

INFORMAL ECONOMY :

The Growing Challenge For
Labour Administration

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Edited by
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International Labour Organization (ILO)
Subregional Office For South Asia
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Foreword

The informal economy accounts for about half of the workers in the world. In countries such as Bangladesh, Nepal and Pakistan and India, it represents more than 70 per cent of total employment. The informal economy has expanded with unexpected rapidity throughout the world. In developing countries, structural adjustment programmes, economic reform and demographic growth lie behind this expansion. Over the past decade, informal work is estimated to have created over 90 per cent of new jobs in Africa, and a major portion of jobs in South Asia.

The lack of legal and social protection, representation and rights at work which characterize informal employment is prevalent in many countries and is an inherent part of the current path of globalization. It is therefore important to stress that unless the root causes of informality are addressed and approaches made to extend labour administration to the informal economy, there can be no sustainable progress towards recognized, protected, decent work. Thus, it is important to set up an integrated strategy to deal with these causes.

The Subregional Office in New Delhi and the Social Dialogue, Labour Law and Labour Administration Department (DIALOGUE) included in its programme for the biennium 2004-2005, a strategy which would help show how labour administration can contribute to extending decent work to various categories of workers deprived of their rights. They undertook joint studies on innovative approaches and new tools which can be used by ministries of labour to address the concerns of the informal sector, as well as provide technical assistance to small and micro-enterprises and to independent or self-employed workers. The dissemination of best practices from these studies can help countries to extend administrative reforms, programmes and methods of work in order to extend decent work conditions to all categories of workers. Through case studies, governments will be able to develop appropriate mechanisms in implementing services or programmes to facilitate effective labour administration in the informal economy.

This volume presents a synthesis of country experiences and case studies mainly from Asia, representing several segments of the informal economy with a focus on labour administration and the informal economy. The case studies look at possible approaches in the areas of social security, child labour, bonded labour, and home workers.

It will be of interest to policy makers, industrial relations practitioners, labour administrators, the employers, trade unions and civil society groups.

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2 December 2005

Introduction

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CHARACTERISTICS AND COMPLEXITY OF INFORMAL SECTOR

The Social Dialogue, Labour Law and Labour Administration Department (DIALOGUE), in its programme for the biennium 2004-2005, included a strategy which would help show how labour administrations can contribute to extending decent work to various categories of workers deprived of their rights. In this biennium, ILO is looking for innovative approaches and new tools which can be used by ministries of labour to address the concerns of the informal sector and also provide technical assistance to small and micro-enterprises and independent or self-employed workers. The dissemination of best practices can help countries extend administrative reforms, programmes and methods of work in order to extend decent work conditions to all categories of workers. Through case studies, governments will be able to develop appropriate mechanisms in implementing services or programmes to facilitate effective labour administration in the informal economy. This volume presents a synthesis of country experiences and case studies mainly from South Asia, representing several segments of the informal economy with a focus on labour administration and the informal economy.

There is a growing divide between a formal global economy and the expansion of an informal local economy in most societies. The majority of the world's population lives and works in the informal economy and continues to be excluded from direct participation in globalising markets. They enjoy none of the rights for workers, nor do they have the capabilities and assets needed to enter into productive economic transactions.

In most developing countries today, there is also a large informal economy where economic activity lacks recognition and protection under formal legal or regulatory frameworks. It typically consists of small-scale manufacturing, services or vending in urban areas, domestic work or agricultural work on small plots of land. In many of the low-income countries, it accounts for the large majority of workers. Sixty per cent or more of the developing world's working women are in informal employment. The bulk of home workers and domestic workers are women. They make up a substantial proportion of street vendors as well, in part because of the continuing burden of family responsibilities or as a result of discrimination, which limits their range of job alternatives.

The ILO, in its report, *Decent Work in the Informal Economy* (2002) noted that out of the 42 countries studied, 17 had more than half of their total employment in the informal sector, and only four countries had less than 10 per cent of total employment in the informal sector. Among the regions covered, sub-Saharan African countries have the highest proportion of informal to total employment.

In Asia, the South Asian countries (with the exception of Sri Lanka) have more than 90 per cent of the workers in the informal economy in India, Pakistan, Bangladesh and Nepal. In other Asian countries, the number of informal workers ranges from 45 to 85 per cent of non-agricultural employment and from 40 to 60 per cent of urban employment. In parts of East Asia, namely Japan, the Republic of Korea, Singapore and Hong Kong, China, the informal economy declined as manufacturing and industry expanded and created jobs in the formal economy.

The informal economy refers to all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. Their activities are either not included in the law or they are operate outside the formal reach of the law.

The international Conference of Labour Statisticians issued the *Guidelines on a Statistical Definition of Informal Employment* in 2003. It defined informal employment to include the following types of jobs:

- Own-account workers employed in their own informal sector enterprises;
- Employers employed in their own informal sector enterprises;
- Contributing family workers, irrespective of whether they work in formal or informal sector enterprises;
- Members of informal producers' cooperatives;
- Employees holding informal jobs (as defined in subparagraph 5, below), whether employed by formal sector enterprises, informal sector enterprises, or as domestic workers employed by households; and
- Own-account workers engaged in the production of goods exclusively for own final use by their household.

Employees are considered to have informal jobs if their employment relationship is, in law or practice, not subject to national labour legislation, income taxation, social protection or entitlement to certain employment benefits (advance notice of dismissal, severance pay, paid annual or sick leave, etc.). The reasons for being considered informal may be the following: non-declaration of the jobs or the employees; casual jobs or jobs of a limited short duration; jobs with hours of work or wages below a specified threshold (e.g. for social security contributions); employment by unincorporated enterprises or by persons in households; jobs where the employee's place of work is outside the premises

of the employer's enterprise (e.g. outworkers without employment contract); or jobs for which labour regulations are not applied, not enforced, or not complied with for any other reason.

Non-standard or atypical work is a growing phenomenon in developed countries as well. This work is very diverse, ranging from small enterprises to survival activities, including not only the self-employed and family workers but also wage labour in many forms. Typically, such activities of low productivity and poverty levels among informal workers are high. But there is also a large reservoir of entrepreneurship and innovation.

There are basically two opposing views that explain informality. The first, identifies the source of informality in poverty, and the second, identifies it simply with cost-avoidance. For the first view, informal activities are about survival or subsistence; for the second, it is about reaching a threshold of profitability or obtaining benefits without complying with laws which impose burdensome obligations.

Given that informality has often been described as those activities outside or on the margins of the law, it is essential to examine the legal and institutional framework of a country. Three types of legislation and regulations are important: commercial or business regulations governing the establishment and operation of enterprises; laws pertaining to property rights, which could affect the ability to transform assets into productive capital; and labour legislation governing employment relationships and the rights and protection of workers. What needs to be understood is whether existing laws and institutions are poorly or well designed in terms of their influence on the costs and benefits to enterprises and workers of becoming and staying formal or informal.

The growth in the informal economy has partly been in response to sustained and increasing pressure for flexible production, especially through global supply chains. This has affected both developing and industrialised economies. Another important cause has been the inability of labour markets to absorb the impact of structural adjustment programmes, which have been criticised for leading to greater poverty, unemployment and underemployment and contributing to growth in the informal economy. The effects of these policies were particularly acute in countries where the Government had been a major employer.

The informal economy has been particularly responsive to these forces, proving to be most dynamic in creating opportunities for workers to engage in productive activity. Among other things the informal economy have shown great capacity to absorb workers forced out of other employment, in particular as a consequence of privatisation of state-owned enterprises. In Malaysia and Indonesia, many workers retrenched as a result of

* For a more detailed account of the conceptual framework see: Jose Luis Daza, *Informal Economy, Undeclared Work and Labour Administration*, DIALOGUE Paper No. 9, Geneva, ILO, 2005.

the East Asian Financial Crisis found job opportunities in the informal economy. Thus, in a number of countries, the informal economy has generated more job opportunities than large enterprises, particularly in non-agricultural employment.

PROBLEMS AND CONSTRAINTS TO DECENT WORK

One can look in terms of seven essential securities which are often denied to informal workers: labour market security (adequate employment opportunities through high levels of employment ensured by macro economic policies); employment security (protection against arbitrary dismissal, regulation on hiring and firing and employment stability compatible with economic dynamism); job security (a niche designated as an occupation or "career", the opportunity to develop a sense of occupation through enhancing competences); work security (protection against accidents and illness at work, through safety and health regulations, limits on working time and so on); skill reproduction security (widespread opportunities to gain and retain skills, through innovative means as well as apprenticeships and employment training); income security (provision of adequate incomes); and representation security (protection of collective voice in the labour market through independent trade unions and employers' organizations and social dialogue institutions).

For the ILO, the most meaningful way of looking at the situation of those in the informal economy is in terms of decent work deficits. Poor-quality, unproductive and unremunerative jobs that are not recognized or protected by law, the absence of rights at work, inadequate social protection, and the lack of representation and voice are most pronounced in the informal economy, especially at the bottom end among women and young workers.

A key question for the International Labour Organisation (ILO), however, is whether jobs in informal economy provide workers with Decent Work. In other words, do they have employment, rights at work, and social protection, and are they able to participate in social dialogue about these issues. Many studies reveal that while the informal economy has the potential to be the driver of employment generation and economic growth, the quality of employment in the informal economy is generally far worse than in other areas of the economy. Low job quality in informal economy jobs presents a significant obstacle to the improvement of the quality of life of people who live in poverty.

In India, for example, where 93 per cent of the workers are in the informal economy, employment has been growing more in the informal economy than in the organised economy. In many parts of the world today the bulk of new employment, both self employment and wage work, is informal. Many analysts attribute this to the increased competitive pressures in global markets. At the same time, while some informal workers provide low-cost inputs to global production systems, the majority are excluded from the opportunities of globalization and confined to restricted markets.

Further to the General Discussion on "*Decent Work and the Informal Economy*" at the International Labour Conference 2002, an international conference on "*Organizing in*"

the Informal Economy” in India from 3-6 December 2003. Forty-seven organizations from 23 countries participated in the Conference. The main conclusion of the meeting was that this was a major governance issue with a considerable impact on the distribution of the benefits of globalization. The conference noted that the lack of rights and protections leads to vulnerability and inequality, undermining many of the principles of governance outlined above. Consequently, the position taken by many stakeholders is that, as the informal economy is here to stay, governments have a responsibility to intervene and correct policy biases that have favoured the formal parts of the economy to the detriment of the informal economy.

Given the economic contributions of the informal economy, it is widely believed that governments, therefore, should be developing policies that recognise the importance of the informal economy, restrict and regulate it when necessary, but mostly seek to increase the productivity and improve the working conditions of those who work in it.

The goal must be to make these informal activities part of a growing formal sector that provides decent jobs, incomes and protection, and can trade in the international system. This will be an essential part of the national strategy to reduce poverty. This will require increasing assets and productivity, appropriate regulatory frameworks, raising skills and ensuring that policy biases are removed. Policies to deal with the lack of recognition of qualifications and skills, and the exclusion of informal workers from social security and other protections are particularly important.

Governments should not exempt the informal economy from labour and labour-related laws in the hope of stimulating growth. Excluding the informal economy from the scope and coverage of labour law, or from its application in practice, has by itself had little positive economic impact. This suggests that ‘deregulation’ of the labour market is not the best way forward: government regulation remains important for the establishment and proper functioning of the markets in which the informal economy operates. This includes State regulation of labour conditions.

A study of labour legislation by Jose Luis in over 100 countries indicated that in the majority of the countries, the scope of the law includes all employment situations, i.e. those featuring employer and employee. These laws have explicit and implicit exclusions which have implications for protection: the work of an independent autonomous worker is excluded in most laws in developing countries. But in industrialised countries occupational Health and Safety provisions are included. They are also included in Nepal and Vietnam. Exclusions based on place of work - homework, domestic work, etc. - were found in several countries.

The inclusion of the informal economy in the legal framework will promote decent work and enhance rather than impede the process of economic development. The State has an obligation to set and enforce legally binding standards for the entire labour force rather than a microscopic minority of workers in the formal sector.

The entry point for Ministries of Labour to provide services for the informal economy is well defined in the Labour Administration Convention 150 and Recommendation 158. The Labour Administration Convention, 1978 (No. 150), Article 7, deals with the extension of services to a series of workers outside the scope of labour law which, in many countries, are considered per se as belonging to the informal economy. The text reads as follows:

When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to include activities, to be carried out in co-operation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons, such as:

- (a) Tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;
- (b) Self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice;
- (c) Members of co-operatives and worker-managed undertakings; and
- (d) Persons working under systems established by communal customs or traditions.

Of these four groups, only co-operatives and worker-managed undertakings have been the subject of general treatment by labour administrations, and in some countries self-employed workers also.

Sixty-four of the Member States have ratified this Convention. Despite the need for social protection in the informal economy services rendered under ILO Convention 150 need much more effort in its implementation. One of the reasons is the severe depletion of labour administration services in many developing countries. Strengthening labour administration services and modernizing labour laws needs to be part of a comprehensive approach to bring informal economic activities within the mainstream.

The challenge for labour ministries is to effect change in the current situation in which some workers have protection and others have little or no protection at all. The starting point is to use their meagre resources to target the most vulnerable group. Political will and commitment are needed to extend protection to all workers. To achieve this, the Government, may have to have the framework and mechanisms to produce change. It will need a revamped structure that could channel some parts of its resources to the informal economy. The Government, through its various ministries, will have to influence the factors responsible for informality and eliminate entry barriers to the formal economy.

More specifically the Government needs to provide a conducive policy and legal environment that:

- (a) Lowers the cost to establish and operate a business, including simplified registration;
- (b) Increases the benefits of legal registration, facilitating access to commercial buyers, more favourable credit terms, legal protection, contract enforcement, access to technology. Such an environment will help new business to start and help other businesses enter the formal economy and create new jobs. According to a report by McKinsey, Brazil's economy could grow by an additional 1.5 per cent a year if its Government launched a concerted effort to reduce the size of the grey market, as many other countries have succeeded in doing. The grey market thrives in Brazil, where the informal economy generates nearly 40 per cent of the national income. Many companies don't pay their taxes and ignore regulations, thereby gaining an unfair advantage over their law-abiding counterparts while hurting the nation's productivity. Brazil's bureaucracy is partly to blame: burdensome regulations, high taxes, and weak enforcement conspire to encourage evasion because the benefits outweigh the relatively small possibility and cost of being caught.
- (c) Ensures that the national legislation addresses the issues of recognition and protection of employers and workers in the informal economy with special emphasis on minimum wages, conditions of employment, and gender equality.
- (d) Provides an enabling framework at national and local levels to support representational rights. National legislation must guarantee and defend the freedom of all workers and employers, irrespective of where and how they work and of sex and age. Obstacles to the recognition of organisations of employers and workers in the informal economy must be removed so that they are able to participate in social dialogue, structures and processes.

There is an interesting approach which has been first developed and used by developed countries and which has started to be implemented in developing countries with promising results (e.g. Mexico and Hungary). The "guillotine" approach requires every administration to publish and justify its regulations before a set date — failure to do so would result in the regulation being abolished. This approach forces the cooperation of line ministries, which are often the source of the problem. Such processes are led by new empowered institutions directly linked to the highest level of government and independent from the line ministries. Such institutions are also responsible for reviewing and assessing any new regulation being proposed.

ONGOING STRATEGIES FOR GREATER INVOLVEMENT OF LABOUR MINISTRIES

In some countries, such as India, the Labour Welfare Department under the Director-General, Welfare, has the mandate for labour protection in the informal economy.

One strategy for labour ministries is to set up a Division solely to manage the informal economy, prepare laws, policies and programmes to extend protection to all workers and increase social security coverage given that job security is much lower among informal sector workers in small establishments and unskilled independent workers. These vulnerable workers thus have a stronger need for a social safety net, but are less likely to benefit from retirement benefits and pensions, severance pay, health insurance and unemployment insurance.

Many informal workers do not have a written employment contract which determines key conditions and thus provides a minimum safeguard. Trade unions in South Asia have always insisted that the majority of informal economy workers do not have written contracts. This is an area which the labour inspectorate can target.

Labour inspection services in many developing and transition countries are not adequately staffed or equipped to effectively enforce standards in the informal economy, especially in terms of covering the myriad micro- and small enterprises or the growing numbers of homeworkers. But there are now innovative schemes involving labour inspection auxiliaries, trade unions and greater awareness among informal workers themselves. Labour administration may need to seek alliances and develop new ways of organising labour inspection to ensure the application and enforcement of rights and protection with the support of more effective labour inspection systems and easy and rapid access to legal assistance.

Strong links exist between the informal and formal economies. There is a continuum between the two, in which many working women and men move across the boundary regularly. It is necessary to eliminate the negative aspects of work and employment in the informal sector, ensure the opportunities for livelihood and entrepreneurship are not destroyed, and protect and incorporate workers and economic units in the informal economy into the mainstream economy. In Sri Lanka the ILO worked with the Labour Ministry to undertake a census and bring over 40 000 mainly informal economy establishments into the fold of promotional and regularity activities.

The success of labour administration services in the informal economy partly depend on to a large extent, on how governments apply their labour law framework. The ILO Convention 81 on labour inspections stresses the importance of providing information to workers and employers. Besides, other measures including working with local municipalities and licensing boards to map the informal economy actors and targeting 50% of inspection in vulnerable areas are key policy options.

An equally important strategy is to formulate awareness programmes through media by the inspectorate OSH concerns, conditions of employment on rights and obligation. Of course, the application of labour law to the informal economy is but one part of the broader development and policy challenge that governments face in attempting to devise legal frameworks that facilitate economic growth. But labour law and its capacity to assure Decent Work are at the core of the ILO's mandate. The quality of jobs plays a critical role in developing and assuring workers' productivity, thus contributing to enterprise success and economic growth.

In India, the Government has established the National Commission on Informal Sector Enterprises to recommend measures necessary for bringing about improvement in the productivity of enterprises in the informal sector and generation of large-scale employment opportunities. Since its inception, the Commission has held several discussions on the definitional issues concerning the informal economy, formulation of specific programmes for addressing the needs of the sector and issues concerning labour laws, among others. The Commission has prepared two Draft Bills for workers in the informal sector. Health insurance, old age pension, life insurance and minimum wages were the proposed schemes to be covered in the proposed bills.

Labour administration in India has made significant progress in extending welfare measures for informal sector workers through tripartite welfare boards in some states such as Kerala, Tamil Nadu, Maharashtra and West Bengal. Welfare Schemes in India are delivered through statutory entitlements, universally available services, targeted social assistance programmes and social insurance schemes. Some of the existing statutory entitlements apply to both organized and unorganized economies, but because of the special characteristics of the informal sector the benefits of such protection has virtually not been made available to them. This has been partly due to flaws in the enactments, which have excluded large sections of unorganized workers from benefits.

Some specific laws for the unorganized sector have been enacted by the Central and some State Governments. They benefit building and construction workers, inter-State migrants, agricultural labour, and beedi workers, among others. For example, there are Acts that empower the government at both national and state levels to constitute special funds to provide social security benefits to workers by imposing a tax (or cess) on the aggregate output of selected industries. The Beedi Workers' Welfare Fund is a national fund that is constituted from a tax on beedis (hand-rolled cigarettes). There are similar welfare funds at the state level, such as the Headloaders' Fund in Gujarat and Maharashtra, to which employers pay a levy. Tripartite boards administer them in some states. Labour administration plays a significant role in monitoring their effective functioning. The social assistance benefits and services under these welfare funds include housing allowances, school scholarships, health and other benefits. These funds are designed to overcome the limitations caused by the absence of a clear employer-employee relationship and to

redistribute some of the profits of the industry among the workforce. However, implementation is often problematic; for example, surveys of beedi workers reveal that many do not receive any benefits.

There is no single legislation — Central or State — for the unorganised sector though several drafts of such umbrella legislations exist. Five welfare funds have been set up by the Ministry of Labour for beedi workers, different categories of mine labour, and cine workers, which are financed by cesses levied on production. Some State Governments like Kerala and Tamil Nadu also have legislations for different categories of informal sector workers. Some of these are discussed in the subsequent chapters in this volume.

The social assistance schemes of the Central Government which attempt to raise the living standards of the poor and vulnerable, by providing wage employment, assistance for self-employment, and facilities like housing, have large budgets. Besides these, there are old age pension schemes, family benefit and maternity benefit schemes which are being implemented, but there are problems pertaining to access and delivery which make them imperfect. A new scheme announced by the Government of India is the National Rural Employment Guarantee Scheme. It promises wage employment at about the prevailing minimum wage for 100 days a year to rural households in select districts. Under the scheme, unemployed adult members who volunteer to do unskilled manual work will be engaged in developmental works.

Insurance schemes: In many developing countries, protection against social risks not prescribed by law or otherwise afforded by the State or through employers has been provided by the family or community. It may be noted that the Insurance Regulatory Development Authority in India has, since 1999, opened the market to private companies, with regulations to extend their activities to the rural and poor population. About 20 private insurance companies are now in existence. Public insurance companies have group insurance schemes targeted at weaker sections of society, offering them life insurance, accidental death and disability benefits, etc.

The Janashree Beema Yojana, and the Krishi Shramik Samajik Suraksha Yojana are two of the schemes operated by the Life Insurance Corporation for these beneficiaries with premium contributions shared by Government. Another Government scheme, the Universal Health Insurance Scheme of 2003, seeks to provide health insurance to the very poor by covering hospitalisation expenses within limits, granting death benefits, and subsidising the premium to be paid. (Vatsala Vatsa 2005)

Several private insurance companies offer products where the risk coverage pertains to life or is accident related. A few offer risk coverage other than life like health care, disability and old age. Premium amounts vary depending on benefits and are generally high, for pension benefit. The results of a study on the performance of private insurance companies indicate that more than half of the products are pure risk products and that most of them address individuals.

The Yeshaswini Health Insurance Scheme of Karnataka has been hailed as the largest health insurance scheme in the world for the rural poor. The scheme covers all surgical interventions for members who are farmers in rural areas and provides them services through a network of private hospitals in the State. A premium of Rs.60 is collected from each member through a co-operative society of which he/she is a member and Rs.30 is given by the State Government, with implementation being through a third-party administrator. The coverage per person is Rs.2 lakh.

NGO-initiated micro-finance, and micro-insurance programmes in the area of social protection have been fairly successful in India. Micro-insurance is not merely another form of insurance or health-care financing. It is a form of social organization based on the concepts of solidarity and risk-pooling, which involves the active participation of the group's members. Typically, these groups are already organized, for example, to provide micro-credit facilities to their members: micro-insurance is often, therefore, an extension of their activities. The organizations may use some of the surplus from their core activities to finance the health insurance scheme. They may also obtain subsidies from public authorities, international aid agencies (in particular seed capital), and in certain cases from state-owned insurance companies. The primary aim of many of these schemes is to help members meet the unpredictable burden of out-of-pocket medical expenses. They do not aspire to provide comprehensive health insurance, still less to pay income-replacement benefits. These schemes are normally independently managed at the local level and sometimes the local unit links into larger structures that can enhance both the insurance function and the support structures needed for improved governance. Such schemes typically have the advantages of cohesion and direct participation, and they can also achieve low administrative costs. However, it is important to point out that micro-insurance schemes cover only a very small proportion of the informal workforce anywhere.

In micro-finance, the beneficiaries are provided with savings, credit and insurance facilities to set up or expand income-generating activities relating to agriculture or non-farm sectors. NGOs have been able to provide reasonably good services on social security because they know the needs of their client groups; since beneficiaries are involved in the implementation of the scheme, there is an element of trust. However, the disadvantage is that NGO action has only local impact and is difficult to replicate. SEWA is the most successful initiative of this kind. Registered as a trade union, it organises women for self-reliance and full employment. The focus is to provide work security, social security, income and food security. As home-based workers forming their own savings groups and managing their capital, they organise themselves to enhance their bargaining power while working in collaboration with Government rural development programmes. Emphasis is on health care, education for women and work security insurance.

Another interesting aspect of SEWA's work is that it is linked to the labour administration system. In Gujarat SEWA works with the Ministry of Labour to assist it in monitoring the conditions of homeworkers and establishing minimum piece rates that would be consistent with the minimum wage. SEWA provides supportive services like savings and credit, health care, child care, insurance, legal aid, capacity building and communication services which are important needs of poor women. SEWA has helped women take a number of initiatives in organising these services by women themselves. Many important lessons have been learnt in the process of organising supportive services for and by poor women. SEWA provides these services in a decentralised and affordable manner and runs the largest comprehensive contributory social protection scheme for informal workers in India today. One-third of the premium is financed through interest paid on a grant provided by the German technical cooperation agency (GTZ), one-third through direct contributions by women workers and one-third through a subsidized package scheme provided by the Life Insurance Corporation of India and the United India Insurance Company. SEWA members can choose whether to become members of the scheme, which covers health insurance (including a small maternity benefit component), life insurance (death and disability) and asset insurance (loss or damage to housing unit or work equipment). SEWA has also designed the payment of premiums to suit different income groups among the very poor.

SEWA succeeded because of adopting procedures suitable to poor and self-employed women with a focus on creating assets in the name of women to make them self-reliant. Besides SEWA, micro-insurance schemes have also been introduced by other NGOs.

In many South Asian countries, labour administration is not generally considered a priority area and is not provided with resources to embark on the process of child labour monitoring in the informal economy. Consequently these enforcement agencies within the Ministries of Labour find themselves incapacitated. For this to succeed, there has to be a coordinated effort by various departments of the state, NGOs, employers and trade unions, etc. to take up this challenge. A mechanism has to be in place to assure the coherence and consistency of child labour monitoring (CLM) process which cannot be done without a backing of legislation along with appropriate procedures and protocols for linking the community CLM activity with the formal enforcement process. A strong coordinated role is needed on the issue and an all-out advocacy campaign to win over stakeholders is therefore the need of the hour. In Bangladesh, India, Nepal and Pakistan, labour administration is trying to develop tools to undertake CLM as an additional force in combating child labour; this is an ongoing process that ensures regular observation of worksites. The basic function is the identification and assessment of the child labour situation and a referral of children for appropriate services. Consequently, there is a need for an improved understanding of what can be done in the informal sector to further build the partnership between labour inspectors and those engaged in CLM at the local level.

