, and as many representatives of the mines, to investigate any question relating to a mine referred to it, and report its decision thereupon to the Government. Both the Governments of Hyderabad and Travancore may also start a formal

enquiry into the causes and circumstances of an accident and appoint a competent person or court of enquiry and may also appoint one or more persons possessing special or legal knowledge to act as assessor or assessors in holding the enquiry and making reports to the Government. The reports of a commission, committee, or court of enquiry, or any other report submitted under the Act or Regulation, may be published, in part or in full, at the discretion of the Government.

#### *Administration.*

The Act or Regulation grants power to the Government to make rules in conformity with the legislation, for such purposes as (i) defining the duties and powers of the inspector of mines and the procedure, appointment, and duties, of mining boards, committees, and courts of enquiry ; (ii) prescribing the qualifications and duties of managers and other responsible persons connected with mines ; (iii) providing safety measures in mines and regulating the procedure to be followed on the occurrence of accidents, and the supply of medical appliances ; (iv) making rules for sanitation and sanitary administration ; and (v) prescribing the forms of notices, registers, and returns. All mines are required to notify the inspector of mines in prescribed form of the commencement of their working, and the Travancore Regulation requires also the registration of the hours of work and the days of rest and the nature of the work of the labourers employed in a mine.

### PLANTATION LEGISLATION

The next important industry in Indian States is that of plantation, especially the cultivation of tea, coffee, and rubber, to which 228,000, 151,000 and 106,000 acres of land were devoted, and which employed a daily average number of 87,133, 49,625 and 20,140 workers respectively, in 1935-36. As far as the employment of plantation labour is concerned, the most important States are Travancore, Mysore, Tripura, and Cochin, which employed a daily average number of 92,145, 51,525, 8,620 and 8,698 workers respectively.<sup>1</sup>

Except for the regulation of the recruitment of labour for

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<sup>1</sup> Compiled from *Indian Tea Statistics, 1935* ; *Indian Coffee Statistics, 1935-36* ; and *Indian Rubber Statistics, 1935*. The figures given above refer to the year 1935 in the case of tea and rubber plantations and to the year 1935-36 in the case of coffee.

Assam tea gardens there has not yet been enacted any legislation for the regulation of labour conditions on plantations in the whole of India. A lead has however been given by the State of Cochin, which framed rules for conserving the health and protecting the interests of the labourers employed on plantation estates and circulated them on 12 April 1937. They were brought into operation on 1 May 1937.<sup>1</sup>

The main provisions of these rules are as follows :

*Definition.*

A plantation estate means " any estate on which labourers are employed, having 10 acres of land actually cultivated in tea, rubber, coffee, cocoa, cardamoms, camphor, pepper, coco-nuts, areca nuts and cashew nuts " or " any such estate where 20 or more labourers are employed on any one day in the year " .

*Women and Children.*

The most important regulations for the employment of women and children are as follows : (a) no child under the age of 10 years may be employed on any estate ; (b) no child or young person under the age of 16 years may be employed as a resident labourer on an estate without being certified as fit to work by a competent authority ; (c) no woman or child labourer may be allowed to work on a plantation, except between 6 a.m. and 6 p.m. ; and (d) all estates should provide free maternity aid and food to all resident women labourers for a period of 7 weeks.

*Health and Housing.*

Every estate must (a) provide free medical aid to all resident workers and free food during illness and convalescence ; (b) adopt necessary anti-malarial measures during malarial seasons ; (c) maintain a register showing births, deaths, accidents, etc. ; (d) supply two gallons of water per day of approved quality to every labourer ; (e) provide clean and sanitary latrine accommodation at the rate of one seat for each 20 persons ; (f) supply a sufficient quantity of rice of good quality at cost price ; and (g) provide for labourers' housing accommodation of approved

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<sup>1</sup> *Cochin Government Gazette*, Notification No. 86. The only other State in which any measure regulating the work of tea garden labourers has been undertaken is Tripura.

standard. The Director of Public Health is empowered to condemn immediately any building which, in his opinion, is unsanitary and unfit for human occupation. A standard of minimum housing requirements should be drawn up within two years and the total necessary expenditure may be distributed over a period of four years.