Community-based child labour monitoring along with an implicit threat of formal enforcement may be an ideal strategy for child labour eradication. At the central level, the National Authority for the Elimination of Child Labour (NAECL) set up in 1994 under the chairmanship of the Union Labour Minister is the apex body to monitor and co-ordinate the implementation of policies and ensure convergence of services for the benefit of the families of child labour. In the long run, the main aim will be compulsory elementary education which will be more practicable. In addition, even a remote presence and a potential threat of prosecution will be salutary and make the Sarva Shiksha Abhiyan strategy and community action more effective. Though one of the sustainable approaches is to mobilize communities for the purpose, it is very difficult to bring about the same, as widespread child labour is often part of the community's social, cultural and economic heritage. Prolonged counselling and communication strategy will be needed to bring about a positive outlook. Labour administration will need to forge the elaborate linkages between community CLM processes and labour inspection will require suitable training and capacity building measures for the various stakeholders.

Ministries of Labour as the focal point of a country's labour administration system focus on protection and enforcement arrangements for employees engaged in the formal economy. In many countries, however, the number of such persons is in the minority as many men and women work in the informal economy under conditions that fall short of decent and acceptable standards. Governments have the prime responsibility to extend the coverage of social protection to groups in the informal economy. The implementation and enforcement of rights and protection should be supported by improved systems of labour inspection and easy and rapid access to legal aid and the judicial system. Legitimate, democratic, accessible and transparent membership-based organizations of workers and employers in the informal economy must be encouraged to enable participation in social dialogue structures and processes.

To meet the challenge of informal economy, Governments — through the Ministry of Labour — must prevent informality, formalize informal activities and reduce the protection gap by designing and implementing appropriate policies within the ambit of labour administration.

NEW APPROACHES TO LABOUR INSPECTION

The rights at work are as meaningful in the informal as in the formal economy. Since ILO standards provide a substantial international basis for extending rights to the informal economy, the rights deficits have to be mapped like in Sri Lanka and it must be followed up. These standards are actually expressed, as in the case of minimum wages, and enforced through national law and practice on a gradual and selective basis. It is also important for existing labour legislation to be practically applied to the informal economy. In some countries, it will be pertinent to see whether the legal scope of rights should be amended or extended to address the increasing informalization of the labour force.

Labour administration needs to see as to what can be done to enhance legal literacy so that informal workers understand and are better able to claim their rights. An awareness

campaign and posting key messages in villages on basic rights and OSH concerns are important initiatives. An important reason why informal workers may not enjoy the rights accorded under their national labour legislation is that the enterprises they work in are not legally registered and regulated. Consequently, coordination between the local labour department and village-level committees is one possible option. It is also important to coordinate this work with relevant authorities on the business regulatory framework, the bureaucratic procedures and the related transaction costs that make it difficult, if not impossible, for micro and small enterprises to become and to stay formal.

Recent studies show that the social protection deficit is especially critical for those in the informal economy, not only because of their job and income insecurity but also because of the greater likelihood of their being exposed to serious occupational safety and health hazards. The HIV/AIDS pandemic has special implications for work and workers in the informal economy.

Adequate social protection through a transparent labour inspection system is key to decent work in the informal economy, particularly for the most vulnerable and unprotected groups of workers and women in hazardous jobs. The chapter on labour inspections argues that social protection for the informal workforce is not only a basic right but also a sound economic strategy — a more secure and healthier workforce increases productivity and makes formalization easier.

It is important to emphasize that freedom of association and the right to organize constitute a fundamental principle and a key enabling right. It is often because people in the informal economy are not organized and have no voice that they are not able to pursue their employment interests through bargaining collectively or lobbying with politicians and bureaucrats on concerns relating to legislation, access to infrastructure, property rights, social security, environmental concerns and so on. The role of labour administration and the framework of law and governance protecting and enforcing this right is a central issue. The social partners can build up social dialogue institutions and processes in the informal economy.

A sample survey undertaken by the India Institute of Social and Economic Change in Karnataka, to assess the needs of three categories of informal sector workers, and their ability to access and contribute to schemes, has come up with interesting conclusions. Generally, wherever the promotional needs were not met, the target group was not interested in measures for their productive needs. Among benefits, old-age pension and unemployment benefits were the priorities for all; 67–82% of workers were willing to contribute to a social security scheme.

The studies on existing labour legislations in India have revealed that the existing legislation does not fully benefited unorganised sector workers. Social assistance schemes, of which there is no dearth, need to be improved, monitored and made more accessible to the targeted beneficiaries by the Government whose fundamental duty it is to raise the

standards of living of its people. The primary requirement is to have an enabling legislation as a framework for evolving suitable schemes. Since needs and capacities of different categories of workers vary, more than one welfare fund may be required, but not too many as in the case of Kerala. Welfare funds are effective since they are not budget dependent and are acceptable to workers who strongly identify with them.

GENDER CONCERNS

Existing funds in the informal economy in India, for example, have not benefited women to the same extent as men because they have not taken care of their special needs like maternity and childcare, which need to be made mandatory benefits. SEWA is a good example of how this can be done. Health protection is an area that is important, but difficult to make viable. Insurance companies keep away because of the high risks involved in health insurance. The Government — through its coordinating role in labour administrative services — will therefore have to step in. The only way of providing quality service is for the Government not to directly deliver the service but to reimburse the expenditure incurred by the beneficiary. The Yeshaswini model may be expanded upon for the success of which a large member base is required.

LABOUR ADMINISTRATION'S ROLE IN CREATING AN ENABLING ENVIRONMENT

In enlarging the existing labour protection schemes, targeting is inevitable when expanding schemes because of the large costs involved in covering all. Targeting should not be based solely on income criteria but may include contingencies like old age, disability, sickness, maternity, etc. The problem of mal-administration in enforcing labour legislations will have to be tackled through a system of incentives for administrators. Upgrading the skills of those in the informal sector through specialized training for labour administrators, village administrators, trade union employers and civil society groups is also necessary. The Government has to be in the forefront of all these activities. But the participation of others is also essential to achieve success. The involvement of trade unions at the field level to enrol and register members is a must. Also, local pressure groups functioning in the village and village administration can be very useful in the process of registering members for the schemes. NGOs can be of immense help in popularising this programme and for removing uncertainties in the minds of beneficiaries. Special efforts have to be made to garner public opinion and to educate them. To undertake this and the changed role that they have to play, labour administrators have to be trained and empowered.

Overview

R. Thamarajakshi

The International Labour Organization (ILO) has a long-standing commitment to strengthening labour ministries who are the main interlocutors between the ILO and the government of the ILO's Member States. Ministries of Labour as the nodal point of a country's labour administration system, focus on protection and enforcement arrangements for employees engaged in the formal economy. In many countries, however, the number of such persons is in the minority as many men and women work in the informal economy under conditions that fall short of decent and acceptable standards. ILO Report on Decent Work and the Informal Economy (2002) refers to a study in which 17 out of 42 countries surveyed have more than half their total employment in the informal economy. The vast majority of workers in the informal economy in developing countries is low paid and unproductive, with limited or no social protection; they work in circumstances where there is a limited respect for workers' rights, and no arrangements for voices of workers to be heard. This requires that labour administration adopt a much wider vision that comprehends the needs of all workers and employers in both formal and informal economy.

Governments have a lead responsibility to extend the coverage of social protection to groups in the informal economy. The implementation and enforcement of rights and protection should be supported by improved systems of labour inspection, and easy and rapid access to legal aid and the judicial system. Legitimate, democratic, accessible and transparent membership-based organizations of workers and employers in the informal economy must be encouraged to enable participation in social dialogue structures and processes.

ILO Convention No. 150 and Recommendation No. 158 concerning the role, functions and organization of labour administration lay down an international framework within which the preparation, implementation, coordination, supervision and evaluation of national labour policy are carried out. The concept of labour administration contains the principal elements of "good governance". The conditions under which labour administrations operate have changed dramatically over the last few decades, due to technological, economic and political developments and globalization of trade. Labour

administrations must—through social dialogue in particular—find means of redefining their organization and intervention strategy so that they can better respond to changed conditions.

Article 7 of the Convention deals with the extension of services to workers outside the scope of labour laws and those who are considered *per se* as belonging to the informal economy. The Member Countries who sign this Convention shall promote the extension, by gradual stages of the functions of the system of labour administration, to include activities relating to the conditions of work and working life of workers who are not, in law, employed persons, such as (a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers; (b) self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice; (c) members of co-operatives and worker-managed undertakings; and (d) persons working under systems established by communal customs or traditions.

To meet the challenge of the informal economy, governments must prevent informality, formalize informal activities and reduce the protection gap by designing and implementing appropriate policies. The Ministry of Labour must: (a) eliminate barriers to the entry into formal economy; (b) prepare laws, policies and programmes to extend protection to all workers and increase social security coverage; (c) ensure the application and enforcement of rights and protection with the support of more effective labour inspection systems and easy and rapid access to legal assistance; (d) adapt their structure and organization, modifying or creating services and mechanisms to produce change in the relevant areas; and (e) create a framework for workers in the informal sector by supporting rights of association and allow participation in bodies and processes for social dialogue. The informal economy comprises wage workers as well as self-employed workers. The legal status applicable to each is different and solutions to their problems and needs, involve differential treatment. Also, to make social protection effective and extend its coverage, a regulatory framework and a system of financing is necessary; it has to be decided who will bear the costs and how contributions will be collected and benefits administered. In general, all this falls within the ambit of labour administration.

INDIAN SCENE

India has a federal system of government and labour is on the concurrent list of the Constitution. Central and State governments have powers to enact legislation and formulate schemes for the betterment of working and living conditions of workers. At the Central level, various Departments/Organizations under the Ministry of Labour and Employment carry out activities for the welfare and social security of these workers. The Directorate General of Labour Welfare (DGLW) is engaged in the enactment of legislations, formulation and implementation of schemes/programmes for agricultural

workers, construction workers and certain other categories of the unorganized sector workers besides implementing five welfare funds through its field organizations. The implementation of labour laws—both for the organized and unorganized sector—is secured through Central Industrial Relations Machinery at the central level and state labour departments for establishments at the state level.

There is a total labour force of 406 million. Out of this, around 397 million are in the workforce and hardly 28 million are employed in the organized sector and the rest i.e. 369, million workers (about 93%), are in the unorganized sector. About 237 million workers are employed in agricultural and related activities, 17 million in construction, 41 million in manufacturing, 37 million in the service sector and the remaining 37 million in trade. The share of the unorganized sector in the total NDP at current prices has been over 60 percent while that of the household sector in the total gross domestic saving is about three-fourths. This shows the significance of the sector in the economy.

The Government of India had earlier constituted the Second National Commission for Labour (NCL); this commission had inter alia highlighted in its report the importance of social protection, the need for skill development and umbrella legislation for the unorganized sector labour. The provision of minimum protection to the unorganized sector workers has been stressed by the Commission. The NCL had observed that the un-organised sector is too vast to remain within the confines of a conceptual definition; hence, descriptive means are often used to identify the un-organised or informal sector. The term 'un-organised sector' used commonly in all official records and analysis is defined as the residual of the organized sector. The informal sector is very diverse and is, in general, a low wage and low earning sector. Women constitute an important component of this sector. Family labour is engaged in some occupations such as home-based ones. Economic activities, which engage child labour, too fall within this sector. Migrant labour is involved in some sub-sectors. Piece-rate payment, home-based work and contracted work are increasingly visible trends in this sector. The NCL has identified 106 occupations/activities in the unorganized sector. On child labour, the Commission felt that the Child Labour Act should not be a regulatory Act but a developmental Act, and should place the child and her welfare at the center of all laws and programmes. The Commission viewed the elimination of child labour and the universalisation of elementary education as inseparable processes; at the same time, there was need to completely prohibit the employment of child labour except certain family activities; Performing arts, motion pictures and advertisements with conditionalities, secured through law.

The major recommendations of NCL include introduction of an unemployment insurance scheme, transformation of welfare funds into instruments of social security, formulation of national policy on social security, constitution of high-powered national social security authority and umbrella legislation for unorganized sector workers. The draft umbrella

legislation suggested by the Commission incorporates elements of core labour rights from the Constitution of India, UN Covenants and ILO Conventions. The broad objectives of the umbrella legislation are to: (a) obtain recognition for all workers in the unorganized sector; (b) provide a minimum level of economic security; (c) ensure a minimum level of social security; (d) remove the poverty of these workers; (e) encourage membership based organizations of workers; and (f) ensure representation of workers in local and national economic decisions. The umbrella legislation will apply to over 90 per cent of the workforce and will be an affirmation of rights of the workers in the unorganized sector. The recommendations of the Commission were discussed in the Indian Labour Conference and the draft umbrella legislation was also discussed with representatives of all stakeholders. Later, the Government of India drafted a bill which is currently under discussion with the State Governments and representatives of workers and employers.

Recently, the Government had constituted a National Commission for enterprises in the informal/unorganized sector to examine their problems and make recommendations to provide technical, marketing and credit support to these enterprises. The Report of this Commission is awaited.

CHALLENGES OF LABOUR ADMINISTRATION IN INFORMAL SECTOR

With a view to regulate the conditions of employment of agricultural workers and provide certain social security/welfare measures, efforts have been made to enact Central legislation over a period. Besides the huge fund requirements for social security schemes and financial constraints, there is lack of consensus among the States and other stakeholders on any central legislation having provisions to regulate their working conditions and to provide social security. Home-based workers constitute the other major segment. Formulating any national policy for these workers poses problems, which include lack of data, absence of employer-employee relationship, highly scattered nature of work places, inadequate information on magnitude of their problems and mechanism to reach them. However, the government had earlier organized national consultations in this regard in which state governments, representatives from trade unions, employers' organizations and non-governmental organizations participated.

In the process of globalisation, privatization and move towards marketled economy, a shift of work force from organized to unorganized sector is discernable and this is expected to gain momentum in the years to come. This signals the following scenarios;

- The workforce in the unorganised sector would be unable to contribute or share the cost of any social security scheme. This will lead to higher government spending for their social security at the cost of expenditure on other important items.
 - A majority of the workers, who may not be below poverty line in their working life,
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might sink below it in their old age, because they have not accumulated enough savings for their twilight years. Further there is the increasing annual accretion to the destitute elderly due to demographic transition coupled with poor coverage under the existing social security arrangements.

- There is also need for protection against losses caused by natural calamities that hurt the impoverished, and for coverage for health care, disability, maternity case, etc.

In the context of obvious resource constraints, the focus has to be to:

- (a) improve the efficiency and effectiveness of the large existing structures to cater to the social security and other needs of the workers in a timebound manner;
- (b) avoid under-utilisation, control mis-utilisation, if any, of available social security arrangements and improve the delivery mechanism;
- (c) change the mindset and outlook as social security is considered a state-assisted and administered programme whereas it has to be an integrated and comprehensive programme involving the whole society—institutional and organizational arrangements beginning with the family itself;
- (d) strengthen and activate all the non-state providers of social security so that they can become an excellent interface between the vast unorganized sub-sectors and the state and other organized providers of social security where the state can play the role of a facilitator;
- (e) organize Self-Help Groups to experiment with occupation-based self-contributory, self-sustaining funds for social security; and
- (f) converge/synergise various welfare/social security/income generation schemes being implemented by the government for informal/poor and rural workers.

INTEGRATION OF LABOUR ADMINISTRATION IN WORKPLACE MONITORING

There is lack of awareness among informal sector workers as most of them are illiterate, working in scattered work places and in isolation often in remote areas. Trade unions can contribute significantly in generating awareness about all aspects of labour welfare legislations and programmes/schemes for their benefit. The nature of working conditions and the requirements of the workers differ from location to location and occupation to occupation. In many categories of workers, there is no labour administration guided mechanism to monitor the genuine concerns of workers. In such cases, the local NGOs and voluntary workers, with other formalized institutional arrangements, should step in to monitor the issues concerning the work force and assist the government. Also, the role of dispute resolution is an important area where the services of the trade unions, voluntary organizations and non-governmental organizations become crucial. Since the procedural requirements of the legal settlement of disputes are time consuming,

the non-formal system of dispute resolution involving local bodies/trade unions, NGOs, etc. has to be devised. In order to bring the informal sector into the mainstream, the organised sector has to assist and encourage the smaller units so that they are well integrated into the overall system of labour administration. Since the role of government as well as public sector is decreasing, trade unions and associates should enlarge their contours of involvement and make concerted efforts to bring the workers in the informal sector also to their fold.

There is an emergent need to develop local and voluntary mechanisms to take care of the interests of the workers engaged in the informal economy. Organizations like SEWA, WWF (India) and others at local levels doing a commendable job in the area of organizing the women workers and creating awareness generation, can be actively involved. It is necessary to encourage growth of such organizations at different levels for different categories of workers.

POLICY MEASURES

The informal economy has developed gradually over a period of time. It is an integral part of the entire economy and complements and strengthens the formal sector. If the informal sector has to grow, the workforce therein is also entitled to share the fruits of this growth. Any system which is not conducive to their working and living conditions would not yield any results. Adequately designed community-based or occupation-based programmes have to be explored with the government as a facilitator.

To increase the productivity and income in the unorganized sector, training and skill development is required. There are ITIs set up in various parts of the country imparting training in about 67 trades. There are also a number of vocational, short-term and regular training programmes conducted by various Ministries/ Departments to impart training, focusing on self-employment. Workers have to be made aware of the existence of available facilities and be helped to avail of the same. In light of this, the following measures can be considered:

- (a) Tripartite mechanism at the grass root level involving workers, employers, panchayats, local bodies, etc;
 - (b) Given the low literacy level of the workers, laws should be simple and worker friendly;
 - (c) In small establishments or in the case of self-employed persons, a bare minimum of records and reports should be maintained;
 - (d) Active involvement of local bodies, panchayats, trade unions and NGOs and voluntary organizations in the implementation of labour laws is vital: and
 - (e) Friendly approach of the labour administration so that workers and employers themselves come forward to cooperate with the agencies.
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LABOUR LAW REFORMS AND MICRO AND SMALL ENTERPRISES

The Informal sector has, for long, been the dominant sector in South Asia in terms of employment. This is the faster growing sector. Since formal or organized sector employment is stagnant and total employment is increasing at a rate less than that of the growth of the labour force, more and more workers are forced to eke out their living in the informal sector mostly as self-employed workers. Micro and small enterprises are defined either on the basis of the amount of investment or employment or both. Labour legislation restricts its applicability usually on the basis of number of employees. The organised sector is comprised of the enterprises that employ ten or more workers if power is used and twenty or more workers, if operating without power; the rest constitute the unorganized sector, which becomes nearly co-extensive with the informal sector comprised of micro and small enterprises. The unorganized sector enterprises are further classified into three groups; (a) Directory Enterprises (DE) employing less than ten but more than five workers of whom at least one is a hired worker; (b) Non-directory Enterprises (NDE) employing between one and five workers of whom at least one is a hired worker; and (c) Own Account Enterprises (OAE).

Over 90 per cent of enterprises in India, Iran, Nepal and Pakistan are micro enterprises with less than ten workers with greater preponderance of enterprises with less than five workers thus indicating the small, survival activities being carried out by millions of people close to or below poverty level. While there are many reasons why micro enterprises are unable to grow beyond a certain size, regulatory provisions, including compliance requirements of labour laws, are considered one of the important reasons. But in most countries in South Asia, micro enterprises (often less than ten workers) remain outside the ambit of labour laws. Whether the waiver of labour laws to micro enterprises provides encouragement for rapid job creation or constrains their growth beyond the legal limit is a matter of debate. However, there are many instances of enterprises opting to remain fragmented and small although under the same owners. On the other hand, informalization and casualisation remain a major concern. MSE owners and workers generally display a low level of safety and health standards since they are exempted from labour inspection.

MSES AND LABOUR LAWS

NSSO (National Sample Survey Organization) data show that hardly 1.5 per cent of persons employed in the informal sector are employers. The problems of labour laws may be faced, if at all, only by some of these employers. According to the Fourth Economic Census, more than 97 per cent of the enterprises employ less than ten workers. In fact, most of these employ less than five employees. Applicability limits of important labour laws shows that only some of the enactments are applicable to MSEs employing less than ten persons. So MSEs are hardly affected by so-called restrictive

and troublesome labour laws except by the Minimum Wages Act and marginally by the Industrial Disputes Act. Major complaints relate to maintenance of too many registers and furnishing of returns and the related phenomenon of inspection. Now small and very small enterprises, are required to do less paper work, after passage of the Labour Laws (Exemption from Furnishing Returns and maintaining Registers by Certain Establishments) Act, 1988.

The Government of India has ratified the ILO Convention No.81 that exclusively pertains to labour inspection. Hence it is duty-bound to carry out inspection for various labour standards prescribed in the statute. It is a fact that free from the constraint of trade unions as well as inspection, employers in the informal sector are not likely to give workers their statutory rights, no even minimum wages. With this scenario, any inspection for the violation of labour standards is bound to appear obnoxious to such employers. However this is also not a big problem for the MSEs because they hardly have to face inspection for more than a few labour laws. In any case, if the employers could normally give the workers their due, inspectors could not be troublesome. It is their propensity or competitive compulsion to violate labour laws, especially in the absence of countervailing power of the workers—which makes the inspection obnoxious.

PERCEPTIONS OF MICRO AND SMALL ENTREPRENEURS

Lack of labour standards and fear of attracting the same if growth is reached beyond the exemption level is an incentive not to grow and reap the benefits of scale and productivity. It is not the rigor or the cost of labour standards but the absence thereof that may be responsible for the lack of innovation and growth of firms. Labour laws, generally applicable to MSEs, lay down a floor of rights and procedures to settle grievances and disputes. This floor of rights for workers applicable to all competing firms will create level playing ground for competition and blocking the path to compete on the basis of driving down wages and working conditions, stimulate innovation, efficiency and growth. However, it is the number filters that bail out those firms that filtered out of the net of labour legislation to undercut the progressive enterprises that could not pass through the filters because they grew beyond the statutory limit of exemption. Hence arises the urge to manipulate records to pass through the filter or to go for artificial division of the firms. Had the filters not been there, the firms could grow and compete on the basis of their efficiency and economies of scale and scope. Accordingly, for economy-wise dynamic industrial efficiency and growth, the floor of rights enjoined by labour laws should be universally applicable.

The universally applicable floor of labour standards will promote employment with decent wages and working conditions. Having provided the inviolable floor of labour rights, a strong basis of collective bargaining shall have to be legally provided for labour standards to rise above the floor in those industries where labour is or can be organized. It requires

the strengthening of trade union rights. In the informal sector where enterprise-level unionising is almost impossible because of the minimum number specified in law besides other difficulties, industry-level unionisation or even industrial or general unionisation based on the locality may be facilitated. The recognition of a collective bargaining agent—either a single union or a democratically elected bargaining council with proportional representation—should be made mandatory. The paternalistic approach of the state incorporated in the laws of industrial disputes must be changed to one that promotes bipartism based on strong trade union movement. This would entail the necessity of ratifying the ILO Conventions on Collective Bargaining and Freedom of Association. Strong collective bargaining would facilitate both high growth rate and equity. This is the only path to really decent work in any sector. The policy and legislation need to be designed and implemented in such a way as to create formal sector conditions in the informal sector as well realize the concept of decent work for all workers.

CONSTRUCTION WORKERS IN THE UNORGANISED SECTOR—CASE STUDY OF TAMIL NADU

As early as 1982, The Government of Tamil Nadu enacted a legislation, the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982 (Act 33 of 1982), which provides for formulation of schemes for the welfare of workers in 67 occupations. The first scheme framed under the Act is for construction workers. The notification issued in 1994 spelt out the scheme and provided for establishment of the Construction Workers Welfare Board to look after the welfare of over 38 classes of workers employed in construction or maintenance of dams, bridges, roads or any building operations. The scope of the Act and the scheme are very wide and ambitious. Provision of welfare on such a large scale will require a strong source of revenue. The Central Act 27 of 1996, i.e. the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, covers every establishment which employs 10 or more workers and envisages constitution of Central and State Advisory Committees to advise on all aspects of welfare of the workforce in construction activities. The Central Act 28 of 1996, i.e. the Building and Other Construction Workers Welfare Cess Act, 1996, provides for levy of cess at a rate not less than one per cent and not exceeding two per cent of the cost of construction incurred by an employer. The Central Act provides for Boards to be set up by the respective State Governments for administering welfare schemes. Under the Building and Other Construction Workers Welfare Fund Cess Act, 1996, the rate currently notified is 0.3 per cent of the total estimated cost.

The second NCL noted that most of the workers in the construction industry are employed on casual basis. Unstable employment and earnings and shifting of work places are the basic characteristics of work for construction workers. Women engaged in construction work are the most exploited. Frequent changes in their work and instability deprive them and their children of primary facilities like health, water, sanitary facilities and education.

The Tamil Nadu Construction Workers' Welfare Board has 591,000 registered workers and has provided assistance for medical, social and educational purposes. The Board, a corporate body, is responsible for administering the scheme and consists of nine members representing employers, nine members representing manual workers and six members representing the Government. The Chairman of the Board nominated by the Government is one of the members appointed to represent the Government. The Chairman of the Board is the Commissioner of Labour and this nomination has provided good co-ordination between the Board and the Department. The Act has empowered the Board to take such measures as it may deem fit for administering the scheme.

The Regional Offices undertake the work of registration of construction workers and maintain the supporting records and also send the amounts collected to the Head Office every month. A manual worker who has completed fifteen years of age but has not completed sixty years of age and who is engaged to do any manual work in construction or maintenance operations as a worker falling under any one of the 38 classes of workers specified in the scheme, may register his name with the Board for the purpose of the scheme. The State Act has provided for the constitution of an Advisory Committee to advise upon such matters arising out of the administration of this Act and the Chairman of the Committee is the Commissioner of Labour. The management of the Welfare Fund is vested with the Board. Members representing workers take initiative and offer suggestions for better implementation. They bring to the Board's notice cases of delay in grant of assistance. Organizations of workers are also repeatedly pressing for sanction of pension scheme and other welfare measures. Representatives of Employers' Organizations give constructive and practical suggestions for smooth implementation. The Board has been working harmoniously.

The construction industry is undergoing changes. Consequent on the modernization in the industry, there will be greater demand henceforth for labour with skills and multi-skills. It is estimated that only about 5 percent of the labour force in the age group 20-24 have skills acquired through formal training. Hence there is need for special efforts to enable workers to acquire skills through formal training. This will require higher investment in skill development and training. The NCL has recommended introduction of modular approach to vocational training, which will aid multi-skilling. In the informal sector where the skill requirements are rudimentary and simple, informal on-the-job training arrangement may work adequately and may be even cheaper than the formal institution-based arrangements. But when high technologies are adopted and higher level skills are required, they cannot be given effectively under unsystematic, informal and limited arrangements. This type of training can be more effective in formal training arrangements.

While arranging for training for informal sector workers, the following issues need to be taken into consideration : (a) assessment of training needs; (b) identification of

employment opportunities; (c) choice of proper training methods; (d) multi-tasking to be a part of the training process; (e) relatively short duration of training; and (f) job-oriented training in order to minimize mismatch of skills. The Board has taken some initiatives. In consultation with the Builder's Association of India and the Tamil Nadu Institute of Labour Studies, training for masons, plumbers, carpenters and other categories of construction workers is planned. To begin with, the Tamil Nadu Institute of Labour Studies conducted a five-day training programme for a group of masons during September 2004.

An analysis of the welfare schemes shows that the benefit-to-cost ratio is not satisfactory from the perspective of the Board. As far as the Government is concerned, it may be viewed that the revenues created for welfare for the construction workers have been used only up to 18 per cent. From the members' point of view, the likelihood of a member getting relief is very low. However, when benefit is received, it is much more than the contribution made by the members. The cost-benefit analysis indicates that the Welfare Board should take up schemes which will (a) benefit a larger percentage of members; and (b) utilize a much larger portion of its annual revenue.

The Board is now 10 years old. It has established itself and built up substantial reserves. While its membership has crossed 591,000, it is estimated to cover only about 25 per cent of construction workers as the estimated total is two million. The purpose of setting up the Board will be secured only if most of the eligible workers are enrolled. The amount disbursed by the Board as benefit to members every year is still a very small percentage of the annual revenue. This has to be rectified by increasing the quantum of benefits. Some of the increases may occur when the membership base is widened to cover more eligible workers. It would be worthwhile for the Board to come up with a scheme for construction of houses for its members. The existing scheme envisages payment of pension for workers on reaching the age of 60. Detailed studies with the help of an Actuary, seem to have indicated that the revenues of the Board will not be adequate to sustain payment of pension even at the rate of only Rs.200/- per month for more than about five years. The pension scheme can become viable only if the present rate of contribution levied is increased from 0.3 per cent and some contribution is also collected from workers. The report of a Task Force set up by the Government to examine introduction of the Pension Scheme is reported to be under consideration.

The Board should evolve a mechanism to confirm that all amounts due to the Board on account of construction activities in the State, are actually being received. The Board should settle different types of claim in a given time frame and ensure its adherence. While Rules relating to safety at construction sites have been issued by the Central Government, similar Rules have not yet been issued by the State Government, and this may be done on priority.

Even though the Board has surplus at the moment, it will be depleted fast when the pension scheme is introduced. Hence the Task Force has recommended a levy of

Rs. 20 per month on all members as is done in Kerala. Such regular contribution promotes greater interaction between the Board and the members. It increases the sense of belonging of all members who realize that they are stakeholders in the Board. It also helps in weeding out those persons who are no longer interested in the Board. The Pension Scheme introduced by the Government of India requires contribution of Rs.100 per month. The purpose of the law (Section 3 (2) (d) of Act 33/1982) under which the Scheme has been framed is regulation of employment. This has not, however, been attempted. This has to be addressed at an early date, to achieve the objective of the Act.

ROLE OF WELFARE BOARD IN INFORMAL ECONOMY—CASE STUDY OF KERALA

The State of Kerala is a pioneer in putting in place formal structures for administering social security schemes that are relatively more comprehensive and advanced than those in other states. The formal social security system in Kerala was established with the founding of the Kerala Toddy Workers' Welfare Fund Board in 1969. Even before this, there have been informal systems in the form of mutually beneficial collective care arrangements by trade unions and workers to cover the contingency of risks and uncertainties. Trade unions have been a dominant presence among the political leadership and their struggle for providing income security, work place security and social security to workers has largely been successful. Over the last 30 years, around 4.9 million workers have been covered by social security systems. This is a significant number, given the total unorganised workforce is around seven million.

Kerala is implementing labour laws for workers' protection, primarily through the Labour Department headed by the Labour Commissioner. While the Labour Commissioner's establishment undertakes the enforcement function for ensuring compliance with these laws, there is also a very high degree of public scrutiny through trade unions, the media and political parties as well as informed public opinion.

The boundary line between formal and informal occupations in Kerala is quite porous. Even within what can be described as the formal sector, there are large numbers of workers at the informal fringes. Presently there are 24 Welfare Fund Boards. They are run by tripartite Boards consisting of representatives of workers, employers and the government. In most Boards, the Government has retained the powers to give directions on policy matters. A bureaucratic apparatus headed by a Chief Executive reports to the Board with a greater part of the establishment drawn from the Government's Labour Department. They are run on mandatory financial contributions from the workers and employers based on specific enactments, except for a few voluntary boards; in some cases, financial contribution is given from the State budget to the corpus of the Board. Besides, provisions are made for basic social security, insurance and welfare benefits

to the member workers. In tandem with the establishment of the tripartite Welfare Funds, the State has also set up schemes to provide basic 'lifeline protection' particularly to vulnerable sections by direct subventions like agricultural workers, pension and social security pension.

Around 15 welfare fund boards benefit from government contribution which is distributed normally by way of grants. But due to the financial stresses on the government, its share due to various funds are not paid or are paid very late. In the case of self-employed persons, they remit their contributions to the fund through banks. Many of the banks are reluctant to collect these meager amounts and this also creates problems in the administration of welfare funds.

While Kerala has been highlighted as the state with the most advanced social security system in the country, the system now in place is however not completely in good health. Often the welfare funds were set up hastily in a "reactive mode" on the basis of keenly felt political pressures from trade unions. Consequently, there has been little analysis of the long-term sustainability of the schemes on an actuarial basis. Often, the scale of contributions and benefits are drawn up by the government without adequate study of long-term viability with the result that some of the welfare fund boards run into difficulties. For example, the Kerala Agricultural Workers' Welfare Fund Boards which caters to one of the poorest sectors of the working population has accumulated pension arrears up to two years amounting to Rs.1646 million. A related issue is the iniquitous scale of government contributions to these tripartite boards. For instance, the government is obligated by statute to contribute ten per cent of the workers' total contribution annually to the Toddy Workers, Welfare Fund Board which caters to the relatively more affluent sections of the semi-organized work force; whereas the statute does not provide for any contribution by government to the Agricultural Workers' Welfare Fund Board whose clientele is much more deserving. Also, there is reluctance on the part of the employers to honour their statutory payment obligations, and added to this is the burgeoning administrative cost of the boards. The bureaucratic apparatus of the Boards tends to consume a significant part of their resources. Many of the enactments for social security prescribe maximum limits for administrative expenses, but quite often these statutory limits are infringed. The tripartite boards tend to accord higher priority to employees' issues than to the workers' issues, as a consequence of the successful unionization of the employees of these boards. A key measure to be ensured is that the workers' representatives in the tripartite Boards are bonafide representatives of the workers in the particular sectors.

The funds collected by the Welfare Fund Boards are parked in the government treasury or banks without very significant returns. The social security apparatus needs to institute a professional fund management system for maximizing returns by way of income. Even in the case of schemes which incorporate a statutory Government contribution,

Government has been defaulting on payment commitments. Statutory payouts to these Welfare Funds are often accorded low priority in the Government agenda, thus impeding the timely disbursement of welfare benefits. There is wide variation in the basic lifeline benefits provided by various welfare schemes. These benefits are often structured on an adhoc basis without reference to the needs of the clientele. There is an urgent need to harmonize basic "lifeline benefits", while the extra variable benefits could be structured around the particular requirements of each sector.

Membership in some welfare schemes is intrinsically more attractive than others. For instance, the construction board is relatively more affluent because of incomes from statutory building cess. Hence there is a wide incidence of fraudulent memberships by workers from other non-related sectors. In a recent landmark ruling, the Supreme Court of India has held that since welfare fund contributions are not a tax, such contributions can be collected only from those employers who have a direct nexus with the beneficiary employee. This ruling has immobilized certain welfare schemes where the employer-contributor has no direct nexus with the beneficiary worker.

The setting up of welfare schemes has strengthened the tendency to form monopolistic labour shops, particularly in areas like loading and unloading of goods, that has thwarted the free movement of workers into such sectors. Practically all the Boards cater to men, and women members are disproportionate to the total women in the workforce. Even the types of benefits offered by the welfare systems tend to be male oriented. Kerala, with its high life expectancy, has an increasingly large graying population resulting in huge expenditure commitments on pensions. The Central Government has a number of plan schemes including old-age pension schemes; the State Government Schemes should be integrated with the Central ones wherever possible to avoid duplication of efforts and wastage of resources.

Though the Boards are theoretically autonomous, they often have to suffer the government's dictates, especially in matters like fund investment which may not often be in their best interest. There is a pressing need to integrate the social security delivery mechanism as well as harmonize the various pieces of enabling legislation. There is no particular need to have separate administrative structures for each board and their integration can lead to a reduction in the overhead costs; simultaneous computerization of enrolment, disbursement of benefits and back office functions can substantially reduce transaction costs. Lifeline benefits like pension could be harmonised across sectors, while the insurance component can be worked out with the insurance companies. Reduction of the wide differentials presently existing in the welfare schemes will ensure that the richer funds do not "crowd out" poorer funds.

There is a need to dovetail centralized administration with localized delivery. The enrolment and disbursement functions could be localized through systems like the village Panchayats, while the database and fund management could be centralized and

computerised. The nominations on the boards have to be more representative of the workmen. Boards may have to be given not just de jure but also de facto autonomy in matters like fund investment and posting of officers. Audit systems in the Boards are inadequate; there is need to have an effective audit system and also open out the functioning of the schemes to scrutiny by interested persons like workers' representatives, NGOs and the Local Self Government institutions. In the absence of positive incentive to employers, the level of their participation and contribution continue to be sub optimal. Win win solutions have to be worked out whereby there are positive inducements for the employers also to energetically participate in the scheme.

Kerala's experience for the past 30 years has shown that it is possible to have comprehensive tripartite social security arrangements for protecting the unorganized sector also and that the workers' representatives and employers can have a dominant role in running the tripartite Boards. However, the present financial difficulties in some of the Boards have shown that schemes need to be rooted in ground realities like the contribution capacities of employers and employees, the age profile of the population, the financial soundness of the concerned sector and the ability of the Government to contribute. Kerala's experience has shown the dangers of having an unbridled administrative apparatus expanding itself at the cost of the workers whom they are meant to service. The Kerala model of development accords a prominent position to providing security to the working population in the informal sector. While successive State Governments will undoubtedly continue to earmark substantial resources and efforts to strengthening the Welfare Fund system, the present crisis afflicting many of the Boards needs to be seen as an opportunity to reform the system.

CHILD LABOUR MONITORING IN THE INFORMAL ECONOMY

Employment of children of less than a special legal age constitutes child labour. ILO Convention No.138, adopted in 1973, sets 15 as the minimum age for work in developed countries and 14 in developing countries. The UN Convention on the Right of the Child, 1989, Article-1 recognizes, "...A child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier." In the Indian Constitution, Article 21 A makes compulsory education a fundamental right for all children between the age of 6 and 14 years. In the Child Labour (Prohibition and Regulation) Act, 1986 (CLPR), child means "a person who has not completed his fourteenth year of age". In 1999, the "Worst Forms" of Child Labour Convention No.182 which was unanimously adopted at the International Labour Conference recognized 18 as the age. The 'worst form' activities include slavery, trafficking, debt bondage, hazardous work, use of children in armed conflict, prostitution, pornography and illicit activities.

The distinction between child work and child labour is debatable; a key element is whether the arrangement is exploitative. Organizations such as "Concerned for Working Children"

(CWC) have developed through participatory method (including children), an elaborate conceptual framework for the work which can and cannot be done by children. In India, Census 2001 enumerates 12.65 million working children making it the world's largest child labour population. Research and detailed analysis regarding the causes of child labour is not done to the extent required for formulating a meaningful and effective strategy. In most cases, there may not be a single cause for the existence of child labour, which makes it difficult to address the issue by single policy formulation and isolated intervention.

On the demand side is the requirement of certain industries under competitive pressure to scout for cheap, disciplined, amenable and un-unionised labour, which is prepared to work in the most inhuman condition. Children fit these characteristics most and are readily inducted in low paying, less productive works characterized by repetitive, boring and hazardous processes in abysmally appalling working conditions, which affect their normal physical and mental development. Incidence of child labour depresses adult employment and affects both labour and wage market. Effective minimum wages, in principle, deter child labour, although in practice its implementation is not effective. The work of girl children to weed and pick cotton, carpet weaving, silk reeling and twisting by children on traditional short tables are examples of technology-driven child labour.

On the supply side are four identifiable causes pertaining to schools, poverty, social beliefs and parental delinquency. Phenomenon of working children is frequently associated with poverty and is usually a by-product of under development. The highest incidence of child labour is in the poorest regions of the poorest countries of the world. In many cases, "child labour" is an adaptation to augment household income, to manage better the income risk, risk of job loss, job interruption or failed harvest. In such and similar situations, child labour is supposed to be a rational response as a part of diversification strategy of their portfolio of income sources. Poverty, illiteracy and child labour form a vicious circle getting out of which becomes progressively more and more difficult. the Socio-cultural background of the parents and the traditional mindset that the child should start early to learn family skills is also a cause for child labour; and when children themselves want to work, there is a feeling that there is nothing wrong in allowing them to work in non-hazardous occupations, so that they become equipped with skills for the future. Also, irresponsible parents given to habits of drinking, gambling, drugs and ostentation cause their children to be trapped in child labour.

One of the foundations of child labour and bonded child labour is the caste system which also impedes law enforcement. An effective child labour strategy has to take into account the linkages between caste-occupation-poverty-illiteracy and child labour. A bonded child is a child working in conditions of servitude to pay off a debt. Existence of bonded child labour cannot be denied although it might be difficult to prove due to various loopholes in the law. The areas where child labour is found in substantial numbers include (a) agriculture and allied activities; (b) domestic work; (c) informal manufacturing; and village industries; (d) informal services (such as vending, hawking, etc); (e) self

employed with family enterprises; (f) child labour in illegal activities; (g) migrant workers; (h) construction work; and (i) rag picking.

The National Policy for Child adopted in August 1974 set out a policy framework and measures aimed at providing adequate services to children including free and compulsory education for all children up to the age of 14. The present regime of laws relating to child labour had a pragmatic foundation based on a combination of prohibitory measures and measures for humanizing child labour wherever it could not be abolished in the short run. As a sequel to CLPR, 1986, a National Policy on Child Labour was formulated in 1987 with the following objectives: (a) a legislative action plan; (b) focusing of general development programmes for benefiting children, wherever possible; and (c) project-based Action Plan in areas of high concentration of child labour engaged in wage/quasi-wage employment. And this national policy led to the formulation of the National Child Labour Project (NCLP), that became the most important State intervention for the eradication of child labour. Although the most common form of child work is in homes and with the family (whether it is house work, family farm or family enterprise), the home-based sector is not covered by CLPR Act, thus limiting its scope.

An analysis of various child labour interventions with certain qualitative parameters has shown that enforcement, as a strategy to eradicate child labour, is by far the most cost-effective one. Developing countries would do well to allocate more resources for this intervention. The policy response to child labour will have to vary depending upon types of child labour arrangements and the institutional and administrative capacity of the state in question. While child labour legislation is an important component of the policy package, this by itself may not be either exclusive or sufficient instrument for making a rapid and significant dent in the problem. It will have to be accompanied by a range of incentives for schooling and a range of other targeted interventions. This together with equitable economic growth can eventually reduce child labour to levels that can be amenable for legislation.

In developing countries, labour administration is not generally considered a priority area and is provided inadequate resources; this being the case, these enforcement agencies find themselves incapacitated. Convergence of services of various departments of the state, NGOs, employers and trade unions. is necessary to meet this challenge. A mechanism is to be in place to assure the coherence and consistency of the child labour monitoring (CLM) process which cannot be done without the backing of legislation along with appropriate procedures and protocols for linking the community's CLM activity with the formal enforcement process. A political consensus is needed on the issue and a full fledged advocacy campaign to win over stake holders is to be formulated. In many countries, labour administration is trying to develop tools to undertake CLM as an additional force in combating child labour; this is an active process that ensures regular observation of worksites. The basic function is the identification and assessment of the

child labour situation and a referral of children for appropriate services. Consequently, there is need for an improved understanding of what can be done in the informal sector to further build the partnership between labour inspectors and those engaged in CLM at the local level. Community-based child labour monitoring along with an implicit threat of formal enforcement, may be an ideal strategy for child labour eradication. At the Central level, the National Authority for the Elimination of Child Labour (NAECL) set up in 1994 under the chairmanship of the Union Labour Minister is the apex body to monitor and co-ordinate the implementation of policies and ensure convergence of services for the benefit of the families of child labour.

Due to the sheer numbers of children to be tracked and rescued, a separate enforcement and child tracking system run by the labour administration will be impracticable. Child labour eradication, as an externality to the main aim of compulsory elementary education will be more practicable. In addition, even a remote presence and a potential threat of prosecution will be salutary and make the Sarva Shiksha Abhiyan strategy and community action more effective. Though one of the sustainable approaches is to mobilize communities for the purpose, it is very difficult to bring about the same, as widespread child labour is often part of the community's social, cultural and economic heritage. Prolonged counseling and communication strategy will be needed to bring about a positive outlook.

Operationalisation of the elaborate linkages between community CLM processes and labour inspection will require suitable training and capacity building measures for the various stakeholders. Capacity building being a complex subject may require inter state and international collaboration. Best practices in other states and countries can be documented and used for training purposes. There is an emergent need to constitute a 'State Resource Team' on child labour in each state to draw on skills and experience of institutions and individuals on the issues and to bring out definite training modules incorporating the content, duration, cost, delivery, monitoring and documentation mechanism. The vastness and variability of the informal sector will require further variety and diversity in the training to be imparted.

Such new challenges have to be met by broadening the vision and ambit of conventional enforcement approach by co-opting other institutions, departments and the community at large. The new paradigm will require new linkages to be traced, innovated and strengthened by a convincing communication and capacity-building exercise. With growing awareness about the international covenants, the issue of child labour is being seen from the perspective of child rights. Child labour is the antithesis of child rights. The mindset to see eradication of child labour as a component of the broader aims of harnessing the rights of the child and universalisation of elementary education are absolutely necessary for the eradication of child labour.

PREVENTION AND ELIMINATION OF BONDED LABOUR

Bonded Labour is one of the forms of forced labour ; the system in South Asia accounts for the greatest number of forced labourers in the world today and is found in different sectors of the informal economy. Due to lack of regular employment and income, most of the workers in the unorganized sectors have only a few means of meeting their consumption and other financial needs. These few means include borrowing at exorbitant rates of interest and the bonded debt denies the worker of his / her negotiating power and puts him/her at a greater risk of exploitation by way of long working hours, appalling working and living conditions at the worksite and restricts freedom to move around and change occupation.

A few recent studies indicate that there is a shift in the form of the bonded debt which is now paid in the form of a cash advance to the workers by those who recruit them. The advance system represents an institutional form of bondage to fulfill the need for disciplined labour supply to keep the wheels of production continuously running. Traditional hierarchies and caste/community based discriminatory practices can be linked to the prevalence of bonded labour. The South Asian financial sector is characterized by a strong predominance of the informal sector, in particular among the poor in rural areas. Even if micro-finance has expanded perceptibly during the last few years, the supply represents only a small part of the demand. The flexibility of informal credit modes as opposed to the rigidity of most micro-finance services explains, to a great extent, the very limited impact of micro-finance on the problem of bondage.

Reliable data is essential for understanding the magnitude and addressing the problem of bonded labour, developing suitable and effective interventions and evaluating their impact. In many cases, the employers enjoy multiple dominant roles in the society with the result there is connivance between enforcement officials and the employers. Vigilance committees established in most places under the law are ineffective in identifying the victims and rehabilitating them and in bringing the offenders to justice. Near absence of active Citizens Forum to constantly monitor the progress in abolition of bonded labour is yet another reason for the existence of this practice. The delay in securing release of bonded labourers since their identification coupled with the delay in formulating the rehabilitation package put the victims in vulnerable position and in several cases cause relapse into bondage. After the liberalization of the insurance sector, the Indian Government requires that insurance companies invest a minimum of their portfolio with the so-called "weaker sections" of the population. It is probably too early to get any signals from the schemes thus put in place.

One of the crucial factors leading to bondage is illiteracy and ignorance among the workers. They have to be imparted basic literacy and numeracy skills to the level that they can read and understand their contract, payment patterns, etc. In addition they also need knowledge of labour rights, and existing legal protections. Other important

inputs are continuation of educational facilities in the absence of which the children end up in work force. The role of the employers is obviously central. Prosecution of employers and efforts to develop social consciousness among them had little impact. A more realistic option consists of gradually convincing them that they have a lot to gain by ensuring decent wages. In the sectors where advance is a key factor in the situations of bondage and impossible to remove the system, it has to be explored whether the advance system be transferred to a third organization (bank or NGO), which presupposes a sustainable dialogue with the employers and the brokers in order to find/work out an alternative system.

The ILO's Global Report calls for a global alliance against forced labour. To solve the problem of this magnitude and complexity, the need is for an alliance of government organizations, international organizations, civil society groups, NGOs, trade unions, employer organizations and academic institutions. To arrive at an alliance at the global level, the process has to begin from below, from the grassroots where the problem exists. Proactive citizen's for a have to act as watch dogs at source districts/states to monitor recruiters and recruitment practices and raise an alarm for the enforcement authorities.

Though reports of bonded labour incidences are highlighted in the media, there are hardly any reports of follow-up action; public accountability and scrutiny will help avoid corrupt practices hampering justice to the victims. Labour administration should take proactive measures to create awareness about the welfare boards and welfare schemes in rural areas through various media and the trade unions. Labour administration and factories, department should make periodic inspection of worksites and establishments to ensure compliance with labour laws.

The civil society groups should identify loopholes that exist in the laws as well as in their enforcement and should proactively engage in policy advocacy for plugging them. The time-lag between identification to release and the commencement of rehabilitation efforts should be minimized as far as practicable to ensure the success of rehabilitation efforts. An important input into the rehabilitation process is counseling and assistance on how best to use these resources in an effective and sustainable manner that would support families and communities into the future. There should be a clear action plan at the local, state/province and national levels; otherwise, despite the presence of a stringent act and several schemes, elimination and prevention of bonded labour practices is unlikely. Implementation of the action plan denotes political and bureaucratic commitment to ending this social evil. Achievement against the action plans should be subjected to public scrutiny and should serve as an indicator of a government's performance as part of its social development goals.

SELF-EMPLOYED WOMEN'S ASSOCIATION (SEWA)

SEWA's main goal is to organize women workers for full employment and self-reliance. According to SEWA's perspective, it is through employment that workers obtain work security, income security, food security and social security. Self-reliance means that women should be autonomous and self-reliant, individually and collectively, and in terms of their decision-making ability. The SEWA movement is enhanced by its being a fusion of three movements: of labour, of cooperatives and of women.

Ahmedabad in (Gujarat) is the birthplace of SEWA, where it has been organizing women workers from the informal sector for more than three decades. For the last four years, it has adopted Campaign Approach for Organizing; and through campaigns, it has so far organized self-employed women from 74 trades. The approach is to solve work-related issues and problems of as many women as possible and to influence policy advocacy in the long run. Barring agricultural labourers, manual labourers and service providers form the largest segment of SEWA's workforce.

The SEWA movement has grown into a family of organizations. Depending on the need, members form their own economic organizations like groups of artisans, salt workers, forest producers, agricultural workers, tobacco workers, etc. They are registered either as co-operatives, associations, federations or trusts and are democratic, member-based organizations. Two-thirds of SEWA's members are rural agricultural workers and they face several problems related to income security, social security and employment security. SEWA initiated "Agriculture Campaign" to understand the issues, educate and bring awareness to the agricultural workers regarding technical skills, costing and pricing, link them with technical, research and marketing organizations to strengthen their productivity and income. Due to poor technical knowledge of modern concepts of agriculture, crop yields are poor and do not match with the quality demanded. Hence, regular training is required to upgrade their skills and capacity, to get higher production and better quality. Addressing these issues and seeking active solutions has led to the formation of seed banks, farmers' clubs and farmers' cooperatives and the prospect of agri-clinics. Other initiatives include establishment of informal school and health programmes — "Jeevan Shala" being a SEWA members' informal school. It is a "life school" based on what the members want to learn and is designed to engage adult learners and build their interest, confidence and self-esteem.

Since 1985, SEWA has identified and trained health workers from within its own membership. Equipped with intensive training and back-up support, SEWA's team of midwives and health workers serve as health educators-cum-barefoot doctors for women workers and have formed their own co-operative, which has been running successfully for the past ten years. The first of its kind in Gujarat state, the co-operative has an annual turnover of Rs.10 million. Elected representatives from shareholders, midwives and health workers themselves run the co-operative. SEWA's Health has three key

service components: preventive care, promotive care and curative care. Research and capacity building are the main activities to strengthen the above services. To fulfil SEWA's goal of women's full employment and self-reliance, a strong supplement in the field of child care including child development is necessary; the child care programme started in the mid-1970s has at present 73 child care centers whose focus is on overall development of children including their physical and intellectual growth.

SEWA launched its insurance programme in 1992 as a support to meet life risks of poor women members. This gave birth to SEWA Insurance Unit or Vimo SEWA which is an integrated insurance programme where a woman gets continuous insurance coverage of her choice and obtains much needed, long-term social protection. Workers engaged in activities like rolling bidis, aggarbattis, garments, etc. not only produce the goods but also keep raw material and finished goods at their home. Over the years, it was observed that most of the members of SEWA Bank had taken loan for housing; moreover they had shown concern for housing facilities. This gave birth to Gujarat Mahila Housing Sewa Trust in 1994. In 2003, Gujarat Mahila Housing SEWA Trust has endowed the members of rural and urban areas with housing and other related basic infrastructure facilities through various programmes/schemes. With the co-operation and support of the Government of Gujarat, the SEWA Gram Mahila Haat (SGMH or commonly known as Gram Haat) was established in 1999 with emphasis on exploring and development of internal (local and national) markets for rural women's products. SEWA trade facilitation centre (STFC) has started skill upgradation training. An exposure to the market was also given to understand current market trends and designing of products.