#### *Administration.*

Provision has been made for the inspection of estates, usually once a year, by the Director of Public Health or the district magistrate or his deputies. The inspecting officer has the power of entry and examination of every estate as well as of examination of any register or the documents relating to employment, birth, death, accident, etc. He may also examine all scales, weights, and measures, of all traders, brokers, or commission agents, doing any business with estate labourers. Inspecting officers must report on general conditions on estates visited to the heads of their respective departments, who may recommend the estates to improve certain conditions. In case these recommendations are not acceptable to the estates, the matter may be referred to a Planting Estates Advisory Committee to be appointed by the Government, consisting of the Director of Public Health, the Planting Member of the Council, and the Member of the Council for Commerce and Industry, and the findings of the Committee must be carried out by the estates.

#### ABOLITION OF LABOUR UNDER PENAL SANCTION

Several States had made breaches of contract punishable under criminal laws which were adopted, either in full or with some modifications to suit local conditions, from the Indian Workmen's Breach of Contract Act of 1859 and Sections 490 and 492 of the Indian Penal Code (XIV) of 1860. Since the abolition by the Government of India of labour under penal sanction, and the acceptance by the Government of India, in 1981, of the Recommendations of the International Labour Conference of 1930 relating to compulsory or forced labour, steps have also been taken by Indian States to abolish forced labour and criminal penalties for breaches of contract.

Baroda has a penal code declaring forced labour illegal. Similarly, with a view to bringing its laws into conformity with the spirit of modern legislation, the Government of Mysore passed a Regulation repealing the Workmen's Breach of Con-

tract Act of 1859 and also Sections 490 and 492 of the Mysore Penal Code on 26 June 1933 and brought it into operation on 1 October 1933.<sup>1</sup> Breaches of contract had also been made subject to criminal penalties in Travancore under the Travancore Breach of Contract Regulation of 1905, as amended by a Regulation (V) of 1912, as well as under Sections 493 and 495 of the Travancore Penal Code. Following the example of the Government of India, the Government of Travancore passed the Travancore Breach of Contract (Repealing) Act of 25 January 1935 abolishing all penal sanctions for breaches of contract.<sup>2</sup>

### PROTECTION OF WAGES

Measures for the protection of wages, including relief from indebtedness, are of very recent origin in Indian States and relate only to (i) the payment of wages, (ii) attachment of wages, and (iii) imprisonment for debt. The measure to regulate wage payment is still under consideration by the Government of Indore, but those relating to relief from indebtedness have already been passed by the Government of Mysore.

#### *Payment of Wages Bill.*

The most important measures undertaken for the protection of wages is the Indore Payment of Wages Bill<sup>3</sup>, which was introduced into the Legislative Assembly of Indore and referred to a Select Committee for consideration on 20 March 1938.<sup>4</sup> The object of the Bill is to remedy some of the grievances of the workers as to the neglectful calculation of wages, delay in payment, and indiscriminate fines, and consists of the following principal provisions.

(1) It is applicable to payment of wages in all factories and workshops where 50 or more persons are employed and to all persons drawing less than 200 rupees a month.

(2) No wage period shall exceed 15 days and wages shall be paid on fixed days after the expiry of the period for which they have been earned and on a working day and in current coins or currency notes or in both.

(3) The wages of a worker must be paid in full without any deductions, unless such deductions are prescribed by the Act ;

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<sup>1</sup> The Mysore Workmen's Breach of Contract Act (Repealing) Regulation, 1933, received the assent of the Maharajah on 26 June 1933.

<sup>2</sup> *The Hindu*, 27 July 1934 and 26 Jan. 1935.

<sup>3</sup> The Indore Payment of Wages Bill, No. II of 1938.