While SEWA brings self-employed women together, enabling them to collectively bargain for their just dues and rights, SEWA Bank raises their status in economic terms. The objectives of the bank are to: (a) make poor women understand the concept and importance of financial planning; (b) inculcate sound financial planning in their decision making process (c) motivate them and bring about change in their mindset by encouraging them plan for the future; (d) develop in women a feeling of security by giving better information and access to available financial services and products and explaining the various life cycles; and (e) inculcate a feeling of economic independence and belief that the money she is earning today can be useful not only for her present but also to make her own and her family's future more secure, provided she plans and invests properly.

SEWA Bank, along with Friends of Women's World Banking India and Coady International Institute of Canada, has promoted a school for micro finance called Indian School Of Micro-Finance For Women in Ahmedabad. This institution will cater to the needs of the poor women whose consultancy needs are left largely unattended by the formal banking sector. This school hopes to emerge as a unique institution to strengthen and spread micro-finance as a strategy for poverty alleviation through development of appropriate

knowledge and skilled human resources. SEWA had started literacy classes for its members in the year 1992. The classes are organized in the members' own locality. The curriculum and methodology for literacy classes is designed on the basis of SEWA's focus. Also the research team of SEWA Academy undertakes action-oriented research with a unique grass-roots perspective utilizing scientific research tools, so as to bring SEWA members into the mainstream. The research team serves as a link between policy makers, government officials and SEWA's members.

In 1995, SEWA joined the rest of the unorganized sector to form the National Center for Labour (NCL). The NCL was established to obtain visibility and recognition for unorganized sector workers and to lobby for their rights. SEWA is the largest union in NCL and the only one representing women workers. NCL has a combined strength of six lakh members from the unorganized sector.

CONCLUSION

The ILO Report on Decent Work and the Informal Economy refers to the vast majority of workers in the informal economy in developing countries who work as low paid and unproductive labour, with limited and no social protection, limited respect for workers' rights and no arrangements for unionization. The ILO included in its programme for biennium 2004-2005 a strategy which would help the labour administration in these countries to extend the concept of decent work with all other benefits to workers in the informal economy. The relevance and urgency of this measure can be comprehended from the fact that the percentage of workforce in the informal economy ranges from 70 per cent in Thailand to as high as 90 per cent in India.

In general, the informal economy and the unorganized sector are synonymous and the unorganized sector is taken as being the opposite of the organized sector with its large firms, protection of labour laws and organized trade unions. The Informal sector is a catch-all term for activities ranging from those generating the least income to most productive enterprises with several employees and is characterized by easy entry of workforce, small-scale operation, low levels of skill, lack of safety at workplace and absence of regular working conditions. Its characteristics include operation of labour relations on a casual basis, involvement of family labour, high presence of migrant labour, small own account (household) or family enterprises or micro-enterprises, etc. economic activities which engage child labour fall within this sector. Employment is seasonal or intermittent and underemployment is a serious problem. The informal sector basically consists of wage-based employment and self-employed workers; the piece-rate system of payment is also gaining ground. Debt bondage is common among the employed as well as self-employed workers. Poverty, illiteracy, lack of bargaining power with work units being scattered and difficult to organize—lead to their exploitation. The informal economy is an integral part of the overall economy and complements the formal sector. Due to changing economic scenario, many occupations/trades in the formal sector have given space to the informal sector and the

low wage-absence of social security syndrome enables the informal sector to provide cheap wage goods and services to the formal sector.

The informal labour market is not homogenous in terms of the categories included in it. However, they can be identified and categorized broadly as:- (a) large or reasonably large sub sectors in the unorganized sector where organizing labour is relatively easier such as construction industry, brick-kiln industry etc.; (b) medium-sized industry/enterprises which are not micro-small enterprises but at the same time do not fall under the previous category; (c) micro and small enterprises; (d) home and/or home-based workers including child labour; (e) poor working women; and (f) worst forms of child labour and bonded labour

In respect of large sub sectors/enterprises, governments at national or state levels have already enacted legislations, *inter alia*, to form boards to provide minimum wages and other benefits to workers as detailed in the respective enactments. The activities of these enterprises and boards come under the purview of labour administration. Though the system is working fairly well, some glitches have been noticed; these are (a) announcement of forming Welfare Boards in haste without completing the formalities; and (b) the rising administrative expenditure beyond the ceiling of five per cent. Before starting a Welfare Board, it is necessary that certain essential preliminaries are examined and finalized; an important element is finding resources for the sustainability of the scheme. Where Government funding is involved, it should be deposited with the Board in time and in full. Any default in this regard may send a wrong signal in instances where employers have to make contributions to the corpus. Regarding staffing of the Board, given the general propensity of Government establishments to grow and expand, it could be considered if a third of the strength can be drawn from the Labour Department, a third from among those who superannuated from the Department and the rest by direct recruitment; the staff from the Government may not have the same level of involvement with their lineage elsewhere as those of direct recruits who will develop roots and a sense of belonging with the Board. Over a period of time, this may be expected to bring down administrative costs. It has also to be considered whether certain Boards formed for certain enterprises where linkages can be traced cannot be merged under a single entity; the glaring example coming to notice is the Welfare Board for the Construction Industry Workers and Brick-Kiln Industry. Though the activities are different, the brick-kiln industry provides basic material for the construction industry which is resource-wise strong due to the levy of cess. If there is a single board, it will help base level industry workers. Besides, the feasibility of merging three or more boards into one has also to be considered to avail of the economies of scale with respect to overhead costs.

As regards medium-sized enterprises, it may be stated that in Tamil Nadu, in response to demands for separate boards for different classes of workers, the State Government had set up boards for autorikshaw and taxi drivers, washermen, handicraft workers, etc

(in all nine). Since most of the boards were not financially viable, they were merged back with the parent board, i.e. Tamil Nadu Manual Workers' Social Security and Welfare Board. Thus, for ensuring financial viability and social security for the workers, larger boards covering several medium sized industries/enterprises are distinctly better.

The categories coming under micro and small enterprises, home and home-based workers including child labour and poor women workers can be considered together as the activities are overlapping in several cases, and children and women have their presence in these activities. Small enterprises constitute a large and growing share of employment in the developing countries and are highly labour intensive. For example, in Thailand, 90 per cent of private establishments employ less than 20 persons and in India, seven out of ten people outside agriculture find work in informal enterprises. Also, between 60 and 70 per cent of workers in non-agricultural work are self-employed. Most men and women earn their livelihood with low income and without any social security protection. These workers, in general, are outside the purview of labour legislation. In many micro and small enterprises, the status quo syndrome make them delinquent with respect to payment of minimum wages, hours of work, safety at worksites, etc., since they feel they get a competitive edge over other "grownup" enterprises which come within the purview of labour legislation. Regarding the child learning the family trade at the cost of school education, at the instance of parents or otherwise, sustained counseling is necessary not about disadvantages of learning the family trade but more about the advantages of the getting a school education which will later enable him to get specialized training and equip her/him for better income-earning opportunities. It should be imbibed in the parents that education is a prime input and investment and society has provided this basic infrastructure free of cost to be availed of by one and all so that the underprivileged do not continue to get trapped in poverty. For women, SEWA organization has proved what can be achieved by sheer cooperative endeavour to have a decent standards of living which has deservedly gained global acknowledgement. It goes to the credit of this organization that it has effectively translated into action ILO's concept of decent work and social protection to workers. This success story can be replicated on a widespread scale.

A global alliance—of the national and international institutions, voluntary organizations, self-help groups, local bodies and trade unions—is to be mustered to eradicate the evils of worst forms of child labour and bonded labour. Regarding the worst forms of child labour, the perpetrators should be severely punished; for bonded labour, the rehabilitation package should be a quick and enduring one. The worst forms of child labour and bonded labour are two social evils and a stigma to civil society which has a moral responsibility to see that their eradication is final so that they never again cross the pages of history of employment.

A mechanism has to be put in place to ensure that all collections made— through registration fee or subscription or contribution from the worker, employer or

Government—have been fully accounted in the books of the Welfare Board. A periodical system of audit of these receipts may be considered. The amounts collected and kept by the Board being in the form of a trust have to be properly invested to get a decent return. Before any proposal to enlarge the scope of benefits is considered, the same should stand the test of actuarial soundness.

The existing social insurance system needs to be suitably supplemented with a tax/cess-financed social assistance programme to provide for the needs of those unable to contribute regularly or at all, though the assistance can be less generous. National and State Governments at various levels, are already implementing a number of welfare programmes which include poor people in rural and urban areas and also elderly destitutes. These schemes have to be examined with a view to harmonise/dovetail some of them with the social security schemes and if necessary with a little bit of calibration. This will preserve the efforts of government machinery and conserve resources.

In the light of labour administration taking up additional responsibilities on account of the informal economy being brought into its fold, it is worthwhile to reward officials for good work to avoid flippancy in the ranks of the administrative system.

Labour Administration and the Informal Economy in India

Manohar Lal

INFORMAL ECONOMY

The informal sector or informal economy as adopted by various countries as also the concept indicated by the International Labour Organisation varies widely from country to country. In India, we follow a residual concept, i.e. one developed from the organized or formal economy. The informal economy in India is characterized by micro units relating to business, services and industry on the one hand and abundant supply of unskilled labour available on a casual basis on the other hand. It broadly encompasses the unorganized sector where workers are unable to organize themselves for betterment of production, income levels, social security, etc. Such enterprises are small enterprises with or without hired workers. The skill requirement of the persons engaged in such enterprises are normally not up to the same standard as the educational background of most of them is not comparable with those in the organized sectors.

The National Accounts Statistics (NAS) follows a residual concept, i.e. developed from the organized or formal economy. The formal sector or organized sector is normally defined in terms of employment and all establishments in the public sector and all non-agricultural establishments in the private sector employing 10 or more workers are included in the organized sector. The statistics are available regularly from the budget documents and annual reports in the case of Public Sector and through Annual Survey of Industries in the case of registered manufacturing units. In contrast the unorganized sector refers to those enterprises or activities whose collection of data is not regulated and which do not maintain any regular accounts. The units not registered under Factories Act, 1948, Employees State Insurance Act, 1948 and Employees Provident Fund & Other Misc. Provisions Act, 1952 would broadly constitute the unorganized sector. In India the term used is the unorganized sector which broadly means the informal economy or informal sector. Therefore, in any literature these two terms are interchangeably used.

The informal economy in India may generally be seen as consisting of two categories. The first category may contain small, low capital enterprises run by self-employed persons drawing family support and sometimes employing a few hired workers (excluding daily-wage earners or piece-rated workers). The other category includes casual, dailywage workers available at street-corner labour markets or offered by labour agents in sector such as agriculture, mines, brick-kilns and construction as well as piece rated workers in sectors like carpet-weaving, garment making, etc.

In India, there is a total labour force of 406 million. Out of this around 397 million are in the workforce and remaining 9 million (2.2% of the total workforce) are what is known as “openly unemployed”, i.e. they did not have any work during the last 365 days as per National Sample Survey conducted by the National Sample Survey Organistaion (NSSO) during 1999-2000. Out of the 397 million workforce in the country, hardly 28 million are employed in the organized sector as per the definition given above and the remaining 369 million are engaged in the informal/unorganized sector.

LABOUR ADMINISTRATION

India has a federal system of Government and Labour is on the concurrent list. Both Central and State Governments have the power to enact legislations and formulate schemes/programmes for the betterment of working and living conditions of the workforce in the country. For all issues relating to the organized and unorganized sector, the Ministry of Labour & Employment is the nodal Ministry at the Central level. Similarly, there are Labour Departments at the State level looking after the interests of the workers. At the Central level, there are organizations/institutional arrangements for the coverage of the workers in the informal economy. The establishments/workers are covered under the schemes/programmes implemented through various legislations. The various Departments/Organizations under the Ministry of Labour & Employment carry out various activities for the welfare and social security of these workers. The Directorate General of Labour Welfare (DGLW), through its field organizations, is implementing five Welfare Funds for the workers engaged in the beedi, non-coal mine and cine industry. The office of DGLW is also engaged in the task of enactment of legislations, formulation and implementation of schemes/programmmes for agricultural workers, construction workers and all other categories of the unorganized sector workers. Some categories of workers are also covered under the Employees Provident Fund Scheme and Employees Pension Scheme implemented by Employees Provident Fund Organisation (EPFO) as well as under the Employees State Insurance Scheme implemented by the Employees' State Insurance Corporation (ESIC). The training and skill upgradation is looked into by the Directorate General of Employment & Training (DGE&T). Similarly, the awareness generation programmes for these workers are handled by Central Board of Workers Education (CBWE). To implement various programmes and to take care of the working conditions of the workers engaged in the

informal sector, the Government has enacted various legislations such as the Minimum Wages Act, 1948, the Building and Other Construction Workers (RECS) Act, 1996, the Building and Other Construction Workers Welfare Cess Act, 1996, etc.

CHALLENGES

Labour administration in the unorganised sector is a challenging task. The major challenges facing this sector are:

- The sheer magnitude of the workforce. Out of about 400 million workers in the country, approximately 370 million i.e. 93%, are engaged in the unorganised/informal sector.
- The establishments in the unorganised sector are scattered; making them difficult to tap.
- The nature of work is often seasonal and workers migrate from one place to another in search of jobs.
- In rural areas, the traditional occupation is followed from generation to generation. Due to use of traditional implements and lack of skill upgradation, the production is low leading to low earnings.
- Most of the work in the unorganised sector is done from the residential premises as joint family venture where women and children all work together. Thus, the informal sector also involves a gamut of home activities.
- The socio-economic conditions of the workers include poverty, illiteracy, low resource base, and lack of awareness.
- Lack of easy access to institutional credit and microfinance.
- Use of traditional techniques leading to low quality products.
- The goods produced by workers do not find an appropriate market.
- Any single social security scheme for all workers would require a colossal volume of funds as well as pose insurmountable problems in implementation.

The Government has appointed various Commissions and Study Groups from time to time to assess the working and living conditions of the workers. The first National Commission on Labour was set up in 1969. A Commission on Self-Employed Women (Shram Shakti) was constituted to look into the status of self-employed women with special reference to employment, health, education, etc. Further, the National Commission on Rural Labour set up in 1987 looked into the working conditions of rural workers and implementation of social security and welfare legislations available for these workers. All these Commissions/Studies projected the plight of the workers in the unorganized sector and called for substantial measures to improve their working and

living conditions. The Second National Commission on Labour (NCL) which was appointed in 1999 was, inter-alia, mandated to suggest umbrella legislation for the workers in the unorganized sector. The Commission, in its report recommended umbrella legislation for ensuring a minimum level of protection to such workers. Recently, the Government has constituted a National Commission for Enterprises in the Unorganised/ Informal Sector under the Chairmanship of Dr. Arjun Sengupta to examine the problems facing enterprises in the unorganised/informal sector and make recommendations to provide technical, marketing and credit support to these enterprises.

CATEGORIES OF INFORMAL SECTOR WORKERS

As per the estimates of the sixth quinquennial survey conducted by the National Sample Survey Organisation (NSSO) during 1999-2000, the work force in the country is about 400 million out of which 369 million workers (about 93%) are in the unorganized sector. About 237 million workers are employed in agricultural and related activities, 17 million in construction, 41 million in manufacturing, 37 million in service sector and remaining 37 million in trade. The NCL has identified 106 occupations/Activities in the unorganized sector which include agricultural workers, agarbattimakers, barbers, brick kiln workers, beedi workers, construction workers, hawkers and vendors, head load workers, health workers, manual workers, transport workers, rag pickers, etc. A list of the occupations/activities is listed in Annexure A.

Some of the categories of the unorganised sector are discussed below.

BEEDI WORKERS

Beedi is an indigenous cigarette, i.e. tobacco rolled in a plant leaf called 'tendu'. The Beedi industry is primarily a homebased rural labourintensive industry providing employment opportunities to about 4.4 million workers mainly in the states of Andhra Pradesh, Bihar, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal, Jharkhand and Chhattisgarh. This is basically a homebased activity which is carried out from the premises of the workers' home involving the entire family predominately the women folk. In some cases schoolgoing children assist their parents in this work in their spare time after coming back from school.

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 and the Beedi Workers Welfare Fund Act, 1976 and the Beedi Workers Welfare Cess Act, 1976 have been enacted to regulate the conditions of their work and provide funds for welfare schemes for the benefit of beedi workers and their families, respectively. Under the welfare fund, the welfare schemes like health, housing, educational, social security, recreational and family welfare facilities are in operation. There are seven hospitals and

more than 200 dispensaries, spread all over the country to provide basic health care to the beedi workers and their families, respectively. Liberal financial assistance is also provided for major ailments such as cancer, tuberculosis, openheart surgery, and kidney transplant as well as for minor surgeries like hernia and appendicitis. There is a housing scheme under which financial assistance up to Rs. 40,000/- per dwelling unit is provided for construction of a house to a beedi worker. The Government also provides scholarship for the children of beedi workers @ Rs. 250/- per annum per child studying in Standard I to IV and upto an amount of Rs. 8,000/- per annum for higher education, i.e. B.Tech, MBBS courses, etc.

Among other activities, housing for beedi and mine workers is one of the major activities under the Welfare Funds. There is one unique example of Group Housing Scheme in the country conceived and implemented by the beedi workers themselves. Solapur, a district of Maharashtra, has a history of beedi manufacturing for the past 60 to 65 years employing mainly women workers. These women workers below the poverty line and belong to the economically weaker sections of the society. To provide lowcost, affordable and decent housing facilities to these women workers was a challenging task till they themselves formed a Cooperative Group Housing Society and approached the Government with a proposal for constructing 10,000 houses. Mr. Narasayya Adam—popularly known as Adam Master, a local political leader and trade unionist and a member of the Maharashtra legislative assembly—was the brain behind the scheme. In collaboration with a renowned private builder and developer M/s Pandhe Construction (Pvt) Ltd. of Solapur, these women workers went ahead with the task of constructing of 10,000 houses. Each unit consisted of a land area of about 52 square meters with a builtup area of about 24 square meters having a living room, a kitchen and a toilet block. The estimated cost was about 65,000/- which was met by a subsidy from the Central and State Government @ Rs. 20,000/- each, contribution of Rs. 20,000/- from the beedi worker and a loan of Rs. 5,000/- to be arranged by the housing society. More than 8,000 dwelling units are almost ready and the remaining 2,000 units are in different stages of construction. This is a unique project which on completion would provide the poor beedi workers with planned and better quality dwelling units. This is an example of public-private initiative in the informal economy and also a successful experiment by a cooperative society of women workers in the informal sector. This project could be replicated in other parts of the country as well as in other countries.

The beedi workers are also covered under various other legislations such as the Minimum Wages Act, 1948, the Workmen Compensation Act, the Maternity Benefits Act, 1961, the Employees State Insurance Act, 1948 and the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. About two million workers are covered under the Employees Provident Fund Organisation (EPFO) and around 19,000 workers are covered under the Employees State Insurance Scheme (ESIC).

CHILD LABOUR

India accounts for the largest child labour population in the world. The proportion of working children to the total labour force in India is lower than many other developing countries in as much as it accounts for only 5.2% of the total labour force. According to the 1991 Census, the total number of children in the age group of 0-14 years is 297 million and 203 million in the age group of 5-14 years. Out of this about 120 million children are reported to have been enrolled in both formal as well as non-formal educational system and about 80 million are reported to be out of school. All children who are out of school may not be actively employed for wages in factories, mines, plantations, shops, commercial establishments, etc. Instead, many of them might be just staying at home to support their parents in household work, farm work and other allied occupations. They can be categorised as non-school going children but not necessarily as working children employed for wages. According to the 1981 census the number of working children was 13 million which has come down to 11 million. Child labour in India is more of a rural phenomenon than urban. Approximately 90% of the working children belong to rural areas and are employed in agriculture and allied activities. Most other activities are also traditional household activities in which all members of the family, including women folk and children, are involved to supplement the family income. In urban areas, manufacturing, servicing and repairs account for 8.64% of child labour according to the 1991 census.

For the holistic development of the child, the Department of Women and Child Development has been implementing the Integrated Child Development Scheme (ICDS) aiming at strengthening the ongoing approach of covering the basic services of health, nutrition and pre-school education.

As far as child labour is concerned, the Indian Constitution has provision for: prohibition of employment of children in factories (Article 24); free and compulsory education of all children (Article 45); directive to the State to have its policy towards securing health and strength of workers. So that the tender age of children is not reduced and children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation (Article 39).

The policy of the Government is to ban employment of children below the age of 14 years in factories, mines and hazardous employment and to regulate the working conditions of children in other employments. The Child Labour (Prohibition and Regulation) Act, 1986 seeks to achieve this basic objective.

The strategies for the 10th Five year Plan (2002-2007) is to eliminate child labour from hazardous occupations by a determined time frame, among other things by way of expansion of National Child Labour Projects (NCLP) to cover more child labour endemic

districts, detailed survey to access the magnitude of working children in hazardous occupations etc. A National Charter for Children and a National Commission for Children (NCC) are major initiative in the process of finalization. Further, an education cess of 2% has been imposed on income tax to generate adequate funds for education. National Child Labour Projects are being implemented in 250 districts out total of 593 districts in the country. These projects are running schools which are non-formal schools pursuing a curriculum for bridging courses, i.e. preparing children to join the formal mainstream schools subsequently. These schools are mostly run by the non-governmental or voluntary organisations.

BONDED LABOUR

Instances of debt bondage and migration are two important consequences, which flow from the weak bargaining power of the workers in the unorganised sector. According to the provisions of the Bonded Labour System (Abolition) Act, 1976, a debtor who obtains a loan, debt or advance from the creditor and in pursuance thereof pledges or mortgages his or her service or services of any of his or her family members for a specified or non-specified period without payment of the irreducible minimum wage or without payment of market wage or without the right to move freely in any part of the territory of India or without the freedom or the option to choose alternative avenues of employment or the right to receive remunerative price is a bonded labour.

In 1954 India ratified the ILO Convention of Forced Labour No.29 (1931). In pursuance of the obligation arising out of that ratification India enacted a law, i.e. Bonded Labour System (Abolition) Act, 1976. This was passed by both Houses of Parliament in February 1976 to give retrospective effect from 24 October, 1975 the date when Bonded Labour System (Abolition) Ordinance was promulgated.

MIGRANT LABOUR

Freedom of movement in any part of the territory of India and freedom to pursue any vocation of one's choice is an option guaranteed under Article 19 of the Constitution. Migrations being the movement of human beings in pursuit of certain cherished objects like better employment opportunities, better wage and better quality of life, there is apparently nothing wrong or objectionable in migration per se which is a social and economic phenomenon. In a multilingual, multi-cultural and multi-religious Society migration is necessary for strengthening the bonds of national integration. Migration becomes objectionable only when it leads to exploitation culminating in human misery and deprivation of the irreducible barest minimum to which every worker as a human being and as a citizen is entitled. Sometimes, human greed, rapacity and the acquisitive instincts of employer/contractors overtake the finer aspects of human character and lead to situations which may be characterised by the denial of dignity, justice and inalienable

human rights of certain underprivileged and downtrodden sections of the society. Equally disturbing is the scenario in relation to the plight and predicament of millions of migrant workers.

According to the 1991 Census, 226 million persons have changed their place of residence within the country of which, 17.3 million or 8.8% have left their home States in search of work. The migrant population includes not only wage earners but also other categories of workers as well such as rickshaw pullers, kabadi wallahs, washermen and women, rag pickers, etc. who constitute a sizeable section of urban population. Migration is closely and inextricably interlinked to unbalanced regional growth and rural poverty. The strategy to deal with problems of migrants can be two fold. On the one hand, adequate and effective steps can be taken by the Government of the originating State to create and intensify avenues of public jobs so that the number of days of assured employment for the migrant population can be increased. The second strategy would be in the nature of undertaking certain ameliorative measures to protect and safeguard the interests of migrant workers at their destination point by providing journey allowance, dislocation allowance, housing accommodation, protective clothing in cold climates, payment of minimum and timely wages without any deduction by way of commission to the middlemen and safe repatriation to the originating State. It is with this objective in mind that the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act enacted in 1979 is in place.

CONSTRUCTION WORKERS

Construction workers constitute one of the largest segments of the workers employed in the unorganised sector. According to the sample survey conducted by the National Sample Survey Organisation (NSSO) in 1999-2000, about 17 million workers are employed in construction activities across the length and breadth of the country.

The business of construction is subject to the vagaries of nature such as rains, floods, elevations and depressions, uncertainties of geological and soil conditions as well as exposure to extreme temperatures and weather. Construction jobs are highly labour-intensive and also highly mechanized. The entire activity is mobile, seasonal, intermittent and mostly inter-connected. Construction labour is basically unskilled, more often than not sector migrant with high turnover and frequently seasonal, and usually drawn from the agricultural. The workers are usually illiterate, economically and socially backward with low bargaining power.

One of the major features of construction industry is its vulnerability to accidents. Although it is difficult to obtain accurate statistics in this regard due to non-detection and non-reporting, the number of such accidents in most countries frequently exceeds that in the manufacturing industry. Factors contributing to this include:

- High proportion of small firms and of self- employed workers;
- Variety and comparatively short-life of construction sites ;
- High turnover of workers;
- Large numbers of seasonal and migrant workers many of whom are unfamiliar with construction processes;
- Exposure to the vagaries of the weather; and
- Different trades and occupations.

The Government of India is committed to improving the working environment and welfare of workers engaged in the informal sector, particularly construction workers. The following enactments covering various aspects relating to their working conditions are extended to construction workers as well:

- The Workmen's Compensation Act, 1923
- The Trade Unions Act, 1926
- The Payment of Wages Act, 1936
- The Industrial Employment (Standing Orders) Act, 1946
- The Industrial Disputes Act, 1947
- The Factories Act, 1948
- The Minimum Wages Act, 1948
- The Contract Labour (Regulation & Abolition) Act, 1970
- The Payment of Gratuity Act, 1972
- The Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act, 1979.

In spite of the protection available under provisions of the above Acts, a need was still felt for a comprehensive Central legislation for this category of workers. Eventually the following two enactments have come on the Statute Book w.e.f. 20 August 1996, initially brought in as Ordinances on 3 November 1995:

- The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; and
- The Building and Other Construction Workers' Welfare Cess Act, 1996.

The above legislation provides for regulating the employment and conditions of service, safety and health and welfare measures for the benefit of construction workers. In respect of the safety provisions, the legislation conforms to ILO convention No. 167 concerning safety and health in construction revising the Safety Provisions (Building) Convention, 1937.

The Act has provision for setting up a Welfare Board/Fund at the State level. There is a provision of levy of cess at 1-2% of the cost of the construction. The Government has notified the cess at 1% of the cost of construction. The Fund is utilised for the purpose of welfare activities such as providing assistance to the families of the construction workers in case of accident, old age pension, housing loans, payment of insurance premia, medical and maternity benefits and education of children, etc. Only few states viz, Kerala, Madhya Pradesh, Tamil Nadu, Pondicherry, Orissa and Delhi have started implementation of the Act. Other States are still in the process of adoption and implementation of the Act. Kerala was the first state in the country to implement the Act and has already enrolled more than one million construction workers and accumulated funds to the extent of Rs. 2240 million. Every year Kerala collects around Rs. 340 million as cess.

CONTRACT LABOUR

Contract labour, like bonded labour and migrant labour, is yet another form of labour in the informal sector which is extremely vulnerable to the machinations or manipulative skills of contractors and sub-contractors. The Contract Labour (Regulation and Abolition) Act was enacted in 1970 with the purpose of prohibiting contract labour as the first and principal objective and to regulate the working and living conditions of wherever contract labour outright abolition was not possible or not feasible. Accordingly, rules have been framed, statutory authorities for registration and licensing of principal employers and contractors have been set up and large numbers of inspections continue to be conducted to ensure just, fair and equitable conditions of work for contract workers. In the wake of liberalisation and attempts to integrate the national economy with the global economy, certain new market forces have been unleashed which favour contractualisation and casualisation of the workforce. The guiding spirit of the law is to employ workers on contract/casual basis where the nature of employment is casual, sporadic and intermittent and not allow employment of contract labour in jobs that are regular and perennial, i.e. of sufficiently long duration and have to be carried out regularly on a day-to-day basis. Experience during the past five years have, however, shown that such regular jobs are being off loaded increasingly in favour of contract and casual workers. Consequently, there is shrinkage of regular jobs in the organised sector and increase in the number of contractual and casual workers. Addressing the issue of flexibility in contract labour law combined with socio-economic protection to contract labour has, therefore, assumed greater importance now. The initiatives under consideration to bring labour reforms would take care of these aspects as well.

THE LABOUR LAW COVERAGE IN THE INFORMAL ECONOMY

Under the Constitution of India, the subject of Labour is on the concurrent list. The Central and State Governments have powers to make laws for the protection and welfare of the working force. The Central Government has enacted various legislations to

safeguard the interests of all workers including workers in the informal/unorganized sector. Some of the legislations are discussed below:

The Workmen's Compensation Act, 1923: This legislation entitles the workers for payment of compensation in case of some bodily injury leading to death, permanent or partial disability while at work.

The Minimum Wages, Act, 1948: This Act authorises the appropriate Government, i.e. Central Government in case of establishments in the Central sphere and State Governments in case of establishments in State sphere, to fix and revise the rate of minimum wages and a minimum time rate of piece-rate wages for the skilled/semi-skilled and unskilled workers in respect of the scheduled employments under the Act.

The Equal Remuneration Act, 1976: The Act provides for payment of equal remuneration to men and women workers for the same work or work of similar nature and for the prevention of discrimination on grounds of sex.

Maternity Benefit Act, 1961: This Act seeks to regulate the employment of women in certain units for specific purposes before and after child birth and provides maternity and allied benefits.

The Employees' Provident Fund (Miscellaneous Provisions) Act, 1952: Under this legislation the workers working in factories and other establishments get benefits under the Provident, Pension and Deposit-linked Insurance Fund and Employees' Pension Scheme.

The Employees' State Insurance Act, 1948: This Act seeks to provide for employees in case of sickness, maternity and injury.

The Factories Act, 1948: This Act provides for the health, safety and welfare of workers in factories. The provisions relating to health cover include cleanliness, ventilation, temperature, dust, fumes, artificial humidification, overcrowding, lighting, drinking water, toilets, etc. The provisions relating to safety cover are fencing of machinery, rules concerning work on or near machinery in motion, prevention of employment of young persons in dangerous machines unless fully trained and provisions relating to welfare cover include proper washing facilities, facilities for sitting, first-aid, shelter, rest room, lunchroom, canteens, crèches, etc.

The above legislations are generally applicable to the workers in the organized sector but some of these legislations like the Minimum Wages Act, 1948, and the Workmen's Compensation Act, 1923 are applicable to the workers in the unorganized sector also. The schedule of employments under the Minimum Wages Act, 1948, inter-alia, includes agriculture and other employments in the unorganized sector.

There are some other legislations also having direct bearing on the unorganised sector like beedi workers, construction workers, child labour, contract labour, etc. The latest among the legislations for the unorganised sector workers is the Building & Construction Workers (RECS) Act 1996 and the Building & Other Construction Workers Welfare Cess Act, 1996. This legislation covers a large chunk of the work force of the unorganised sector, which is estimated to be more than 17 million. This is a very comprehensive piece of legislation, which include welfare measures as well as health and safety of the construction workers. However, even after nine years of its enactment, the implementation of law is yet to pick up momentum. Only the States of Kerala, Madhya Pradesh and Delhi have started implementation of the Act. The remaining States are still at various stages of adoption and implementation of the Central legislation. The State of Tamil Nadu has been implementing its own legislation for construction workers.

The implementation of the above-mentioned labour laws both for the organized and the unorganised sector is secured through the Central Industrial Relations Machinery (CIRM) at the Central sphere and through the State Labour Departments. In the organised sector, there is a proper mechanism in place to implement the necessary laws and the Trade Unions are there to take up the cause of the workers in case of any violation of the laws. However, the implementation of the laws is tardy in the case of the unorganised sector due to various reasons, such as:

- In many cases, there is no visible employer-employee relationship.
 - There is large magnitude of workforce and the work place is scattered. Therefore, for collection of contribution, monitoring and administration of social security programme would involve a huge financial implication and manpower requirement.
 - The home-based activities constitute a major segment of the unorganised sector in India. The work is done at the place of the choice of the workers mostly at his residential premises involving the whole family including women folk and children. In such cases, no records or registers are maintained and therefore, it is not possible for the implementation machinery to enter the homes to carry out the inspections.
 - The workers are illiterate, migrant, scattered and unorganised, therefore, subject to exploitation by the employer/contractor.
 - Most of the states have insufficient enforcement machinery and staff.
 - Due to various reasons, if not impossible, it is very difficult to reach the informal sector workers in most of the cases.
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CHALLENGES FACING LABOUR INSPECTION IN THE INFORMAL SECTOR

The informal/unorganised sector provides employment and income-earning opportunities to a large segment of workers in the informal economy. In India, there is a huge workforce who coms their livelihood from the informal sector. The enactment of legislations and other measures to bring them under the formal and highly regulatory and social protection instruments will adversely affect the existing mechanism prevailing in the informal sector as it would lead to market imperfections creating hurdles in the smooth functioning of the market forces conducive for its expansion. Besides, it requires huge infrastructural and institutional arrangements involving financial implications beyond the capacity of the Government in the changing scenario all over the world including India. The Government has to play the role of facilitator and promoter so that the workers employed in the informal sector are able to get requisite level of protection and security to have decent work environment enabling them to utilize their skills fully and according to their capabilities necessary for enhancing the competitiveness of their outputs and thereby raising their income and socio-economic status. The Government's role has to be that of a facilitator to provide a conducive working environment. The unformal sector has immense potential for growth. The existing schemes and programmes extend social security measures to roughly ten million workers out of around 370 million workers employed in the unorganised sector. Such being the magnitude of the workforce, it is a great challenge to cater to their needs. Making available funds to provide social security to all 370 million workers would be a daunting task for any government.

Within the unorganised sector, about 60% of the population is employed in the agricultural sector. With a view to regulating their conditions of employment and providing certain social security/welfare measures, efforts have been made to enact central legislation over a period of time. Moreover, it could not take place due to divergent views amongst the States. Besides, financial constraints, lack of consensus amongst the Sates and other stake holders to have any central legislation having provision to regulate their working conditions and to provide social security is one of the main challenge. Also, the requirement of funds for any social security purpose is huge which according to the States, is beyond their capacity. The Central Government too has found it difficult to locate sources for such funds. The Krishi Shramik Samajik Suraksha Yojana 2001 (KSSSY 2001) was launched in 50 districts to cover 10 lakh agricultural workers on a pilotproject basis. The scheme provides benefits like pension, group insurance and moneyback to persons enrolled on a yearly contribution of Rs. 365 per annum by the beneficiary (Re. 1/- per day) and Rs. 730 per annum by the government (Rs. 2/- per day) It appears quite difficult to extend it to other districts as it has a huge financial implication. Though the scheme launched in July 2001 could not make any headway and has enrolled little more than 2,50,000 agricultural workers only. Provision of funds by the Government was the main reason for discontinuing the scheme or extending its coverage to other districts.

Homebased workers constitute the other major segments of the workforce in the unorganised sector. Formulating any national policy for homebased workers poses problems which include lack of data, lack of clear employer-employee relationship, highly scattered nature of work place, unclear information on magnitude of their problems, no mechanism of reaching out, etc. However, the Government had earlier organised national consultations in this regard in which state governments, representatives from the trade unions, employers' organisations, and non-governmental organisations participated.

With the intention of regulating employment conditions and providing safety, social security and welfare measures to construction workers, the Building and other Construction Workers (RECS) Act 1996 was enacted. It laid down provisions to extend pension, insurance and other social security benefits to construction workers. The State governments were made primarily responsible for its implementation. In spite of the best efforts of the Central Government, some of the State Governments have not been able to implement the Act in letter or spirit. Though it is a very progressive piece of legislation providing social security to more than 17 million construction workers, very few states have started its implementation. Concerted efforts are being made to persuade State Governments to implement the Act. A Central Government team under the Labour and Employment Secretary has been visiting various States in the country and holding special meetings and consultations with senior officers in the State Governments to impress upon them the need to implement such a progressive legislation in their States at the earliest.

Welfare Funds have been set up for the benefit of beedi, certain non-coal mine and cine workers. The schemes implemented under these Funds cover insurance, health and other aspects concerning social security. More than 4.5 million workers and their families are being benefited under the schemes framed under these Welfare Funds.

The Inter-State Migrant Workmen (RECS) Act 1979 which is applicable to the migrant workers who migrate through contractor/agents also has provisions to provide accommodation, displacement allowance, journey allowance, medical facilities, protective clothing, etc to the workmen free of charge. It has been observed that provisions of the Act have not been put in place by both the States of origin of migrant workers and the borrowing States due to various reasons such as financial constraints, manpower shortage, etc.

IMPACT OF CHILD LABOUR AND BONDED LABOUR ON INFORMAL ECONOMY

The bonded labour system stands abolished in India and does not exist as such in the country. However, if some incidents are reported or come to light, immediate action is taken to release and rehabilitate the bonded labour. The Government has a scheme for

survey identification, release and rehabilitation of bonded labour. This scheme has been in force for almost the past three decades. Similarly, it is the endeavour of the government to prohibit child labour in hazardous occupations in a phased manner and also regulate employment in such areas. However, the root cause of the bonded labour and child labour is poverty and the socio-economic conditions of the people. In this direction, Central and State governments are implementing various developmental and welfare schemes. However, there is a need to enlarge the scope of existing poverty alleviation schemes and programmes with enhanced allocation of funds and strengthening the delivery mechanism to implement the same with target oriented approach to cater to their needs more efficiently and effectively in a timebound manner. Further, measures to create awareness of long-term benefits to the people and the nation of providing healthy childhood to its children will further help in tackling the issues of child labour. In addition to this, concerted efforts have been made to alleviate poverty through multi-pronged strategy encompassing employment oriented schemes and programmes, education, health care and housing facilities, etc. to improve income, living and working conditions of the workers and thereby raise their socio-economic status. The concern of the Government is reflected in the continuous heavy increase in the budgetary allocation to the social sector which includes education, health, family welfare, nutrition, sanitation, rural development, housing, social welfare, etc. The plan outlay has almost doubled from Rs. 1832730 million in the Ninth Plan to 3473910 million in the Tenth Five Year Plan (2002-07) for the social sector indicating the commitment of the Government to the poor which generally comprise a large chunk of the informal economy.

CONCEPTS AND CURRENT APPROACHES: LESSONS LEARNT

Concept

The unorganized/informal sector plays a vital role in terms of providing employment opportunity to a large segment of the country's work force and significantly contributes to the national product. The contribution of the unorganised sector to the net domestic product and its share in the total NDP at current prices has been over 60%. In the matter of savings the share of household sector in the total gross domestic saving is about three fourth. The employment front, the informal/unorganized sector absorbs about 93% of the total workforce in the country. In fact, the informal sector is expanding and will continue to be a source of employment to the existing and additional workforce in the years to come. On the other hand, employment in the organized sector is decreasing.

Current Approaches

It is observed that over the years, the organized sector is shrinking and the workers are joining the ranks of informal/unorganized sector. The approach of the Government,

therefore, is to encourage entrepreneurship while at the same time protect the interests of the workers engaged in the informal sector and provide social security to them through legislative measures and social security schemes and programmes. The Government has already enacted various legislations. At present the Indian economy is passing through a prolonged process of economic reforms and liberalization. During this process, mergers and acquisition of various firms within the industry, upgradation of technology and other innovative measures are taking place to enhance competitiveness both in terms of cost and quality to compete in the national as well as international market. Since survival of the fittest is the norm in a marketled development approach, inefficient units are expected either wither away or merge with others performing better or forced to become competitive for their very Survival. All such developments too lead to swelling the ranks of informal sector workers.

The Government continues to make concerted efforts to provide social security to this large segment of the work force by enacting legislations and framing schemes and programmes. Recently, the Government has constituted a National Commission for Enterprises in the Unorganised/Informal Sector (NCEUIS) under the Chairmanship of Dr. Arjun Sengupta, a renowned economist to examine the problems faced by the enterprises in the unorganised/informal sector and make recommendations to provide technical, marketing and credit support to these enterprises. The terms of reference of the Commission, inter-alia, include identifying the constraints faced by small enterprises with regard to freedom of carrying out the enterprises, access to raw materials, finance, skill, etc., review of existing arrangements for estimating employment and unemployment in the informal sector and review of social security system, available for labour in the informal sector. The Government has also introduced the National Rural Employment Guarantee Bill during the Winter Session of the Parliament in 2004. The objective of the Bill is to guarantee at least 100 days of employment in a year to at least one person in every rural household on assetcreating public works programmes.

In the meanwhile, the Government is also in the process of enacting a comprehensive legislation for workers in the unorganised sector and has drafted the 'Unorganised Sector Workers Bill, 2004'. The draft Bill, inter-alia, provides for protecting the interests of unorganised workers and setting up of welfare boards/funds by way of contribution from the workers, employers and the Government with a view to formulating social security schemes in the area of health care, insurance cover and old age pension, etc. The draft Bill is at the stage of consultations with the social partners, i.e. state governments, representatives of trade unions and employers' organizations.

In this situation, there is a special need to take care of the interests of the workers by providing them training, upgrading their skills, and other measures to enable them to find new avenues of employment and improve their productivity in the existing employment. This would also enhance the competitiveness of their product both in

terms of quality and cost necessary to improve their income and thereby raising their socioeconomic status. It has been found that the formal sector could not provide adequate employment opportunities to accommodate the workforce in the country and the informal sector is the only source of employment for their subsistence and survival. Keeping in view the existing economic scenario, the unorganised sector will expand further in the years to come. Thus, it needs to be strengthened and activated so that it can act as an engine for employment generation and social development.

SOCIAL SECURITY

In India, the term social security is generally used in its broadest sense; it may consist of all types of measures—preventive, promotional and protective as the case may be. The measures may be statutory, public or private. The term encompasses social insurance, social assistance, social protection, social safety net and other measures necessary for their betterment.

There are a number of models providing social security to workers in the unorganised sector. These can broadly be classified as under:

- Centrally funded social assistance programmes;
- Social insurance schemes;
- Social assistance through Welfare Funds of Central and State Governments; and
- Public initiatives.

The Centrally funded social assistance programmes include the employment- oriented poverty alleviation programmes such as Swarnjayanti Gram Swarajgar Yojana, Jawahar Gram Samridhi Yojana, and Employment Assurance Scheme. The National Social Assistance Programme (NSAP) comprises oldage pension, family benefit and maternity benefits to address the social security needs of the people below poverty line.

Social insurance schemes include several schemes launched by the Central and the State Governments for the benefit of weaker sections through the Life Insurance Corporation of India and General Insurance Corporation of India. There are schemes for employees of shops and commercial establishments and other weaker sections. Janshree Bima Yojana is a group insurance scheme that covers natural/accidental death and partial or total permanent disability due to accident. Those below the poverty line and marginally above are eligible to join the Scheme. Another group insurance scheme for agricultural landless labour, Krishi Shramik Samajik Suraksha Yojana-2001 launched in July 2001 on a pilot basis to provide for pension and insurance besides providing money back after every ten years. The contribution of the beneficiary is Re.1 per day while the Government contributes Rs. 2/- per day. There are other insurance

schemes in place for certain categories of occupational groups or workers in the unorganized sector such as Group Accidental Insurance Scheme for Active Fishermen, Insurance Scheme for Handloom Weavers, etc. There are other schemes such as Saving-cum-Relief for Fishermen, Thrift Fund Scheme for Handloom Weavers taking care of their social security needs to some extent. Then, there is a scheme called Universal Health Insurance Scheme (UHS) for those living below the poverty line, again covering mostly unorganized sector workers. This is a highly subsidized scheme giving annual benefits of hospitalization costs to the tune of Rs. 30,000 and sickness compensation.

Several public institutions and agencies are also imparting various kinds of social security benefits to selected groups of workers. Among these Self Employed Women's Association (SEWA) has made significant achievement in promoting social security through the formation of cooperatives amongst self-employed women workers. Similarly, another NGO, namely, Working Women's Forum (WWF) has been doing good work amongst women beedi workers and other women workers in the informal sector.

Welfare Funds represent one kind of model developed in India for providing social protection to workers in the unorganised sector. The Government of India has set up five Welfare Funds. Central funds are administered through the Ministry of Labour for beedi workers and certain other occupations for whom no direct employer-employee relationship exists. These funds are constituted from the cess collected from the employers and manufacturers/producers of the particular commodity/industry concerned. For example, a cess of Rs. 2/- is collected on every 1,000 manufactured beedi makes a corpus of Rs. 900 million (approx) for providing social security to around four million workers and their families. The rate of cess has been enhanced to Rs. 4/- on manufactured beedis from 1 April, 2005. The schemes under the Welfare Funds are outside the framework of specific employer and employee relationship as the resources are raised by the Government on non-contributory basis and the delivery of welfare services is affected without linkage to individual worker's contribution. The Welfare Fund model has been able to stand the test of time and is worth emulating wherever it is found to be feasible.

The Government has also enacted a Central legislation for the building and other construction workers towards creation of welfare funds at the State level. There are around 17 million construction workers in the country. A small cess is collected on the basis of the cost of a construction project which makes the corpus of the welfare fund for the construction workers. This model is also based on the Welfare Fund Model. All benefits such as group insurance, medical, educational assistance, pension, etc. are provided to this section of the unorganised sector workers. Presently, some States in the country, namely Kerala, Tamil Nadu, Madhya Pradesh, Pondicherry, Orissa and Delhi have started implementing schemes under this Act. However, other States are in the process of adopting similar schemes.

Moreover, the welfare fund models have successfully been implemented by various States for various categories of workers. The State of Tamil Nadu is running 11 Welfare Boards for workers including construction workers, truck drivers, footwear workers, handloom and silk weaving workers. Similarly, the State of Kerala is also running several welfare funds for agricultural workers, cashew workers, coir workers, fishermen, toddy-tappers, etc. In these systems there is a concept of contribution of the worker which is absent in the welfare fund model of the Central government. Some of the issues relating to social security are briefly discussed below:

- The existing schemes and programmes of the Central/State Governments/NGOs and others extend social security measures to over ten million workers only out of roughly 370 million workers in the unorganised sector.
- Within the unorganised sector, about 60% of the population is employed in the agricultural sector alone.
- Homebased workers constitute one of the major segments of the workforce in the unorganised sector. Formulating any national policy for homebased workers poses problems which include lack of data, lack of employer-employee relationship, highly scattered nature of work place, unclear information on magnitude of their problems, no mechanism to reach them, etc.
- Welfare Funds have been set up for the benefit of beedi, certain non-coal mine and cine workers. The coverage is limited to 4.5 million workers out of a total work force of 370 million in the unorganised sector.
- The Inter-State Migrant Workmen (RECS) Act 1979 has been enacted for the migrant workforce. However its implementation is not upto the desired level both at the place of origin of the migrant worker as well as in the Borrowing states due to various constraints.

LESSONS LEARNT

The experience of the efforts made so far lead to the following conclusions:

- There is utmost need to create awareness amongst the unorganised workers about the existing legislations/schemes/programmes available for them and guide them to form self-help groups.
- The magnitude of the problem is immense. The socio-economic status of the working class is poor. The nature of employment and working hazards differ from occupation to occupation. Therefore, it is difficult to organise workers or implement uniform schemes/ programmes for all of them.
- Adequately designed communitybased or occupationbased programmes could be explored. The role of the Government should be that of a facilitator. The Government, recently, launched Krishi Shramik Samajik Suraksha Yojana and

the Unorganised Sector Workers Social Security Scheme. Both schemes could not do well mainly because of non-availability of government funds and manpower required for implementation. Self-financed schemes with contribution from the workers and employers with little or negligible financial support from the Government could perhaps be sustainable in the long run.

- There is low level of literacy. Workers do not have easy access to credit and microfinance which throws them into the lap of exploitative money lenders and are, thus, get exploited by them.
- Productivity in the unorganised sector is low. To increase productivity and subsequently, the income of the workers, training and skill development is required. There are ITIs set up in various parts of the country imparting training in about 67 trades including engineering and non-engineering disciplines and covering various types of activities such as cutting and tailoring, computer operator-cum-programme assistance, etc. There are a number of vocational, short-term and regular training programmes conducted by various Ministries/ Departments such as Ministry of HRD, KVIC, etc. to impart training focusing on self-employment.
- The Government has decided to modernize ITIs and in the first instance a 100 it is are to be made world class.

LABOUR ADMINISTRATION AND ITS INTEGRATION IN WORKPLACE MONITORING

In India well structured labour administration has been established both at Central and State level to cater to the needs of workers engaged in the formal and informal sector, particularly to deal with their working conditions, social security, dispute resolution and other related issues. Workers in the organized sector are well organized and conversant with issues concerning their well being. The formal sector has workers unions, associations and other organizations to ventilate worker's grievances and sort out their issues. Trade unions and other stake holders are fully involved in the collective bargaining processes for the protection of worker's right as well as to take various initiatives for their welfare.

As a result of privatization, globalization and integration of the economy with the rest of the world, the informal sector is expanding and emerging as a major source of additional employment to the millions of people and it will continue to grow in the years to come. Though enactments like the Minimum Wages Act, 1948, the Workmen's Compensation Act, 1923, and the Maternity Benefit Act, 1961 are equally applicable to workers in the informal sector, the enforcement/implementation of these legislations leaves much to be desired. Due to diametrically opposite characteristics of the informal sector both the labour administration and the workers in the informal sector are not within the reach of

each other. There is lack of awareness amongst the informal sector workers as most of them are illiterate and working in isolation in remote areas. Their workplaces are scattered. Mostly, they are self-employed or lowwage earners. There is no backing of trade unions as such and workers lack any kind of collective bargaining powers. In many cases, local communities play a crucial role in settlement of issues concerning wage rate, financial disputes and other issues in the agriculture sector. As far as the conditions of work such as working hours, weekly holidays, etc. for agriculture workers are concerned, this is also decided mutually. In a nutshell, the informal sector worker has very little choice except to accept whatever is offered to him. In some of the agriculturally progressive States like Punjab and Haryana at least some workable arrangements and mechanisms have developed on their own without any legislative backing. The community and the village panchayats have played an important role in the evolution of these mechanisms. Disputes like financial advances and wages are settled in the village itself through such arrangements. It is heartening to note that by and large there are very cordial and harmonious relations between the land owner and the agricultural worker. In most of the cases, the labourer is treated like a member of the family for all practical purposes.

It is in such cases that, the role of trade unions becomes much more important. They have to re-invent themselves and evolve unconventional methods to come to the rescue of this vulnerable section of society. The trade unions can contribute significantly in generating awareness regarding labour welfare, legislations and programmes/schemes for their benefit. The workers could be educated on other aspects as well such as how the labour administration could help in dispute settlement, payment of wages, working hours, occupational safety, etc.

The Labour administration has also not been very effective so far as the informal sector is concerned. It has not been able to reach the informal sector due to various constraints such as inadequate implementing machinery, resource constraints, magnitude of the workforce involved, etc. In absence of definite employer-employee relationship, the task of labour administration becomes even more difficult. Under such circumstances, trade unions, NGOs and other institutions have to create a conducive environment by adopting innovative methods.

THE MONITORING FRAMEWORK

As discussed earlier, there is a well-established mechanism for enforcement of labour laws in the organized sector. In the case of establishments in the Central sphere, the monitoring of the implementation of the law is secured through Central Industrial Relations Machinery (CIRM). There is the Chief Labour Commissioner (Central) at the top of the pyramid assisted by a large network of regional offices having presence all over the country. There are Deputy Chief Labour Commissioners (Central), Joint Chief Labour

Commissioner (Central), Regional Labour Commissioners (Central) and Assistant Labour Commissioners (Central). The Labour Enforcement Officer is the lowest functionary in this setup. The Labour Enforcement Officers conduct periodic inspections from time to time and also act upon receipt of specific complaints received thereof. The information is then compiled and sent to the higher authorities. The information so received from the various regions is compiled and monitored at the Office of the Chief Labour Commissioner (Central) and necessary remedial measures are taken. Further, as and when required, formulation/review of the policy to streamline the implementation of labour laws is also suggested. Similarly, at the State level, there are Labour Commissioners and Labour Officers/Labour Inspectors to enforce and monitor the implementation of the labour laws. They cover every nook and corner under their jurisdiction, be it a municipality, a district or a cluster of villages. The basic approach is to ensure implementation of labour laws and flow of information to the authorities entrusted with the task to review the existing legislations or enactment of new legislations to ensure the protection of the rights of workers. The involvement of trade unions also plays a great role in the proper implementation of the laws. In fact, the State Governments may have to think of actively involving trade unions, local bodies and NGOs in the matter of enforcement of at least such legislation which has a direct impact on the conditions of the workers in the informal sector like the Minimum Wages Act, 1948. It may not be out of place to mention that the Government of Madhya Pradesh has notified and authorized the village panchayats as the 'Inspectors' for enforcing the provisions of the Minimum Wages Act, 1948 at least in some occupations, viz, construction, brick kilns, stone crushing, tobacco products, and manufacturing.