<sup>4</sup> *The Statesman* (Delhi), 29 March 1938.



no person shall be fined who is under the age of 15 or who earns 15 rupees or less a month. The amounts of fines and the method of collecting them are laid down, and the conditions under which other deductions may be made are defined.

(4) The administration of the law should be entrusted to the Commissioner of Industry and Commerce, or any other officer with the experience of a Judge of the Civil Court, who may be appointed by the Government by due notification.

#### *Attachment of Wages Regulation.*

Under the Mysore Code of Civil Procedure Act, one-half of the wages of a debtor in excess of 20 rupees could be attached by a creditor towards the payment of the debt. Following the example of British India, and with a view to raising the limit of exemption of wages from attachment for the payment of debt, the Government of Mysore passed the Mysore Code of Civil Procedure (Amendment) Act on 16 October 1937. By this amendment wages up to and including 50 rupees and one-half of the remainder are exempt from attachment for the payment of any debt.<sup>1</sup>

#### *Imprisonment for Debt Regulation.*

As in the case of British India, Section 51 of the Mysore Civil Procedure Code of 1911 provided that all persons, including workers, were liable to arrest and imprisonment in the execution of a decree for the payment of debt. Following the enactment by the Government of India of the Code of Civil Procedure (Amendment) Act, 1936, regulating imprisonment for debt, the Government of Mysore passed an Act amending Section 51 of the Mysore Civil Procedure Code of 1911 on 15 June 1937. The amending Act seeks to protect all honest debtors from detention in gaol and provides that no order for execution by detention in prison shall be issued unless the debtor has been given an opportunity of showing cause why he should not be committed to prison and the Court is satisfied that the debtor is likely to leave the local limits of the jurisdiction of the Court or has fraudulently disposed of his property or that he is able to pay the amount of the decree otherwise than from protected assets.<sup>2</sup> The Act applies to all classes of persons, including workers.

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<sup>1</sup> *The Hindu*, 18 Oct. 1937.

<sup>2</sup> *The Hindu*, 17 June 1937.

## WORKMEN'S COMPENSATION LEGISLATION

As in British India, social insurance has been secured for workers in some of the Indian States only in the case of workmen's compensation and maternity benefit.

An important body of labour legislation in Indian States relates to workmen's compensation, which has been introduced in Baroda, Mysore, and Indore, and is under consideration in Travancore.<sup>1</sup> Baroda adopted the Indian Workmen's Compensation Act of 1923, with the necessary modifications to suit local conditions, in 1929-30, and the Indian Workmen's Compensation (Amendment) Act of 1933 in 1934.<sup>2</sup> Mysore passed "a regulation to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident" as the Workmen's Compensation Regulation (XIV) of 1928.<sup>3</sup> After the enactment by British India of the Indian Workmen's Compensation (Amendment) Act, 1933, Mysore amended its workmen's compensation legislation in 1936 as the Mysore Workmen's Compensation (Amendment) Regulation (III) of that year.<sup>4</sup> Indore passed its Workmen's Compensation Act (II) in 1935<sup>5</sup>, based on the Indian Workmen's Compensation Act, 1923, but without including its recent amendments.

The chief provisions of the Indore Workmen's Compensation Act, 1935, are as follows.

### *Scope.*

The Act includes all workers who are employed either by way of manual labour or on monthly wages not exceeding 300 rupees in any capacity in such industries and occupations as (1) factories working under the Factories Act of 1929, (2) mines within the meaning of the law, (3) construction and demolition of buildings (more than one storey high), (4) of bridges (more than 50 feet long), (5) of telegraph and telephone lines or posts or any other electric line or cable, (6) of underground sewers, (7) fire brigades, and (8) blasting operations. The Act is also applicable to certain occupational diseases, such as lead

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<sup>1</sup> The Travancore Workmen's Compensation Bill, 15 July 1937.

<sup>2</sup> The Indian Workmen's Compensation Act applied to Baroda Raj, Jan. 1930 ; *Labour Gazette* (Bombay), Sept. 1935, p. 37 ; *The Statesman* (Delhi), 31 Aug. 1937.