With the shrinking of the organized sector and the consequent increase in employment opportunities in the informal sector there are hundreds of small occupations requiring informal labour. The nature of working conditions and the requirements of the workers differ from one state to another and even from one district to the other. Similarly, there is difference from occupation to occupation. Thus, the labour administration and monitoring system have to be non-conventional, needbased and humane in their approach. In this direction the role of the trade unions, voluntary organizations and NGOs is very important. It is high time that trade unions, voluntary and non-governmental organizations, local bodies including villagelevel bodies are actively involved not only in the matter of enforcement and implementation of labour laws for the workers in the informal economy, but also in prosecutions and convictions. Dispute resolution and their settlement is an important area where the services of such agencies/bodies may be gainfully utilized. The institutional and established mechanism of the Judicial Labour Courts are not only short of judicial officers but also have a large number of pending disputes. The procedural requirements of the legal settlement of disputes are extremely lengthy and time-consuming. Therefore, in these circumstances, the non-formal system of dispute resolution including involvement of local bodies/trade unions, NGOs, etc. is much better and its mechanism and implementation has to be devised.

THE CONCEPT OF COMMUNITYBASED MONITORING IN INFORMAL SECTOR AND DIFFERENCES WITH FORMAL SECTOR WORKPLACE MONITORING

The labour administration in the informal sector has to be carried out in a different manner from the labour administration in the formal sector. Workers in the informal sector are either homebased who are working from the premises of their homes involving the entire family including women folk and children or working outside their own premises as piecerated and dailyrated workers. In the absence of employer-employee relationship, low level of literacy and low level of awareness about the labour laws available for their benefits, the issues concerning their needs has to be handled in a manner altogether different from that of workers in the formal sector.

The approach could be occupationbased or communitybased involving local bodies. Thus, social dialogue has to be encouraged. The success of occupationbased approach can be seen from the welfare fund schemes for beedi workers, cine workers, iron ore, limestone and dolomite workers and also welfare funds being implemented by Tamil Nadu and Kerala for certain occupational groups. There are tripartite bodies, i.e. Advisory Committees at the Central and Statelevel comprising representatives from employers, employees, i.e. trade unions and the Government. These tripartite bodies meet often and work towards protecting the interests of the workers, review programmes and suggest to the Government ways to formulate new proposals, if required, for their betterment.

The other approach could be communitybased schemes. The Government is already implementing Swarnjyanti Gram Swarojgar Yojana. This is a holistic programme of self-employment covering all aspects of self-employment, viz. Organization of the rural poor into self-help-groups, capacitybuilding, training, planning of clusterbased activities, infrastructure build-up, technology and marketing support. The programme is monitored from top to the grass-root level both at the Central and state level. The Indira Awas Yojana (IAY) for construction of houses for families living below the poverty line is fully implemented by villagelevel community organizations better known as the village panchayats. The selection of beneficiaries, monitoring the progress of construction of houses and finally disbursement of financial assistance is done by the village panchayats. Another remarkable example of communitybased efforts both in the matter of implementation and monitoring are the self-help groups (SHGs) by women, mostly in rural areas mainly for the purpose of savings, microcredit and microinsurance. These have flourished in hundreds and thousands of modutes all over the country empowering rural women who constitute the poorest of the poor.

The Government of India has very recently launched the National Rural Health Mission (2005-2012). The Mission seeks to provide effective health care to the rural population throughout the country. The Mission has, as its key components, provision of a female

health activist in each village; a village health plan through a local team headed by the Health and Sanitation Committee of the Panchayat; strengthening of the rural hospital for effective curative care and made measurable and accountable to the community through Indian Public Health Standards (IPHS); and integration of vertical Health and Family Welfare Programmes and Funds for optimal utilization of funds and infrastructure and strengthening delivery of primary healthcare. It seeks to revitalize local health traditions and mainstream AYUSH into a public health system and also aims at effective integration of health concerns with determinants of health like sanitation and hygiene, nutrition, and safe drinking water through a District Plan for Health. The Mission seeks decentralization of programmes for district management of health and to improve access of rural people, especially poor women and children, to equitable, affordable, accountable and effective primary healthcare.

A recent experiment on the principle of community-based approach is being undertaken for barber/haircutter community in Delhi by the National Academy for Training and Research on Social Security (NATRASS). After a detailed study of the socio-economic conditions as well as surpluses available with them, NATRASS has initiated an occupational/community-based multibenefit schemes including group insurance, microcredit and skill training for barbers in Delhi with the active cooperation of insurance, banking and financial institutions. Similarly, there are various other schemes for the empowerment of both deprived men and women. The thrust lies in organizing informal workers through the involvement of local bodies, panchayats, etc. towards capacity building thereby empowering them.

There is another unique example of the community-based approach that exists in Nagaland, one of the States in the North-East region of India. Here, the decision of the Village Council in disputes relating to wages and other civil matters as well as criminal matters are acceptable to all concerned. Even in case of natural calamities, the affected villagers are helped to start a new life with the assistance of all as decided by the village council. Another feature of community functioning of the village council is that the entire village has only one electric meter. The KWH (units) charges to be paid by each household are decided by the village council. The lump sum payment is made by village council to the official of the administration from the electricity department who visits the village every month. This shows the strong roots of community-based approach with no interference from the conventional Government machinery. Several lessons can be drawn from such examples to be replicated for workers in the informal economy.

INFORMAL MONITORING MECHANISM AND ITS INTEGRATION INTO THE LABOUR ADMINISTRATION

The monitoring mechanism—be it at the national, state or grass root level—does not exist in the informal sector. Since almost all work units are unregistered and outside the purview of administrative control as such, they are, therefore, not fully integrated into labour administration.

In order to bring them into the mainstream, there is a need to generate awareness among workers about their rights and entitlements. It requires a multi-pronged strategy by involving all the stakeholders. The organised sector has a crucial role to assist and encourage the tiny units so that they are well integrated into the overall system of labour administration. The trade unions have traditionally been concentrated and working for the workers in the organised sector alone. Since, the role of Government as well as the public sector is decreasing, trade unions and their associations should make concerted efforts to bring the workers in the informal sector also into their fold.

There is a need to have institutional arrangements to impart training to the workers. In case of beedi workers, non-coal mine workers, cine workers and to some extent construction workers, labour administration has set up mechanisms to monitor various concerns of these workers. In other categories of workers, NGOs, voluntary organisations, local bodies, trade unions, etc. have to come forward to organize the workers, set up welfare committees and other formalized institutional arrangements to monitor the issues concerning the work force and assist the Government both at the Central and State level. In view of the changing economic scenario, the Government has the role of facilitator. All the stakeholders including trade unions, NGOs, employers' organizations should play a pro-active role in this regard.

DEVELOPMENT OF A LOCAL, VOLUNTARY MONITORING PROCESS TO SUPPORT LABOUR INSPECTION ENFORCEMENT

The informal economy in India involves a gamut of activities. About two-thirds of the workforce in the country is employed in the agricultural sector. There is no formal mechanism as such to conduct inspections or monitor various issues concerning the workforce employed therein. The rural economy of the country has had an inherent system of resolving various issues by involving local bodies. The peculiar characteristic of the informal sector in the country is that there is no employer-employee relation as existing in other parts of the world. The people engaged in the sector work as a family. The degree of dependence on each other is of a high order and thus conflicting situations are miniscule in the overall system.

The structure of the informal economy is such that the system of labour inspection can not be forced. Further, it is not a workable proposition either. A suitable mechanism can be evolved for different categories of workers working in different situations. For instance, workers engaged in the matter units can be well integrated into the system by creating awareness among themselves, through a system of submission of periodical returns. Here the trade unions and NGOs have a greater role to play. In case of other workers, the bottomup approach would be more suitable. The involvement of local communities such as Gram Panchayats, municipalities and other local bodies will help in strengthening the monitoring mechanism rather than enforcement of labour inspections.

People in the informal sector are, in general, illiterate. They are not aware of labour administration and have an altogether different opinion of sharing information with the labour administration. They are scared of the labour law enforcement machinery and thus do not come forward. Hence, there is an urgent need to develop local and voluntary mechanisms to take care of the interests of the workers engaged in the informal economy. Organisations like SEWA, WWF (India) and several others at local levels doing a commendable job in the area of organising women workers, creating awareness, etc. can be actively involved. The ratio of women workers in the informal sector is very large. These women workers have to share greater responsibility as they have to manage the home and work. There is lack of access to credit and microfinance for the male informal sector workers. For the women workers, the situation is not so good as they do not own land and have no assets to mortgage to get loans. Organisations like SEWA arrange finances and guide women workers to develop entrepreneurship capacity. It is, therefore, necessary to encourage growth of such organisations at different levels for different categories of workers.

CHANGING THE MINDSETS

There is an urgent need to change the existing mindset at all levels. Since Independence, public sector and large industrial units have been at the forefront of all growth. All government policies and programmes were targeted towards the growth of these sectors. Banks, financial institutions, technological upgradations, and marketing incentives played an active role in the growth of this sector. The Government appointed various Commissions and Committees to suggest measures for the growth of this sector. Trade unions concentrated on the protection of the rights of workers in these sectors. However, not much attention has been paid to the informal sector. The present status of the informal economy is mainly due to its inherent strength. The selfsufficient character of the rural economy had been one of the important factors in the development of informal sector over a the periodof time. In brief, little attention has been paid to this sector by all stake holders. Recently, the Government has constituted a National Commission for the Enterprises in the Informal/Unorganised Sector to examine their problems and make recommendations to provide technical, marketing and credit support to these enterprises. The terms of reference of the Commission, inter-alia, include identifying the constraints faced by small enterprises with regard to freedom of carrying out job works, access to raw materials, finance, skill etc., review of existing arrangements for estimating employment and unemployment in the informal sector and review of social security system available for labour in the informal sector.

Now, the informal economy generally and by far remains the only source of employment and livelihood to the major segment of the economy due to various reasons. In order to make it selfsustainable and ensure accelerated growth with equitable distributive arrangements, there is need to change the mindset of all those engaged in the informal sector, i.e. labour administration, employers, trade unions, NGOs, etc.

Among others, awareness of various labour laws, rules, regulations, etc. could be of much use. The workers engaged in the informal sector should have dignified working environment, social security, etc. at par with the workers in the formal sector. There is a need to provide adequate resources to impart joboriented training and skill upgradation. The labour administration and monitoring mechanism should be such that the workers should have the feeling that it is for their upliftment and not an additional burden. The aim should always be, as far as possible, to provide decent working conditions to these workers.

CHALLENGES AND LESSONS LEARNT FOR LABOUR ADMINISTRATION

The informal sector is facing many challenges which need to be addressed. Some of the major challenges are discussed earlier. The informal sector has grown today due to its inherent strengths such as the selfsufficient nature of the economy, particularly in rural areas. Though efforts have been made at Government, employer, trade union, NGO or other institutional level to look after their interests, these have largely been inadequate. The local bodies and communities involved in the activity had played a crucial role in the development of the formal sector. Labour administration cannot force anything without involving the local community. In order to find success in any attempt to improve the socio-economic conditions as well as the working conditions of the workers engaged in the informal sector, involvement of local communities, local bodies, Governmentlevel voluntary and other institutions is a pre-requisite.

The lessons learnt are:

- An occupationbased approach may prove more useful and practical. For instance, operation of welfare funds and schemes for occupational groups like beedi workers, cine workers, mine workers, etc seems to have worked.
 - The communitybased approach like the project for barbers in Delhi can prove to be effective. The National Academy of Training and Research in Social Security has been facilitating organising the different associations of barbers in Delhi. Their latest experiment is with rickshaw pullers.
 - The laws should be simplified and maintenance of records and registers should be minimal.
 - Trade unions have rich experience of working for the organised sector for a long time. Their experience and expertise could be of immense use for the betterment of the informal sector.
 - In fact, all these bodies should be fully utilised in the matters of prosecution and convictions.
 - Tripartite mechanism for dispute resolution/dispute settlement should be adopted.
 - The organized sector should come forward for imparting training and skill upgradation.
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- The organised sector should contribute towards social security measures for the workers in the informal sector.

POLICY RECOMMENDATIONS AND STRENGTHENING LABOUR INSPECTION AND ADMINISTRATION

The informal economy is an integral part of the Indian economy. Due to changed economic scenario, many occupations/trades in the formal sector have given way to the informal sector. The informal sector workers are vulnerable and generally belong to the weaker section of society. The informal sector also complements and strengthens the formal sector. Further, if the informal sector has to grow, the workforce in the informal sector is also entitled to share the fruits of this growth.

India is a large country both in terms of at workforce in the unorganized sector and the geographical area over which it is spread. The unorganized sector workers are engaged in numerous occupations from their residential premises and or small work sheds employing one or two workers or even entire families. Under such circumstances, the enforcement machinery of the Central and State Governments cannot reach every nook and corner of the Country. Therefore, we have to think about the alternatives to the existing labour enforcement machinery. Local Bodies, voluntary organizations, NGOs and trade unions can be assigned larger role to play including labour inspections. In fact, these would supplement the role of Governments.

The informal economy in India has developed gradually and over a period of time. About 60% of the workforce in the informal sector is engaged in agriculture. This includes landless agricultural workers and also those who have small land holdings. In addition to working on their own land, they work with big land owners as labourers. They do not have fixed hours of work as working hours depend on availability of water and electricity. They are compelled to accept whatever is offered to them in lieu of labour which may be cash or kind. Generally, they have reconciled to the conditions and maintain cordial relations with their employers. In case of dispute relating to financial advance, wages, etc., they have no backing of trade unions or any other institutionalised mechanisms. Under such circumstances they look to the panchayats or elders in the community to resolve the dispute. Neither the worker nor the employer is interested in conventional labour inspection and labour administration as it is felt that this would create unnecessary social tension. As such, for effective labour inspections and labour administration, the involvement of the informal sector worker is necessary. Any system which is not conducive to their working and living conditions would not yield favourable results. In the light of this, the following policy recommendations are made:

- The informal sector consists of tiny establishments having one or two employees, self employed, homebased workers and daily wage earners functioning at very low level. There should be a tripartite mechanism at the grassroot level involving
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workers, employers, panchayats, local bodies, etc.

- Given the literacy level of the informal sector workers, the laws should be very simple and worker friendly.
 - As there are mostly establishments and/or, self-employed persons, there should be minimum records and reports
 - Active involvement of municipalities, local bodies, panchayats, trade unions, NGOs, voluntary organisations and local bodies in enforcement/implementation of labour laws should be sought. The Government of Madhya Pradesh, for example, has authorized all village panchayats to act as 'Inspector's for the purpose of enforcement of Minimum Wages Act, 1948.
 - Larger role should be assigned to village communities/panchayats, local bodies, NGOs, etc. for enforcement of labour laws.
 - The approach of the existing labour administration should be friendly so that the workers and employers themselves come forward to cooperate with these agencies.
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ANNEXURE - A

S.No.	Occupation/Activity
1.	Agarbati making
2.	Agriculture machinery handling
3.	Agriculture workers
4.	Animal husbandry
5.	Bakery work
6.	Band workers
7.	Bangle manufacturing
8.	Barbers
9.	Beads making/piercing
10.	Beauty parlour and hair dressing
11.	Beedi workers
12.	Bicycle industry work
13.	Bindi workers
14.	Blacksmiths
15.	Boat/Ferry workers
16.	Bookbinding workers
17.	Brick-klin workers
18.	Brush makinng
19.	Building and road maintenance workers
20.	Bulb manufacture
21.	Bullock/camel-cart operators
22.	Butchers
23.	Cable TV operation
24.	Cane/Reed workers
25.	Carpentry
26.	Carpet weaving
27.	Chikan work
28.	Cinema workers
29.	Coaching institutions
30.	Coir industry
31.	Confectionery workers
32.	Construction workers
33.	Courier workers
34.	Data entry operators
35.	Domestic workers
36.	Dyeing
37.	Electronic and electrical goods repairs
38.	Electroplating

S.No.	Occupation/Activity
39.	Embroidery work
40.	Envelope making
41.	Firework/crackers industry
42.	Fish processing
43.	Fish workers
44.	Florists and garland makers
45.	Flour mills
46.	Footwear industry
47.	Forest workers
48.	Foundry
49.	Garment industry
50.	Gem cutting
51.	Ginning workers
52.	Glassware
53.	Goldsmiths
54.	Handloom weaving
55.	Hawkers and vendors
56.	Headload workers
57.	Health workers
58.	Honey gatherers (tribes and nomads)
59.	Horticulture and floriculture
60.	Hotel work (eateries)
61.	Lock making
62.	Manual workers for unspecified jobs
63.	Masala making
64.	Match industry workers
65.	Minor forest produce gatherers
66.	Minor minerals mine workers
67.	Newspaper vendors
68.	NGO workers
69.	Night-soil carriers
70.	Oil extractors
71.	Packing workers
72.	Panwallahs
73.	Pappad making
74.	Petrol bunk/pump workers
75.	Pickle making
76.	Pottery
77.	Powerloom weaving
78.	Printing press work

S.No.	Occupation/Activity
79.	Quarry workers
80.	Rag pickers
81.	Rice milling
82.	Rickshaw pullers
83.	Sales persons in shops and establishments
84.	Salt pan workers
85.	Sand mining
86.	Sawmill workers
87.	Security workers
88.	Sericulture (silk rearing) workers
89.	Service station workers
90.	Shepherds
91.	Shoeshining workers
92.	Small farmers
93.	Soap manufacturing
94.	Sports goods industry
95.	Steel vessels and utensils manufacturing
96.	Stone crushing workers
97.	Sweepers
98.	Telephone booth workers
99.	Temple workers
100.	Tendu leave collection
101.	Toddy tapping and related work
102.	Toys making
103.	Transport workers (drivers, conductors, cleaners, etc.)
104.	Washermen
105.	Wayside mechanics and workshop workers
106.	Welding workers

Strategies for enhancing the role of Labour Ministry in the Informal Economy

Vatsala Vatsa

INTRODUCTION

One of the greatest challenges that labour administrators all over the world have faced is the problem of exclusion of the informal sector from Government interventions in social security. In most developed countries, this challenge has been answered by programmes for all, relating to unemployment benefits, family income support, facilities for the infirm and disabled, and education and health services. Though the mechanisms of delivery vary, and the eligibility, entitlement, coverage, and levels of benefit are different from country to country, Government concern and support for these issues in developed countries reflect a long history of social action.

In developing countries, the situation is different. Insurance and State pensions cover a small minority, and though health care exists and may be available in a subsidised way, it is so thinly spread that it remains unsatisfactory. Besides this, there is hardly any support for the infirm and disabled, and even education services are seldom get provided beyond the primary level. This difference in coverage and effectiveness is partly due to resource constraints, and partly due to the low level of institutional development.

According to the 2001 Census India's population is over 1020 million, of which 376 million are workers. It is estimated that only 8% of this category of workers is in the organised formal sector, the remaining large numbers being unorganised workers, and hence excluded from most labour legislation and welfare schemes. The unorganised sector comprises those who are self-employed, unemployed or on wage employment.

CHARACTERISTICS OF INFORMAL SECTOR

Given below are some of the special characteristics of the informal sector:

1. There is no well-defined employer-employee relationship. A self-employed worker has no employer. A worker employed on wages on a casual, temporary or intermittent basis, would not have a relationship with a single employer that is continuous, and hence cannot be identified with any particular employer over a length of time.
2. Informal workers are scattered, and generally do not have the capacity or the organisational strength to engage in collective bargaining with their employer.
3. Since they work in tiny or small establishments, they do not have access to privileged facilities like credit, production or marketing support.
4. They are mostly unskilled or have little skills with no available formal arrangements to upgrade their skills or build capacity.
5. Unorganised sector work is often home-based, and is therefore isolated and vulnerable.

CONSTITUTIONAL FRAMEWORK

Social protection for the unorganised sector workers has always been a priority in India. The Directive Principles of State Policy contained in the Constitution of India require that the State should promote the welfare of its people by securing and providing a social order where justice—social, economic and political—shall inform all institutions of national life. Article 41 directs that the State make provisions for securing the right to work, education, and public assistance to the extent of its economic capacity, for the unemployed, elderly, disabled, sick, etc. Article 42 lays down that the State should make provisions for securing just and humane conditions of work and maternity relief, while Article 43 enjoins on the State to make provisions for securing a living wage, and conditions of work that ensure a decent standard of life, full enjoyment and leisure, and social and cultural opportunities. Article 47 makes it the primary duty of the State to raise the standard of living of its people, and improve public health.

These directions have generally not been fulfilled in the case of the workers in the unorganised sector. There is, therefore, a demand for legislation to convert these assurances into statutory requirements which may then be enforced through the courts of law.

ILO CONVENTION 150

ILO Convention 150 came into force on 11 October, 1980. This Convention has been ratified by 61 countries, not including India. Article 7 of the Convention reads as follows:

When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention, shall promote the extension by gradual stages if necessary, of the functions of labour administration to include activities, to be carried out in co-operation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons, such as :

- (a) Tenants who do not engage outside help, share croppers, and similar categories of agricultural workers;
- (b) Self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice;
- (c) Members of co-operatives and worker-managed undertakings;
- (d) Persons working under systems established by communal customs or traditions.

This Article recognises that the needs of informal sector workers, the categories of which are listed therein, have to be met if a country has to bring within its protection, the larger number of workers. It also prescribes that labour administration may do this in co-operation with other competent bodies.

CONCEPT OF SOCIAL SECURITY

There have been various definitions of the concept of social security, and some of the important ones are looked at below.

The definition of ILO in 1984, is the conventional definition, which states that social security is the "protection which society provides for its members through a series of public measures, against the economical and social distress that otherwise would have been caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment, injury, unemployment, invalidity, old-age and death, the provision of medical care, and the provision of subsidies for families with children". This definition is easily applicable to a developed economy. However, for a developing economy, problems arise since protective social security addresses the economic needs of only the organised workers. It does not take into account the high degree of deprivation and vulnerability of the vast majority of unorganised workers. It presumes a certain standard of living, and aims to protect any fall in that standard.

In 1999 Dreze and Sen first spoke of the promotional aspect of social security. They spoke of social security as “a social means to prevent deprivation and vulnerability to deprivation”. They argued that since there was persistent and extreme deprivation among the poor whose lives were characterised by vulnerability and fragile living conditions, promotional social security programmes are a must in developing countries. Wouter van Ginnekin’s definition of social security as “benefits that society provides to individuals and households—through public and collective measures—to guarantee them a minimum standard of living, and to protect them against low and declining standards arising out of a number of basic risks and needs”, includes both the promotional as well as protective aspects described above.

OBJECTIVES OF SOCIAL SECURITY

Though there is no uniformity in definition, there is a general agreement that the workers in the unorganised sector have inadequate protection under law, unregulated service conditions and wages, no social security, a lack of employer-employee relationship, and the inability for organised and collective action. The migrant nature of the workers and their bondage at work further complicates their predicament. The objective of social security measures in a developing country should therefore be the prevention by social means of very low standards of living irrespective of whether these are the results of chronic deprivation or temporary adversity. This approach would be different from that practised in developed countries where social security is seen generally in terms of specific public programmes involving social assistance, social insurance, and redistribution.

The emphasis on the uncertainty suffered by developing countries, because of their dependence on risky agriculture, and therefore calling for public action at the levels of not only the State, but also the household, and community is a point to be noted. Generally, effective policy instruments of Government are able to simultaneously address the issue of chronic deprivation and temporary adversity.

The Second National Labour Commission accepts the need to consider social security as a fundamental human right, and warns that if such a right becomes justiciable, it may result in a difficult financial and institutional burden on the State. Pointing out that the public expenditure on social security in India is, as indicated in the World Labour Report 2000, only 1.8% of GDP compared to 4.7% in Sri Lanka and 3.6% in China, it recommends immediate incorporation of this right in the Directive Principles of State Policy, in a system where the State bears responsibility for providing and ensuring an elementary or basic level of security, leaving room for partly or wholly contributory schemes. In its view, social security should be used in its broadest sense. It may consist of all types of measures, such as preventive, promotional and protective, as the case may be; it may include statutory, public or private measures; or the term may encompass social insurance, social assistance, social protection, social safety net, and other such terms.

Social security in India is delivered through four mechanisms —statutory entitlements; universally available services such as health and public distribution; targeted social assistance programmes; and social insurance schemes. Looking at what these mechanisms have provided and how well they have functioned should give us an idea of what is today available to the unorganised sector.

ROLE OF LABOUR MINISTRY

Labour Legislation

The Labour Ministry and State Governments in India have through legislation and schemes, regulated and assisted the informal sector workers in the country. The subject of labour is on the Concurrent List in the Constitution of India, and hence both Central and State Governments may legislate on it.

There are, at present, several laws to regulate the employment and conditions of service of workers. Some of these legislations apply both to the formal and informal sector while some have been specifically enacted for the benefit of informal sector workers only.

Among the important legislations which apply to both the sectors, regulating and protecting their employment, wages, conditions of service and work, and providing for social security, are the Workmen's Compensation Act, 1923, the Minimum Wages Act, 1948, the Equal Remuneration Act, 1976, the Maternity Benefit Act, 1961, the Contract Labour (Abolition and Regulation) Act, 1970, and the Payment of Wages Act, 1947.

The Minimum Wages Act provides for fixing and revising of minimum wages for certain scheduled employments. The Workmen's Compensation Act entitles workers to compensation if they are injured at the workplace in the course of employment, disabling them or resulting in their death. The Equal Remuneration Act legislates for prevention of discrimination in payment of wages on the grounds of sex, and the Maternity Benefit Act both provides for maternity benefits and reliefs as well as regulates conditions of employment before and after childbirth. The Contract Labour Act regulates employment of contract labour in certain establishments, and also provides for its abolition in certain circumstances. The Payment of Wages Act regulates the wages paid to ensure that they are correct and paid on time.

In the implementation of these legislations however, of insufficient enforcement machinery coupled with all the characteristics the informal sector—scattered workplaces, lack of a clear employer-employee relationship, home-based employment, and the illiterate and migrant nature of the population—has virtually made the legal recompense unavailable to the unorganised sector. The difficulties have arisen also because of flawed provisions, which have resulted in exclusion of large sections of the unorganised sector from the benefits of employment.

For example, the provisions of the Contract Labour Act, though meant for unorganised labour, cover contractors with more than 20 employees only. Since the contractor gains if he employs less than 20 workers, that is what he endeavours to do. In an analysis of these legislations, the Second National Commission on Labour notes that most of these legislations have a restriction in applicability based on numbers employed, thus making their implementation depend on an employer-employee relationship, which cannot be easily established in the unorganised sector. Even though the Workmen's Compensation Act has now been made applicable to casual labour, such a worker is again unable to prove the identity of his employer. The Payment of Wages Act, by fixing a wage limit of Rs 1600 for its applicability, straightaway excludes 95% of unorganised workers. Since self-employed and home-based workers are also excluded, both this legislation and the minimum wages legislation does not touch 60% of the sector. The Organised Sector, on the other hand, has mostly benefited from these legislations, though the enforcement is far from all encompassing. The look out for violations by Trade Unions has also helped enforcement.

LEGISLATION FOR UNORGANISED SECTOR

Specific laws enacted by the Ministry of Labour for the informal sector include the Beedi and Cigar Workers (Conditions of Employment) Act 1966, the Building and Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, and the Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act, 1979.

The Beedi Workers Act regulates the working conditions of beedi workers. It requires that all beedi manufacturing units are licensed, and realising that beedi workers are mostly home-based women, they have also been brought within its purview, but even here the self-employed are excluded.

The Building and Other Construction Workers (RECS) Act and the Welfare Cess Act of 1996 cater to one of the largest groups among the informal sector workers. These legislations provide for regulating the working conditions of construction workers relating to safety, health and service, and for social security measures from the Welfare Funds to be set up by the States. The collections into the Fund accrue from a cess to be levied on the cost of construction, which may range between 1 and 2%. The cess has been notified currently at 1%. Though the Act was enacted eight years ago, only a few States—Kerala, Madhya Pradesh and Delhi— have adopted the Act and started its implementation.

The enactment to protect migrant workmen has mostly not been successful in ameliorating their condition due to difficulties in enforcement by the State Governments. Most of the migrant labour get excluded from the purview of the Act, because they are not workers formally recruited by a contractor of one State for work in another; they are citizens of one State who have ventured into another State on their own in search of better prospects.

There is as yet no single legislation for the entire unorganised sector, though more than one attempt has been made in the last two years. A Study Group set up by the Second National Commission for Labour had drafted an umbrella legislation, and the final report of the Commission carried another draft Bill. Next, an Unorganised Sector Workers Bill was drafted in 2002, followed by still another Bill in 2003, clearly indicating the difficulties experienced by the Government to legislate on this subject.

The National Council for Labour which is the one organisation that exists in the unorganised sector, representing a large number of categories of workers in that sector, has been urging the Government to bring about an appropriate legislation through which, they have felt, the welfare and well-being of workers in that sector can be achieved. In the past, a large number of non-statutory schemes that have been introduced, have either failed or been discontinued for various reasons. The experience with the Kethihar Majdoor Yojana, and the Unorganised Workers Social Security Scheme illustrates this point. To prevent the crucial issue of welfare of the unorganised sector being left to the vagaries of governmental policies, they have been pressing for a legislation. The aspects that could form part of a comprehensive legislation would have to be concerning the regulation and protection of employment and wages, the regulation of conditions of service and work, a mechanism for settlement of disputes, information of the law, and provision of social security. This would be required for wage-employed workers. For self-employed workers, while regulation of employment, wages and conditions of work and service may not be required, social security is a facility that has to be legislatively provided for.

WELFARE FUNDS

In addition to these legislations, Welfare Funds have been set up for the benefit of certain categories of unorganised workers through Central enactments. Five such funds are in operation for the beedi workers, limestone and dolomite mines labour, iron ore, manganese and chrome ore labour, and for cine workers. The welfare schemes for beedi workers who are 4 million strong in at least fifteen States cover health, education, housing, family welfare and social security. Housing benefits for beedi and mine workers is the significant activity, and a large number have also obtained coverage under the Employees Provident Fund Scheme and the Employees State Insurance Scheme. The beedi welfare fund is financed through a fixed cess levied per bundle of 1000 beedies manufactured. For mica, cess is collected at a certain percentage of its export value; and for other mine products, it is levied on the quantum of production and not on value. The cine workers fund is financed through a cess on films on the basis of production and not collections. The wide variations in the rate structure and rationale for different rates have attracted criticism.

Some States have successfully regulated employment and provided social security measures to those in the informal sector through their own enactments. The early legislations were the Manual Workers' (Regulation of Employment) Act 1982 of Tamil Nadu, the Kerala Head Load Workers Act 1978, and the Maharashtra Mathadi Hamali and Manual Workers (Regulation of Employment and Welfare) Act 1969. Kerala and Tamil Nadu have more than one legislation for the informal sector, and they will be looked into in some detail later in this paper.

SOCIAL ASSISTANCE SCHEMES

We come now to the welfare schemes that the Central and State Governments have implemented for the informal sector workers. For the reasons mentioned earlier, schemes falling under the category of social assistance schemes have to be considered together with the provisions for social protection, for a full understanding of the available entitlements. It is not possible, however, to list out all the social assistance schemes and the large budgets that various departments of Government have, over the years provided for, with the objective of raising the living standards of the poor and vulnerable.

There are three important schemes which today provide for the rural poor access to basic entitlements like food and nutrition, housing and health, education and employment. The Sampoorna Grameena Rozgar Yojana (SGRY) targets unemployed/underemployed persons and aims at providing wage employment in rural areas, with focus on special groups like women and scheduled castes/tribes. Wages are paid in cash and foodgrains, and together with food security, the creation of durable community assets and infrastructure development is aimed at. The Swarnajayanthi Gram Swarozgar Yojana (SGSY) covers all aspects of self-employment and assistance through a credit-cum-subsidy programme, and targets self-employed persons, by promoting microenterprises and bringing the poor family above the poverty line through organising them into self-help groups, training and building capacity, and providing income-generating assets through a mix of bank credit and Government subsidy. Though large budget provisions have been made for these schemes, the low income level of the majority of workers in the unorganised sector, have caused low employment security and food security to continue to remain as outstanding concerns. The Indira Awas Yojana targets families of Scheduled Castes and Scheduled Tribes, and the very poor from other categories, for providing assistance for construction of dwelling houses. The beneficiaries are selected by the Gram Sabha, the lowest tier in the Panchayat structure.

The National Social Assistance Programme (NSAP) has three main components—the National Old-Age Pension Scheme (NOAPS), the National Family Benefit Scheme (NFBS), and the National Maternity Benefit Scheme (NMBS). The NSAP has been in operation since 1995-96, and is meant for households below the poverty line. Old persons above the age of 60 are entitled to a pension of Rs.100 per month, provided they have

no other source of income. The maternity benefit available is cash assistance of Rs.500 per childbirth, not exceeding two, and the Family Benefit Scheme provides for a cash assistance to the family of Rs.10,000 on the death of the primary breadwinner. A study of the scheme as operational in Karnataka, has shown that only 25% of those workers eligible for old age pension had obtained it, and that less than 20% of those who got it belonged to the highly vulnerable category. There were also complaints that the pensions were irregular (D. Rajasekhar, 2005).

SOCIAL SECURITY ENTITLEMENTS

Table 1 sums up the social security entitlements available in India.

Table1: Social Security Entitlements Available in India

<i>Contingency</i>	<i>Public Employees</i>	<i>Workers in the private sector to whom social security legislation is applicable</i>	<i>The general poor</i>
Medical care	Free treatment in hospitals, and drugs; some medical insurance schemes	Free treatment in Employees' State Insurance (ESI) hospitals and dispensaries; reimbursement of drugs; (plus medical claim insurance facilities for those not covered by ESI)	Treatment in public hospitals. Free supply to limited extent through primary health centres (PHCs)
Sickness benefit	Medical leave on full pay	Sickness leave under ESI	Nil
Maternity benefit	Maternity leave on full pay	Maternity benefits under ESI or under the Maternity Benefit Act	Social assistance schemes under NSAP in certain States
Unemployment benefit	Retrenchment benefits under Renewal Fund for employees of public sector enterprises	Retrenchment benefits under Industrial Disputes Act	Public employment generation schemes; limited schemes in certain States for educated unemployed

Employment injury benefit	Ex-gratia relief; and standard rates under the Central Services (extraordinary pension) Rules	Benefits under the ESI or under Workmen's Compensation Act (WCA)	Social assistance from welfare funds for those engaged in hazardous occupations in certain States
Invalidity benefit	Ex-gratia relief, and standard rates under the Central Services (extraordinary pension) rules	Benefits under the ESI or under the WCA	Pensions for physically handicapped in certain States
Oldage benefit	Pension and gratuity or contributory provident fund and gratuity	Payments under Employees' Provident Fund (EPF) and under Payment of Gratuity Act	Old-age pensions provided by the NSAP and State governments for the destitute poor
Survivor benefit	Subsidised group insurance for death while in service, family pensions in the case of death after retirement	Deposit-linked insurance and family pensions under EPF	Subsidised life insurance under the NSAP and accident insurance to the extent available; survivor benefit and accident relief schemes in certain States; pensions for widows in the States; compensation under the Motor Vehicles Act

STATE LEGISLATION AND SCHEMES

Two States have been in the forefront in legislating for and administering Welfare Fund schemes for the informal sector. They are Kerala and Tamil Nadu, and a close examination of their programmes gives us valuable insights into the role Governments can play in this area.

WELFARE SCHEMES IN KERALA

The State of Kerala has often been held up as a model to other States for the schemes that it has introduced to provide social protection to informal sector workers. It was the first State in 1969 to set up the Kerala Toddy Workers Welfare Fund Board as a formal social security organ for providing welfare measures for toddy workers. Today there are 24 welfare funds, which are formally in position in Kerala, catering to 24 different occupations. It is worthwhile to go in some detail into the schemes that are in existence, the administrative setup into place implement them, and the benefits that accrue to various target groups. It is also worthwhile to study critically how, and where, these schemes have succeeded, whether there are areas of failure, and if so, how we can learn from these drawbacks and formulate improved programmes that can be replicated in other States.

The 24 welfare funds that have been set up in Kerala cover workers in such occupations as toddy tapping, agriculture, construction, handicrafts and handlooms, loading and unloading, tailoring, fishing, and coir working. Hardly any major occupation is left out. The benefits provided are many, and range from housing and health to assistance for education, marriage expenses, unemployment benefits, old-age pensions, etc. These schemes are administered by autonomous Boards which are similarly structured. They have tripartite representation and are financed by contribution from employers, workers, and the Government. Simultaneously, there are target subventions for the basic benefits to vulnerable sections, such as the agricultural workers, pension and social security pension.

Before analysing the reasons for the success of these schemes, a detailed look at two of the schemes—pertaining to construction workers and agricultural workers—would help to place the schemes in perspective, and also assist in drawing valid conclusions regarding viability and success.

The Kerala Agricultural Workers, Act was passed in 1974 with the twin objectives of regulating working conditions of agricultural workers and providing welfare facilities to them. The Kerala Agricultural Workers, Welfare Fund Scheme came into existence in 1990. To administer the fund, a Welfare Fund Board was also constituted with representatives from agricultural workers, landowners, and Government officials, the Chief Executive being an officer of the department of Labour. An agricultural worker has to register for admission to the fund by paying a monthly contribution of Rs.5. A landowner with a holding of more than half an hectare was liable to contribute, with the contribution ranging from Rs.10 to Rs.15 per annum per hectare. There is no grant from Government to this Welfare Fund. The benefits available are superannuation benefits, death ex-gratia, educational scholarships, marriage assistance, maternity benefits and medical assistance. About 18 lakh workers have registered as members.

This welfare scheme in the form in which it is today is not a self-supporting scheme. The prescription of confining administrative expenditure within 5% of the contribution to the Fund has not been possible, because the outgoes from the fund towards benefits have exceeded the resources generated. Specifically, a superannuation benefit of Rs.5000 is to be paid to a member when he retires at 60 and is available to him on a minimum contribution of 36 months. This means that for a total contribution of Rs.180, he becomes eligible at retirement to a benefit of Rs.5000. Even if there is the maximum contribution for 40 years, members' entitlements in terms of marriage assistance, maternity benefits, medical claims, etc. far exceed their contributions.

The Kerala Construction Workers, Welfare Fund Act came into force in 1989. When the Central Act was enacted in 1996, that was adopted, and the 1989 State Act repealed, retaining all the better benefits enjoyed by the member workers of the previous Fund. About 11 lakh workers have been enrolled against an estimated population of 15 lakh; the rate of contribution from the member is Rs.20 per month and the notified cess of one per cent on the cost of construction is the contribution from the employer. Substantial benefits in the form of pensions, death relief, funeral assistance, marriage and maternity benefits, medical benefits, house building advances, scholarships, etc., are given from the Fund. Though there are problems related to the assessment of cess, and possible misuse due to the inability to verify whether the registered members are actually construction workers, there is no doubt that this Fund, unlike the Agricultural Workers, Welfare Fund is a financially viable one.

An analysis of the features of the Kerala welfare schemes indicates that the main reason for its large degree of success is because of the history of trade unionism in the State, and its dominance in the political leadership. This has led to a very high degree of public scrutiny, thus giving rise to formal systems, which have brought social security to both organised and unorganised sector workers. The administrative arrangements for collecting contributions and delivering benefits have been mostly successful—in the Head office, the Chief Executive is an officer of the rank of Additional/Joint Labour Commissioner, and there are registration offices at the district level under Welfare Fund Inspectors who are of the rank of Deputy Labour Officers. Trade Union representatives have become responsible for collecting workers' contributions, and for making sure that the employers' contributions are also remitted to the Funds.

It is clear from a study of the two welfare fund schemes that not all the Kerala welfare funds are in a state of good health. If the design of the scheme itself provides for unviable functioning, and there is no Government contribution to meet the gap, long-term sustainability cannot be expected. It is also clear that when many occupation-based Funds exist, and some Funds are more 'attractive' than others, the scope for misrepresentation and fraudulent membership is also high. The size of the Funds (as, for example, in the case for headload workers), in relation to the size of their population

is sometimes so large, that it gives rise to a certain amount of rigidity and reluctance to admit new members. In spite of the undoubted success of most of the Kerala Welfare Fund schemes, it is also a point for consideration as to whether these schemes cannot be integrated, so that the benefits are uniformly available to all informal sector workers, and administrative expenditure is reduced.

WELFARE SCHEMES OF TAMIL NADU

The course of provision of welfare to the unorganised sector in Tamil Nadu has been different from that of Kerala. The first enactment came in 1982 in the form of the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, which was a comprehensive piece of legislation for workers in the unorganised sector—the first and only one of its kind in the country. This legislation regulated conditions of work and provided for the formulation of schemes for workers in employments listed in its schedule. The Rules came into existence in 1986, and the schemes in 1994. There are 67 employments listed in the schedule to this Act. In 1994, 12 Welfare Boards were constituted for 12 of the scheduled occupations like tailoring, handicrafts and handloom, autorickshaw and taxi-driving, hair dressing, agriculture, etc. In 2004, however, nine of these Welfare Boards were amalgamated into the Tamil Nadu Manual Workers Social Security and Welfare Board, set up in 1999, seeing that they were not administratively and financially viable separately. What have remained independent are the Agricultural Labour Welfare Board, the Village Temple Archakas Board, and the Construction Workers Welfare Board.

The Construction Workers Welfare Scheme, which was drafted in 1994 provides for welfare measures for manual workers in the construction industry to be implemented through a Welfare Board. Thirty-eight categories of workers involved in construction activity can register and avail of all the benefits under the scheme. The benefits given are accidental death compensation, and natural death benefits, educational assistance, payment towards funeral expenses, and marriage and maternity assistance. The rate of contribution was originally fixed at 0.1% of the cost of the construction, and subsequently raised to 0.3%. The Board consists of six members representing the Government and nine each of employers and workers. The registration of construction workers is in offices located in about 200 places in the State manned by the State Labour Department's staff. There is a registration fee of Rs.25, renewable once in two years on a payment of Rs.10. About six lakh registrants in an estimated population of two million have currently registered with the Board. The contribution of the employer is collected by the local bodies while approving the building permits, and credited to the Board's Fund. Any dues to the Board may be recovered as arrears of land revenue.

On an examination of the actual utilization of funds under this scheme, and the benefits that have accrued over the years to the beneficiaries, it is seen that the level of activities

is still fairly low. The beneficiaries, however, enjoy high and increasing benefits compared to the membership fee they pay. Since the main revenues of the Fund are through a levy on builders, the viability of the scheme is assured, even if there is some leakage and full amounts due are not actually remitted to the Board. The number of workers, however, who have actually benefited from the existing scheme is less than 2% of the total membership. It is clear, therefore, that the number of schemes should be expanded to cover other benefits such as pension, housing, health care, etc., for the full utilisation of the available resources. However, whether the administrative expenditure can be kept under control with such increased activity cannot be judged. Currently, as a proportion of the expenditure on the scheme, it has been found that the administrative expenditure is considerably high. The State has not considered the Central legislation of 1996 as Kerala has, which would have meant that the contribution of builders in terms of cess would have had to be increased to 1% of the cost. However, the Tamil Nadu Act does not have any restrictions on applicability, as the Central Act has, where an exemption on payment of cess on constructions with a cost of less than Rs. 1 million is provided. The Tamil Nadu scheme is purely a social security scheme and does not regulate conditions of employment as the Central Act does.

WEST BENGAL SCHEME

In 2001, the West Bengal Government came up with a voluntary State-wide Provident Fund Scheme, meant for all wage-employed and selfemployed workers with an average family income of upto Rs 3500 per month. The individual pays a contribution of Rs 20 per month, and the Government pitches in with a matching contribution. The benefit received is the total contribution together with interest, when the individual reaches 55 years of age, or on his death, to the family. If there is default, the Government contribution and the interest are forfeited. All the administrative expenditure is borne by the Government. Of the 55 sectoral activities identified, 13 industries and eight occupations were covered in the first phase. As on March 31, 2005 more than six lakh workers are enrolled, of which 45% are women. About Rs 200 million had come in as subscriptions, with the Government contributing an equivalent amount. The benefit that would accrue to an individual over a period of 30 years of contribution is estimated at Rs 66000 if his contribution remained static, and Rs 1.11 lakh if he increased his contribution by Rs 10 every five years.

The obvious problems in a scheme such as this are the voluntary nature of the contribution, the difficulty in keeping the contributor's interest alive and enforcing continuous payments, Government's need to contribute and to subsidise falling interest rates, and the long time gap between contributions and benefits.

KARNATAKA UNORGANISED WORKERS WELFARE BILL

In 2002, Karnataka drafted a Bill, providing an enabling legal framework for welfare measures for unorganised workers. Under this legislation, an authority called the State Social Security Authority is to be set up for framing the policy and welfare schemes for this sector. One or more Boards may be set up by this Authority to implement the schemes. A Fund with contributions from employers, employees or Government will be used to finance the schemes. Funds may be generated through a tax on land holdings, a cess on professional, sales or entry tax, a fee imposed on builders, etc. The Bill has, however, not yet received the approval of the Legislature.

PUBLIC AND PRIVATE INITIATIVES IN SOCIAL PROTECTION— INSURANCE SCHEMES

An important initiative was taken by the Insurance Regulatory Development Authority (IRDA) to engage all insurance companies in the Government's efforts to extend social protection to disadvantaged groups. The simultaneous engagement of public and private companies to provide a wide range of insurance products has been held to be a unique experience. Till 1999, there were only five major public companies in the area of insurance. The Life Insurance Corporation catered only to life insurance, while the other four provided non-life insurance products. They were grouped into an apex organisation called the General Insurance Corporation. In 1999, the IRDA opened the market to private companies with regulations for them to extend their activities to the rural and poor population. The strategy of both public and private companies has been to collaborate with grass-root level bodies. By 2003, about 20 private companies were in existence, and they had an obligation to fulfill by covering the prescribed percentage of beneficiaries in the rural and social sectors.

PRODUCTS OF PUBLIC INSURANCE COMPANIES

As early as 1988-89, a Group Insurance Scheme had been initiated by the Government for the beneficiaries of the Integrated Rural Development Programme to mitigate the hardship caused to the family in the event of the sudden death of the head of the family. A life cover of Rs. 3000, increased in 1994 to Rs. 5000 was the payment made in case of a natural death, and in the case of an accidental death, the initial benefit was Rs. 6000, subsequently raised to Rs. 10,000. The claims were paid out of a fund set up by the Government, and no premium was charged from the beneficiaries. The Social Security Fund which was set up under this Group Insurance Scheme whose beneficiaries were from the weaker sections of society met 50% of the premium, the balance being paid either by the beneficiaries or their nodal agencies. From 1995, the accident cover was increased to Rs.25,000, and the premium for the additional accident and disability benefits allowed from this date, was charged to the Social Security Fund. There were

24 approved groups in occupations such as beedi making, carpentry, handloom weaving, handicrafts, tailoring, leather tanning work, forest work, toddy tapping, etc, who were the beneficiaries. In a period of 14 years, about nine million lives were insured, and claims to the extent of about Rs 400 million were paid to them.

This scheme was replaced by the **Janashree Bima Yojana** with effect from the year 2000. The Life Insurance Corporation of India was the implementing agency. The object of this scheme was to provide life insurance protection to the rural and urban poor living below the poverty line, and marginally above. Nineteen categories of unorganised sector workers were covered under this Group Insurance Scheme which covered both death as well as partial and permanent disability. A premium of Rs.200 per member was to be borne to the extent of half by the worker, the Government, or the nodal agency which could be institutions like NGOs, self-help groups, panchayats, etc. and the balance would come out of the Social Security Fund. The benefits payable were Rs 20,000 in the case of natural death, Rs 50,000 in the case of accidental death, and a maximum of Rs 50,000 in the case of disability. In the first three years of the scheme, 1.15 million lives had been insured, and about Rs.200 million paid in the form of claims.

For the children of the beneficiaries of this scheme, a scholarship scheme was also launched in 2001. A child of a member studying in the final years of school was eligible for a scholarship of Rs 300 per quarter for a maximum period of four years. The eligible students were selected on the basis of the poorest of the poor, and about 50,000 such scholarships were disbursed in the first two years.

Another social insurance scheme meant for the small and marginal farmers, and agricultural labourers in particular, is the **Krishi Shramik Samajik Suraksha Yojana**, started in 2001. This is a scheme operationalised by the Life Insurance Corporation (LIC), and covers contingencies such as death, disability and old age. The premium per annum is Rs 365 for an individual, and the benefits range from Rs 20,000 to Rs 50,000 for death or disability, as in the case of the Janashree Bima Yojana. In addition, a pension was also payable, the amount depending on the accumulations in the account, if premium contributions have been made for ten years, a pension of Rs 100 is payable every month when a worker reaches the age of 60.

Two other schemes implemented by all the public general insurance companies are the **Raja Rajeshwari Mahila Kalyan Scheme** and the **Bhagyashree Child Welfare Policy**. The former had the objective of covering accidental death for women in the rural and semi-urban areas. There is no income or occupation restriction on eligibility and the premium is as low as Rs 15 to Rs 23 per annum. The maximum sum insured is Rs 25,000. The latter scheme provides insurance for the girl child. The risk covered is accidental death and the premium payable per annum is Rs15. The maximum sum insured is Rs 25,000.

There are two main problems connected with public sector insurance schemes. One is the lack of awareness among the intended beneficiaries. While the workers in the unorganised sector are aware of insurance schemes in general, they are unaware that the State provides subsidised insurance schemes specifically for their category. The other problem arises out of the fact that the nodal agency is an insurance company. Although many people are aware of the concept of insurance and of the LIC, the fact that the collection of contributions and disbursement of benefits is not at a more local level, distances them from the operations.

In 2003 the Government of India came up with the **Universal Health Insurance Scheme** to provide health insurance for the very poor, mainly the Scheduled Caste/Scheduled Tribe (SC/ST) categories. Under this scheme, the objective of which is to ensure health care requirements of those below the poverty line, an individual pays Rs 365 per annum, a family of five Rs 548 and a family of seven Rs 730. The Government of India subsidises Rs 200 for an individual, Rs.300 for a family of five, and Rs 400 for a family of seven. The insurance coverage that is provided includes hospitalisation expenses upto a limit of Rs.30,000, and the scheme is implemented through a public insurance company. Accidental death of the earning head of the family is compensated with Rs 25,000, and his hospitalisation with Rs 50 a day for a maximum of 15 days.

In Karnataka, the scheme has recently been notified. The State Government has decided that the scheme will initially be applicable only to SC/ST members of the Sthree Shakthi groups (self-help groups for women) and their families, for whom the State Government will further subsidise Rs.100, Rs 200, and Rs 300 for each category towards the premium. A family of five, for example would require to contribute only Rs.48 for obtaining the benefits under this policy. Under various categories of benefits, upper limits have been fixed for the extent that can be claimed per illness or injury.

PRODUCTS OF PRIVATE INSURANCE COMPANIES

Several private insurance companies offer products where the risk coverage pertains to life or is accident-related. There is some similarity in the features of their products. But there are differences also which offer a choice to the beneficiaries. Some of these schemes are listed below.(Source: ILO Special Studies, 2005)

TATA AIG Insurance Company has three products meant for the rural poor. **Kalyan Yojana** is a pure risk product under which a maximum of Rs.15,000 is available as benefit to the nominee of the insured on his death, whether due to natural or accidental causes. **Kalyan Yojana** however, has a much higher premium—Rs.300 per annum as against Rs.72 to Rs.108 in the previous scheme—but offers return of premium with a guaranteed addition of 25% interest in case of survival of the policy holder beyond the insurance plan period. **Jana Suraksha Yojana** is similar to this, but with a higher sum

assured, and a corresponding higher premium. All these products are marketed by Rural Community Insurance Groups through SHGs.

The **ING Vysya** Life Insurance Company has two schemes for a group contract with the minimum size of the group prescribed. The scheme which is a pure risk one—the **Group Social Sector Insurance**—has a low premium of Rs.100 per annum, while the other two have a higher premium as they offer surrender benefits after three years, as well as return of premium with interest at the end of the term of the policy.