<sup>3</sup> The Mysore Regulation No. XIV of 1928 received the assent of the Maharajah on 4 July 1928.

<sup>4</sup> The Mysore Regulation No. III of 1936 received the assent of the Maharajah on 14 July 1936.

<sup>5</sup> The Indore Workmen's Compensation Act (No. II) of 1935.

and sulphur poisoning. The Government is granted powers to extend the scope of the Act to include other occupational diseases and hazardous industries and occupations.

*Title to Compensation.*

Any workman coming within the scope of the Act is entitled to compensation from his employer in the case of personal injury caused by accident arising out of and in the course of his employment, provided that the disability lasts more than 10 days and the injury is not caused by the fault of the workman—through the influence of drink or drugs, wilful disobedience to an order expressly given or to a rule expressly framed for securing safety, or wilful removal or disregard of safety guards or other devices.

In the case of a fatal accident, the beneficiaries for compensation will be the dependants, who may be any of the following relatives of a deceased workman: wife, husband, parent, minor son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, minor children of a deceased son, or, where no parent of the workman is alive, a paternal grandparent.

*Amount of Compensation.*

For the purpose of compensation, accidents are classified under three headings: (1) death, (2) permanent total or partial disablement; and (3) temporary total or partial disablement. Persons under 15 years of age are regarded as minors.

(1) In the case of temporary disablement, whether total or partial, compensation for an adult is half-monthly payment during the disablement or during a period of five years, whichever period is shorter, of 15 rupees or a sum equal to one-fourth of his monthly wages, whichever is less; for a minor, a sum equal to one-third or, after he has reached 15 years of age, to one-half of his monthly wages, but not exceeding 15 rupees.

(2) In the case of permanent total disablement, compensation for an adult is a sum equal to 42 months' wages, or 3,500 rupees, whichever is less; for a minor, a sum equal to 84 months' wages or 3,500 rupees, whichever is less. Compensation for permanent partial disablement is payable according to the percentage of loss of earning capacity.

(3) In the case of death of an adult, his dependants are to receive a sum equal to 80 months' wages or 2,500 rupees, which-

ever is less, and in the case of the death of a minor compensation is fixed at 200 rupees.

The Mysore Workmen's Compensation Regulation, 1928, had provisions almost identical with those of the Indore Workmen's Compensation Act of 1935 until its amendment in 1936. By this amendment important changes have been made in the provisions of the Regulation, such as (1) extension to include new industries and occupations; (2) reduction of the waiting period from 10 to 7 days; (3) inclusion of widowed sisters and widowed daughters among the dependants of a deceased workman; and (4) increase in the scale of compensation.

The principal changes are in the scale of benefit, which is determined by the rate of wages as defined under 17 categories, ranging from 10 rupees or less a month to 200 rupees, or more a month. The most important of these changes are as follows: (1) compensation for temporary disablement is payable half-monthly (a) at the rate of one-half of monthly wages, subject to a maximum of 30 rupees a month, to a minor, and (b) at a rate varying from full wages in the lowest wage class to a maximum of 30 rupees in the other wage classes, to an adult; (2) compensation for permanent total disablement is 1,200 rupees for a minor and varies from 700 rupees to 5,600 rupees, according to the rate of wages, for an adult; (3) compensation for the death of an adult varies from 500 rupees to 4,000 rupees according to the wage rate. The other rates are the same as under the original Act or the Indore Act outlined above.<sup>1</sup>

#### *Administration.*

The administration of the law is entrusted to a Commissioner specially appointed for the purposes of the Act. If any question arises in the proceedings under the Act as to the liability of any person to pay compensation or as to the amount or duration of compensation, the question is settled, in default of agreement, by the Commissioner. Among other functions of the Commissioner, the most important are the revision of periodical payments and the apportionment of compensation to the dependants of a deceased person in cases of fatal accident.

#### MATERNITY BENEFIT LEGISLATION

Legislation providing for maternity benefit has also been making progress in Indian States. A Maternity Benefit Act has

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<sup>1</sup> The Mysore Workmen's Compensation Regulation (III) of 1936.

been passed in Baroda, applicable to women employed in perennial factories.<sup>1</sup> The Indore Maternity Benefit Act (VIII) was passed on 7 September 1936 and brought into operation on 21 October 1936<sup>2</sup>, and the Mysore Maternity Benefit Regulation (III) was passed in February 1937 and brought into operation on 1 April 1937<sup>3</sup>. The administration of the law is entrusted to the inspectors of factories in both these States.

The chief provisions of the Indore and Mysore Maternity Benefit Acts are as follows.

#### *Title to Benefit.*

Every woman employed in a factory is entitled to maternity benefit, and no employer shall knowingly employ a woman, and no woman shall work, in a factory during four weeks immediately following the day of her confinement, but the woman must have been in the service of the employer from whom she claims benefit at least eleven months in Indore, and nine months in Mysore, immediately preceding the day on which she gives notice of her coming confinement, and she must not take any other employment during the period for which she is granted maternity benefit. A woman entitled to maternity benefit cannot legally be dismissed during the period of benefit because of her absence from work, and the Mysore Maternity Benefit Regulation provides that if a woman is dismissed within three months before confinement without sufficient cause she is still entitled to the benefit from her employer.

#### *Period of Benefit.*

The maximum period of benefit is eight weeks in both States—four weeks up to and including the day of confinement and four weeks immediately following. In the case of death during the benefit period, the maternity benefit must be paid up to and including the day of death.

#### *Amount of Benefit.*

In the State of Indore, the rate of benefit is 6 annas a day in the city of Indore, and elsewhere either the average daily

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<sup>1</sup> Cf. *Annual Report of the Department of Commerce, Industry and Labour, Baroda State, 1934-35.*

<sup>2</sup> The Indore Maternity Benefit Act No. VIII of 1936 received the assent of the Maharajah on 7 Sept. 1936. It was published in the Holkar Government Gazette on 21 Sept. 1936, and was brought into operation after a month.

<sup>3</sup> The Mysore Maternity Benefit Regulation (III) of 1937.

wage, calculated on the basis of the total wages earned during a period of three months immediately preceding the day on which the woman gives notice of her coming confinement, or 6 annas, whichever is less, for the actual days of absence during the period immediately preceding, and for four weeks immediately following, confinement. In the State of Mysore the benefit is either the average daily wage, calculated on the same basis and for the same period as above, or 8 annas a day, whichever is less.

#### *Method of Payment.*

The method of payment is practically the same in both States. Maternity benefit may be paid by the employer to the woman, after taking her wishes into consideration, in any of the following three ways: (1) payment for four weeks on production of a medical certificate of the expectancy of confinement within a month, and for the remaining four weeks on production of the birth certificate of the child; (2) payment for the period up to and including the day of confinement on production of the birth certificate of the child, and for the remaining four weeks subsequently; and (3) payment for the entire period on production of the birth certificate of the child within six weeks of the confinement. In the case of death of the woman during the period for which she is entitled to maternity benefit, the benefit shall be paid to the person taking care of the child, or to the legal representative in the case of death of the child also.

The State of Cochin introduced a Maternity Benefit Bill on 3 December 1937 and referred it to a Select Committee on the same day. This Bill is still under consideration by the legislature. It applies to non-seasonal factories only, and fixes the rate of benefit at 3 annas a day and the maximum period at seven weeks—three weeks up to and including the day of confinement and four weeks immediately following.<sup>1</sup> The Government of Hyderabad has also circulated to millowners for their opinions a draft Bill relating to maternity benefit on the lines of the Bombay Act of 1929.<sup>2</sup>

### TRADE UNION LEGISLATION

As in British India, industrial workers in Indian States are gradually becoming class-conscious and realising the importance

<sup>1</sup> The Cochin Maternity Benefit Bill, 1937.

<sup>2</sup> *Indian Labour Journal*, 26 Sept. 1937.

of trade union legislation. A measure of this kind has long been under consideration in Mysore<sup>1</sup>, and a non-official Trade Unions Bill was introduced in the legislature of Indore in November 1936<sup>2</sup>, but the only States which have passed legislation on this subject are Cochin and Travancore.

With a view to safeguarding the rights of trade combinations, the Government of Cochin passed a Trade Unions Regulation on 27 August 1936.<sup>3</sup> The Government of Travancore passed the Travancore Trade Unions Regulation on 18 March 1937.<sup>4</sup> Both the Regulations are based upon the Indian Trade Unions Act of 1926 and lay down that a trade union is "any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers, or imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions". Registration of trade unions is voluntary in Cochin, but compulsory in Travancore.

The main provisions of these Regulations are as follows: (1) each Government is required to appoint a person to be the Registrar of trade unions in the State; (2) any trade union of seven or more members stating its objects and purposes, guaranteeing the safety of its funds, and complying with the requirements in regard to the drafting of its rules, is eligible for registration; (3) the general funds of a trade union may be spent only for the specified and prescribed purposes of its activities, but a separate fund of voluntary contributions may also be maintained for the promotion of the civil and political activities of its members or for the furtherance of any other specified objects; (4) the accounts of a registered trade union must be audited annually and an annual return should be made to the Registrar; (5) the majority of the officers (not less than three-fourths in Travancore) must be employed in an industry with which the union is affiliated; (6) the officers and members of a trade union are given protection against any civil or criminal proceedings in respect of any legitimate activities for the furtherance of trade unionism and trade disputes.

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<sup>1</sup> *Labour Gazette* (Bombay), Aug., 1936, p. 448; June 1937, p. 703.

<sup>2</sup> *The Statesman* (Delhi), 11 and 12 Nov. 1936.

<sup>3</sup> The Cochin Trade Unions Regulation (III of 1112); received the assent of the Maharajah on 27 Aug. 1936.

<sup>4</sup> The Travancore Trade Unions Regulation (Regulation VIII of 1112), passed by the Maharajah of Travancore on 18 March 1937. The Government of Baroda has now also passed a Trade Unions Act (No. XXVII of 1938).

## TRADE DISPUTES LEGISLATION

As in British India, trade disputes have become a serious problem in Indian States. Some of the States have measures for the regulation and settlement of industrial disputes between employers and workers. Baroda, for instance, has a Labour Conciliation Board, which has no legal authority, but a motion was made in the legislature on 18 July 1934 to pass appropriate legislation.<sup>1</sup> The Indore Trade Disputes Act (III) was passed on 18 February 1933 and brought into operation on 1 March 1933.<sup>2</sup> The Cochin Trade Disputes Act (LXVI) was passed on 24 July 1937, and was to come into force on the day which the Government might appoint by notification in the Cochin Government Gazette.<sup>3</sup> A Trade Disputes Bill, based on the Indian Trade Disputes Act of 1929, for the investigation and settlement of industrial disputes, is also under consideration in Travancore.<sup>4</sup>

Both Indore and Cochin make provision for the settlement of trade disputes through special bodies which are to be appointed by the Government in the case of an existing or apprehended dispute. The Indore Trade Disputes Act of 1933 provides for the appointment of (1) a conciliation officer, either the Member for Industry and Commerce or any other person, official or non-official, and (2), if necessary, also a board of arbitration consisting of a chairman, generally a High Court Judge, and six members, two each representing the public, the workers, and the employer. The Cochin Trade Disputes Act of 1937, which is based on the Indian Trade Disputes Act of 1929 as amended in 1932, provides for the appointment, on the application of the parties to a dispute, either separately or conjointly, of (1) a court of enquiry consisting of an independent chairman and other independent members, and also (2) a board of conciliation consisting of an independent chairman and two or more members, either independent or representatives in equal numbers of the parties to the dispute.

The object of these bodies is to find out the facts and circumstances of the dispute, try to bring about a settlement,

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<sup>1</sup> *The Statesman* (Delhi), 18 July 1934. The Government of Baroda has now passed a Trade Disputes Act (No. XXVI of 1938).

<sup>2</sup> The Indore Trade Disputes Act, No. III of 1933, received the assent of the Maharajah Holkar on 18 Feb. 1933.

<sup>3</sup> The Cochin Trade Disputes Act, No. LXVI of 1937.

<sup>4</sup> The Travancore Trade Disputes Bill, 15 July 1935. This Bill has now been passed (cf. *The Hindu*, 22 Aug. 1938).



and report, in the case of failure, to the Government or the appointing authorities, giving full details of the case ; the board of arbitration or conciliation should also make a recommendation for settlement. In the case of failure of both bodies to bring about conciliation, the Government of Indore reserves the right to give a final award, while that of Cochin relies on the pressure of public opinion after the facts have been investigated and made known.

Both States prohibit strikes and lock-outs in the public utility services, unless, within one month before the strike or lock-out, not less than fourteen days' previous notice is given in writing, and also make any strike or lock-out illegal which has any object other than the furtherance of a dispute within the trade or industry in which the strikers or the employers are engaged, or which is designed or calculated to inflict severe and prolonged hardship upon the community and thereby compel the Government to take or abstain from taking any particular course of action.

It is illegal to commence or continue to apply any sums of money, or to picket, in the furtherance or support of any such illegal strikes or lock-outs, and also to hold any public meeting in order to call in question any order of the Government passed, or final decisions given, for the settlement of any dispute on the report of the conciliation officer or the board of arbitration. No person refusing to take part in any illegal dispute may be deprived of any right or privilege such as the membership of any trade union or society or benefit to which he, or his legal representative, would otherwise be entitled.

The State of Indore provides that the parties to the dispute shall be entitled to be represented before the conciliation officer or board of arbitration by their legal representatives, and no court may take any cognisance of any offence against the provisions relating to illegal strikes or lock-outs and meetings save on a complaint under the authority of the Government.

#### CONCLUSION

From the foregoing description it will be seen that labour legislation has made considerable progress in some of the Indian States, especially with reference to employment in factories. The provisions of the Factories Act differ from State to State, but all have laid down the principle of the minimum age and

the standard of physical fitness for the admission of children to employment, and limited their hours of work to half the time fixed for men, and one State has even created a new class of protected persons—adolescents between the ages of 15 and 17 years. Most of the laws prohibit the employment of women and children at night and in dangerous occupations, and make provision for safety and sanitation, as well as for maximum hours, rest intervals, weekly holidays, a limited spreadover, and overtime pay, for all classes of workers.

Some advance has also been made in the regulation of labour conditions in other classes of employment. Mining legislation was the earliest labour measure to be adopted, and several States have enacted some kind of control of their mining industries, one State having practically the same mining legislation as exists in British India. Moreover, one of the States has taken the first step in the regulation of labour conditions on plantations, which have hitherto, except for the regulation of recruitment for Assam tea gardens, remained free from any legislative control throughout India.

Besides these labour measures relating to particular classes of employment, there has also recently grown up a series of laws for the welfare of workers in general, irrespective of the industry in which they are employed. Steps are being taken by several States for the abolition of those forms of servile labour which still exist, and a measure for the protection of wages is under consideration in one State, and relief from indebtedness has been provided in another. Social insurance measures, and especially workmen's compensation and maternity benefit, as well as laws to regulate the development of trade unionism and the settlement of trade disputes, have been enacted in some States and are under consideration in several others.

Most of the important States, such as Hyderabad, Mysore, Baroda, Indore, Travancore, and Cochin, have thus developed elaborate systems of labour legislation, comprising not only the regulation of labour conditions in specific industries but also provisions for the welfare of workers in general, which affect both the working and the living conditions of the workers. In other words, labour legislation in each of these States has already become an important social institution.

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