Aviva Life Insurance Company is another private company which has several products with minor variations to suit the preferences of those in the rural and social sectors, and semi-urban areas. **Jana Suraksha** and **Credit Plus** are pure risk products while **Amar Suraksha** and **Anmol Suraksha** offer maturity benefits. **Group Shield** covers individuals in a group with a plan customized to suit the needs of the group members. The premium varies according to age, the sum insured, the term of the cover, and size of the group. The benefits also vary, with several options.

There are a few companies which offer risk coverage other than that of life. The risk covers are mostly of health care and disability, as well as old age through pensions. Among the ones that offer health care coverage, the major features are as follows. The **Cholamandalam MS** General Insurance Company offers health care coverage to those in rural and semi-urban social sectors belonging to low income groups, if there is a group contract. Hospitalisation expenses, pre and post-hospitalisation expenses, and minor surgeries are covered. The premium varies depending on the size of the group. Pregnancy-related illnesses are excluded, unlike in the case of **Shakthi Health Scheme** of the **Royal Sundaram Alliance** Insurance Company, which targets women and their family members. At an annual premium ranging from Rs.65 to Rs.175 in a group contract, they meet hospitalisation expenses upto Rs.7000, within certain sub-limits for bed charges, and maternity expenses.

Bajaj Reliance General Insurance Company provides **Critical Illness Insurance** to disadvantaged groups under which the sum insured is paid to the policy holder if he is diagnosed with any one of the listed critical illnesses. The premiums vary according to age but the exclusions still include occupational diseases, HIV/AIDS and pregnancy and childbirth.

Reliance General Insurance Company has an **Individual Mediclaim Insurance** where hospitalisation expenses upto a maximum of Rs.500,000 are met. Premium rates vary according to the sum insured.

A number of these insurance companies have plans which offer a combination of risk coverages. Where disability is the risk cover, total permanent disability resulting from an accident is what is mostly catered to. There are also pension schemes where a

lump sum is paid at retirement. But the premium amounts are high. In the **Lifelong Pension Plan** offered by the **SBI** Life Insurance Company, the policy guarantees a minimum of 4% per annum during the first seven years of the policy, and the return is compounded annually. The contributions also qualify for tax exemption.

A study of the performance of the private insurance companies has indicated that of the 83 listed insurance products, 55 cover a single risk; the majority cover life or accident-related risks, though the health cover is limited. Most of the private companies address individuals and the coverage is for an extended duration of three to twenty years. More than half of the life insurance products are pure risk products, the others propose maturity benefits and combine withdrawal arrangements with it. Most of the accident insurance products cover accidental death but not the expenses linked to accidents. Of the 14 health insurance products, eight are for groups, nine propose reimbursement of hospital expenses and only five cater to specific critical illnesses—even they exclude deliveries, pregnancy-related illnesses and HIV/AIDS.

Private insurance companies already provide three times more products than public companies. The range is very wide from 1 to 12 products, with the public companies ranging in the top segment though the private companies are catching up fast. The coverage of the rural sector by public companies in 2002-03 was about 13 million policies, whereas the private insurance companies' coverage was 0.65 million. Non-life insurance companies sold twice the number of policies than life insurance companies in the rural sector. In the social sector, in 2002-2003, private companies covered one million policies, whereas public companies covered 36 million.

YESHASWINI HEALTH INSURANCE SCHEME

This scheme was introduced in 2003 in Karnataka and has been hailed as the largest health insurance scheme in the world for the rural poor. The scheme proposed to cover all surgical interventions for the members, who are farmers in rural areas, and for providing them these services through a network of private hospitals in the State. In the first year of implementation, 1.6 million farmers enrolled as members, the number increasing to 2.2 million in the second year. 9039 surgeries were conducted in the first year, and 35,814 beneficiaries received out-patient consulting services.

The scheme was pioneered by Dr. Devi Shetty, a well-known and respected cardiologist, who engineered the scheme on the basis of the results of a study which revealed that critical health issues for which there were easy medical solutions, existed among the poor but were not attended to because of the exorbitant costs involved in such services. As there was no lack of speciality health care infrastructure in Karnataka, as Shetty looked at whether a self-financing scheme based on a low premium could be worked out. Obviously, for the success of such a scheme, a large membership base was

required. The challenge was to devise means to mobilise these large numbers. It was decided that the infrastructure available in co-operatives throughout the State would be used for enrolling members, since most of the farmers were members of these co-operatives and approached them for loans for their farming operations. It was necessary to involve the Government for providing access to these co-operative societies, and thus the scheme became a Government scheme, though it was actually a private initiative.

For a membership size of a minimum of one million, it was felt that a premium of Rs.90 would be able to meet the cost of the benefit proposed. It was estimated that on an average Rs.10,000 would be the cost of a life-saving operation, and only 1–2% of members would need major surgery. Though the intention was to have no financial commitment from the Government, the Government did participate resulting in the premium being shared between members and Government—Rs.60 from the member and Rs.30 from the Government. Once the numbers were mobilized through the Government machinery working through the co-operative structure, a decision was taken to cover all charges for surgical procedures excluding transportation.

The scheme is administered by a trust, the trustees being Government representatives and doctors in private practice. An institution called Family Health Plan Limited, which was the first institution of its kind, not only conceptualized, designed and implemented the self-funded scheme, but also became the third party administrator(TPA) for the scheme—for this they received 4% of the total subscription as fee. The process to be followed is made fairly simple. On registration a member is issued an identity card. When he approaches one of the recognized hospitals, they seek a pre-authorisation from the TPA. Once the pre-authorisation is given, the surgery is proceeded with and claims made with the TPA. The member receiving the treatment makes no payment.

The scheme has been a success, in that over 1700 operations have been conducted, totally free for the beneficiaries. A maximum coverage of Rs.2 lakh per person is provided for, probably the highest rate of coverage that has been offered by any insurance company with so low a premium. Starting with only 30–40 private hospitals, there are now more than 120 hospitals which have agreed to work at the rates that have been worked out for each procedure. The participating hospitals however, are today located only at the district headquarters or in the State capital. Needless to say, Dr. Devi Shetty's reputation has made it possible to build confidence among members, and among the participating hospitals so that the scheme has proceeded as planned.

As a health insurance scheme promising full coverage of surgical procedures required by a farmer at a good private hospital, this scheme has no parallel. Though the fact that other health-related issues are not covered by the insurance continues to be a matter of concern for the beneficiary category, the success of the scheme depends on the crucial

fact of being able to build up the required minimum membership without major administrative costs. A critical analysis indicates that in all cases, a free choice was given to the member of the co-operative society to become a member of the scheme. Efforts to replicate this with other categories like Government school teachers, informal workers in the Municipal Corporation, etc. are on but progress has not been as good. The main problem is with the difficulty in ensuring the minimum membership for success which can be done only where there are similar connecting organisations like co-operatives which provide a suitable mechanism for collecting premium amounts.

MICRO-FINANCE AND MICRO-INSURANCE

The role of private parties in the provision of social protection is very important in the light of the problems pointed out in the context of public initiatives and their poor performance. We have already seen the role of private insurance companies; civil organisations such as NGOs and community-based organisations have also contributed greatly. One of the major interventions in the area of social protection for the unorganised sector workers and poorer sections of the population in general, is the NGO-initiated micro-finance and micro-insurance programme.

Micro-finance implies providing the poor with savings, credit and insurance facilities to set up or expand income-generating activities relating to agriculture, allied activities and non-farm sectors, and thereby increasing household security (Rajasekhar, 2004). Typically, a group of about 15 members formed by the Government, banks and NGOs provide micro-finance services. Such a group is called a Self-help Group (SHG). The role of the NGOs in this area has been very important and, in fact, the NGO programmes appeared much earlier than the programmes of the Government and banks. It was the work of the NGOs that positively influenced the banks, the Government and other promotional agencies to form and support micro-finance groups to improve the access of the poor to credit.

In the case of small groups based on local communities and/or particular occupational groups, NGOs are usually the best providers of social security. The two great advantages of NGOs are that they know the needs of their client groups very well and have evolved comprehensive strategies to assist such groups (ILO 2000). Social security is usually only one element of that strategy, but its effect is enhanced by the interaction with other elements of the strategy in the fields of employment, health, education, etc. A further advantage of NGO action is that the beneficiaries are involved in the design and implementation, so that they trust the scheme and its implementation which is the basis of any successful social insurance programme. The NGO micro-finance programmes, thus, are better than other similar programmes of Governments and banks in so far as the degree of involvement and the quality of service provided are concerned.

The limitation of NGO action is that sometimes it has only a very local impact, and may not be open to technical advice from outside. Most important of all, NGO action is difficult to replicate, and that is why it is so significant to have Government-sponsored area-based schemes as well. Such schemes may not be based on the same degree of trust as exists within the NGO context, but they have a much greater opportunity for replication and thus extensive coverage.

The main premise behind micro-finance institutions is the need to give the poor a voice, so that they become direct participants in grass-root social action groups. It is also possible for micro-institutional lending to closely mimic and exploit some of the features of informal lending (Debraj Ray, 1998). For instance, it may be possible to design an innovative rural credit scheme in a rice-growing area in which a formal sector institution acts both as a lender and a miller. The combined activity will permit the formal institution to accept rice output as repayment for loans. By mimicking the activities of a trader-moneylender, the micro-credit institutions may actually be able to carry out activities that reach small borrowers and are profitable at the same time.

Even if such mixed institutions are difficult to put into practice, there are ways in which the information base of a community can be put to use by a cleverly constructed micro-credit institution. One of the success stories in this area in a developing country is the Grameena Bank of Bangladesh which was started by an individual and later institutionalised by the Government after its proven success. The grameena Bank is a specialised credit agency for the rural poor catering exclusively to the landless and those owning less than 0.5 acres of land. The borrowers must form groups of five persons, and though loans are given to individuals, the default of one member of the group stops lending to the others. This places pressure on the whole group to support the individual and to ensure that right things are done so that no single individual's loan goes bad. There is no collateral for the loans which are given for a viable income-generating activity, and repayments are made easy by collections in the village itself. The vulnerable position of women within the family is also recognised, and the credit operations of women are kept independent of the transactions with male borrowers.

Into this system is built various social security schemes such as a group savings fund set up for the purpose of advancing consumption loans, an emergency insurance fund against default, accident and deaths, and various other schemes such as house loans, etc.

SELF EMPLOYED WOMEN'S ASSOCIATION (SEWA)

In the Indian context, arguably the most successful initiative of this kind has been that of the Self Employed Women's Association (SEWA). Registered in 1972 this organisation is a trade union, comprising poor self-employed workers. Its main objective is organising

women for full employment and self-reliance. The focus is on providing work security, income security, food security and social security, and the strategy lies in working through the joint action of the union and co-operatives. It is a movement of self-employed women, and functions through a hierarchical structure of trade councils, trade commissions, and an executive committee—all elected by the members. In 2002, there were seven lakh members who were mostly home-based workers, hawkers and vendors, manual labour, and service providers. About 38% of the membership is urban. Women form their own savings groups and manage their own collective capital. There are six organisations of social security providers, which link these women through primary organisations to a larger economic structure. SEWA is the largest union member of the NCL, having joined it in 1999.

SEWA works through campaigns around clearly identified issues, mobilising its members, and taking up these issues with other organisations and Governments. Though most of the members are in the State of Gujarat, they have membership in other states as well. Their strategy lies in organising rural women by increasing local employment opportunities so that their bargaining power is enhanced. They focus on development of women's assets, capacity building and leadership development for women, providing food and social security, and urging them to become self-reliant in economic terms. SEWA works in collaboration with the Government's rural development programmes.

The SEWA Sahakari Bank is the members' largest co-operative, owned by women, with policies formulated by their elected Board. It is a financially sound and viable institution. In health care, the approach emphasises health education, co-ordination, and collaboration with Government health services, linking health security to work security. All economic activity has a health component, and local women are trained to become the barefoot doctors of the community. The health care is women-centric and self-reliance is emphasised through provision of access to health information, linking services to insurance, and providing basic amenities like sanitation. SEWA has a work security insurance which is an insurance scheme to protect women in times of crisis. Since 1992, this has been operated in collaboration with a nationalised insurance company. With a premium of Rs.60, there are 32,000 members who get health coverage up to Rs.1200, maternity benefit up to Rs.300 besides life insurance and insurance against floods, fires, etc.

SEWA's success must be attributed to adopting procedures and processes suitable to poor, self-employed women, like collecting savings from their places of business or homes, and giving them training to make them understand banking procedures. The process of upward mobility starts through capital accumulation. By providing access to low-interest credit through micro-finance facilities, both for working capital and for repaying debts, there is an increase in the real income of the beneficiaries. Since the emphasis is on creating assets in the name of women, and making them self-reliant, they are able to expand their businesses and handle risks effectively.

OTHER NGO-INITIATED MICRO-INSURANCE SCHEMES

There are several NGOs who have introduced micro-insurance schemes for various categories of beneficiaries and whose operations have been very successful. It is not necessary—or possible—to discuss the features of all such schemes but a look at some of the important ones in existence can give us an idea of the possibilities in this area.

The Bridge Foundation, functioning as a non-profit organization since 1984, has been providing micro-loans and training to the poor in various parts of India to enable them to rise above poverty. Its products include individual loans to members, direct lending to Self Help Groups, short-term loans to entrepreneurs, employment generation loans and micro-insurance. 117 districts in the rural parts of the four southern States are covered, and the beneficiaries—95% of whom are women—are those engaged in agriculture, animal husbandry and other forms of informal sector employment.

The Working Women's Forum started in 1978 as a mass movement of more than 5 lakh poor women workers engaged in 167 different occupations dispersed over the three States of Tamil Nadu, Andhra Pradesh and Karnataka. The objective of this movement was to work with and empower women beedi workers, slum dwellers, fisherwomen, silk weavers, etc. by providing them access to skill training, health facilities, livelihood options and legal recompense. Under this movement, several micro-insurance schemes were initiated, which apart from insurance, also provided access to clinics and hospitals. In 2002, the total benefits amounted to Rs 36 lakh.

The Karuna Trust is a Karnataka-based NGO engaged in a pilot project to test a model of community health financing suited for the rural community. The micro-insurance scheme of this organisation called the Community Health Insurance was started in 2002, and it covers risks such as health care and loss of income in two talukas of Karnataka. The target groups are those belonging to the very poor sections, mostly women and agricultural workers. More than one lakh beneficiaries are covered under this scheme.

The Mallur Health Co-operative established in 1973 in Mallur, a village in Karnataka, by a local dairy co-operative, is another interesting effort to provide health care services with the technical support of a private hospital which helps organise specialised medical camps on eye care, women's health, etc. It has its own health center on Government-donated land, and a revolving drug fund with the seed capital also provided by the Government.

ANALYSIS AND RECOMMENDATIONS

A recent study undertaken by the Institute of Socio-Economic Change for the Karnataka Government (which has not as yet introduced any targeted protection scheme for

workers in the informal sector) to help plan a social security scheme, has come up with some interesting results which are worth looking into in some detail. This microstudy was taken up to obtain a groundlevel understanding of what beneficiaries want, their ability to access, and to contribute, as most other studies in this area were based on secondary data and laid emphasis on macropolicies. The study kept in mind the heterogeneity of this sector and the existing means used by these members to manage their risks, so that “lumping” in policy making could be avoided. Three specific occupations were selected for the purpose of the study— construction work, agricultural work and domestic work. The selection was based on the fact that these three occupational groups covered both rural and urban population, and formed the largest groups in the informal sector. A sufficiently large number of schedules were canvassed in the four districts of Bangalore, Mysore, Gulbarga, and Dakshina Kannada, located in four different agro-climatic zones.

Some of the important conclusions of the study were as follows:

- There are marked differences among the three categories of workers in terms of their access to promotional social security schemes as well as their vulnerability. There are also variations in affordability and in their willingness to contribute to their own social security.
 - Generally, where the promotional needs were not met, the target group had no interest in meeting protective needs. However, in some cases where promotional needs were fully met, there was no interest or worry about the protective needs perhaps because of a lack of knowledge of such schemes or lack of confidence in their efficacy. That promotional and protective needs are related is only partially proved.
 - In all categories, old-age pension and unemployment benefits remain the first priority; for construction workers, insurance against employment injury was also a priority benefit. Sickness and death benefit were not prioritised as important.
 - The proportion of workers who had taken insurance policy was low. Even lower than that was the proportion of those who had kept their policies active.
 - Savings were more prevalent in the case of the worker in less vulnerable groups and the most popular agency for savings for all categories was the self-help group. Construction and domestic workers also resorted to lodging their savings in chit funds. Their continuous dependence on informal sources indicates that there are some merits in these mechanisms, such as ease of access, flexibility and convenience.
 - Between 67 and 82% of workers expressed their willingness to contribute to a social security scheme. Their most preferred mode of payment was monthly and the preferred institution a bank or a post office.
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So far, we have seen what the informal sector is and its special characteristics that make it difficult for governments to design schemes for them. We have seen what the Labour Ministry and the State Governments in India have attempted to do through legislations and schemes and to what extent they have been successful in achieving their objectives. We have also seen the work of private players in the field and their achievements. It now remains to be seen whether, from the lessons learnt from the efforts of the past, a legislation or a scheme can be designed, that can be successfully implemented, and that can be as close to the ideal as possible. If so, which are the areas of emphasis, what are the cautions to be exercised, and who are the *dramatis personae*?

I start with what already exists. There are several legislations, as we have seen, which are meant to provide protection for workers — both in the organised and unorganised sector. These legislations, because of tardy implementation and due to remediable lacunae in the provisions themselves, have not been of much use for informal sector workers. Laws which are based on inspection, prosecution, and fines like the Minimum Wages Act cannot be pursued to their legitimate end by workers, because the legal processes involved are time-consuming and cumbersome. Even if the implementation improves it is unlikely that informal sector workers, without the support of the trade unions, would be able to enforce compliance.

The majority of informal sector workers in the country belong to the underprivileged category where even their basic entitlements are not met. Therefore, before we move on to the issue of social protection, we have to recognise the need for improved social assistance. Fortunately, in this area, there is no dearth of schemes. In fact, large budgets are earmarked by various ministries and departments of State Governments for such schemes of assistance to the poor and very poor. These schemes exist mainly in the areas of medical care, housing, food, water and education, and these schemes, with all their defects in implementation, will have to continue as they serve a purpose which cannot be served through schemes of social protection viz. providing the poor with their minimum needs. A discussion on the improvements called for in these schemes is, however, beyond the scope of this paper. Obviously, the main player in this area has to be the Government—both Central and State—because it has a fundamental duty to raise the standards of living of its people through direct or indirect interventions which influence nutrition, health and other constituents of human well-being.

What is the exact role that the Government can play in extending social protection measures to workers in the informal sector? Can this be through legislation? Though much debate on whether a legislation is required has been entered into, it is now clear that without a legislation to back up schemes, it may not be possible to enforce compliance. The Second National Commission on Labour, while remarking that it is not possible to provide protection and welfare to all workers in the unorganised sector with

one uniform law or system because employment and conditions of work of these workers are so varied and disparate, has gone on to suggest an umbrella legislation. While Kerala has separate legislations and schemes for different categories of workers, Tamil Nadu has one central legislation on the basis of which the schemes for different categories have been prepared. The Ministry of Labour too has come up with one legislation for construction workers' welfare, but is also working on an Unorganised Sector Worker's Bill.

Legislation provides backing for the schemes that are in existence, and its role is mostly facilitating rather than prescriptive. It sets up the framework on which the schemes for different categories can be evolved. It is, therefore, irrelevant whether there is one umbrella legislation or a separate legislation for each occupation. The umbrella legislation is, however, sufficient if it sets out general provisions on how social security schemes are to be administered.

As regards schemes, however, the question of whether one scheme applicable to all sectors of unorganised workers should be preferred is to be answered in the negative. Experience has shown that the needs and capacities of different categories of workers are different, and hence lumping them together and providing them the same benefits may not be what they want. This is a conclusion that has been reached in the ISEC study conducted for Karnataka. However, having different schemes on an occupational categorisation cannot be stretched too far. This is evident from the experience of Kerala where too many schemes administered through welfare funds has resulted in a good part of the fund being spent on administrative processes alone. It is best to have only one or two advisory boards even if there are many schemes, for success depends on enrolling a large number of workers with a minimum of administrative costs. Acknowledging this Tamil Nadu has, merged most of its funds into one fund created under the mother Act.

The welfare fund model is an effective one due to the following reasons:

1. The fund is generally not dependent on Government budgets, as its resources come either through contributions from the employer or through a tax levied by the Government.
 2. It is acceptable to all as the benefits of a trade accrue to workers engaged in that trade.
 3. Workers tend to identify strongly with such a fund as there is a strong stakeholder participation putting pressure both on the employer and the Government to function well.
 4. The existence of the fund puts the workers into positions of power.
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The following points should be remembered when designing the schemes :

1. The basic benefits must be separated from insurance benefits, and the latter must be handled by insurance companies. Accident benefit schemes must always be linked with insurance. The choice of benefits must not be random as it is now, but should be based on some assessment of the needs of that sector, and keeping in mind the ease of access, flexibility and convenience of the informal sources on which they otherwise depended.
2. All should be made to contribute to the fund, and the contribution collected through a mechanism that is time-bound, transparent and simple. A combination of mechanisms may be used involving people's organizations, NGOs, Panchayats, co-operatives, etc. The fund collection should be carried out by those whom the beneficiaries trust.

The question of who should contribute, and whether Government budgets should be involved has to be based on the real situation on the ground. All categories of workers cannot be treated in the same manner and hence a variety of models need to be adopted. As mentioned earlier, a comprehensive package of social assistance, financed by the exchequer, which is totally based on tax revenues, is essential for the poor. For those above the poverty line but still in the low-income strata, the scheme may be contributory, and financed by a cess. For those who can afford to pay and can exercise an option to choose any one of the schemes on offer depending on their capacity to pay, and their appetite for risks, a market-oriented voluntary scheme managed by private players is usually found to be sufficient.

In this context, planning a scheme keeping in mind the features of the category it is catering to, is essential. The classic example of where this has not been done is that of the welfare fund for agricultural workers in Kerala. Agricultural workers form almost two thirds (2/3rds) of the total population of unorganised workers in India, with about 40% of them being migrant workers. The agricultural labourer has to become the central point when evolving a suitable labour policy for the vast rural areas. Considering the features of this sector, without some form of Government participation in the finances of the fund, its viability may be in question. The provision of a pension scheme not based on viable norms may drain the fund and make it virtually ineffective as has happened in Kerala.

Ideally, the nature of a welfare fund has to be a combination of the contributory and tax-based model. This is the model adopted for the Construction Workers' Welfare Fund Scheme of the Government of India. The cess on the cost of construction is the main source of revenue to the fund, which flows in without much additional administrative costs. The collection of contributions and delivery of benefits ,however, requires an implementing machinery that has to be carefully set up to at once be timely and effective without being elaborate and resource-guzzling.

Wherever welfare funds are being operated The implementation machinery is set up under the Labour department. The Board which supervises the entire functioning, is headed by the Commissioner for Labour generally, and the function of sanction of claims as well as issue of policy directives is done from the Head Office. The role of the Regional Offices is confined to registration of workers and the issue of identity cards. The services of the existing staff of the Labour department at the field level are also enlisted for verification, assisting registration and receiving claim applications. This configuration, where the staff of the Labour department also assist the staff of the Board, is necessary, both for containing administrative costs as well as providing the necessary linkages to other benefits and facilities already available.

The welfare funds that exist today have not been as good for women as they have been for men. One of the facts that this has been attributed to is because they are in sectors like coir which are 'weak' in terms of the power they wield. Since 96% of women workers are in the unorganised sector, and fall at the lower end of the spectrum, their work is lowly paid, irregular and unrecognised, with income often not commensurate with their work. Their special needs have to be taken care of, not only for the reasons mentioned, but also because it is now clear that empowering women empowers the whole family, and leads to a sustained improvement in their standards of living. The success of the self-help group concept gives further strength to this belief. Among the needs to be given priority are maternity entitlements and child care. Though both are now available minimally through existing provisions, it is necessary to make them mandatory, may be even provide specially for these entitlements through a separate fund contributed to by employer, employee, and State. In this context, SEWA's model of empowering low-income women through capacity and asset building, is a success story worthy of emulation.

Since health security is an important component of social security, special emphasis on how best to provide it is required. The primary health care services in the country meant for meeting the health-related needs of the poor have not been successful in meeting their objective. Hence, it is inevitable that a supplementary, if not parallel system, be worked out. Existing funds offer medical care benefits but with a ceiling within which the entire needs cannot be met. The restricted scope of benefits in most medical care insurance schemes is because of the fact that the premiums have to be limited and, therefore, the focus is on primary health care—but within ceilings that don't meet the full cost. Studies have shown that a high proportion of the wages of lowincome groups is spent on medical care, and health care costs are one of the primary reasons for rural indebtedness and poverty. An estimate indicates that 24% of all Indians hospitalised fall below the poverty line (S. Kuruvilla).

The Universal Health Insurance Scheme attempts to remedy this by catering to those below the poverty line through a subsidised scheme of insurance. It is increasingly

clear that because of the high risks and low profitability in offering health security, commercial insurance companies have little interest in such schemes; the only recourse is for the Government has to step in. It is also clear that the best way of providing quality service in this area is not for Governments to themselves deliver the service—as the failure of the primary health services has proved—but for either reimbursing the expenditure incurred on it or arranging for the services to be provided indirectly, thus confining their own function to the financing of such services. The problem of access is another linked issue that will have to be tackled as the lack of health care infrastructure or the cost involved in creating one limits the growth of this sector.

The model of the Yeshaswini medical insurance scheme is the one successful model in this area that can be expanded upon. However, first it will have to be accepted that if medical care within a reasonable ceiling has to be available, the Government will have to step in with subsidies. To what extent a Government can go in this direction, will depend on the resources that it is able and willing to commit. Second since the beneficiary category is not homogeneous and is geographically dispersed, organising it and collecting premiums is a daunting task in itself. Yeshaswini succeeded in this effort because of using the co-operative structure. Third lack of health care infrastructure is another challenge. In Karnataka where the scheme is implemented, health care infrastructure in the private sector is fairly well developed at the district and higher levels, though for primary medical care of is still not sufficient. Insurance schemes which reimburse the expenditure incurred, even in these circumstances, provide flexibility to a population that already prefers private medical care to Government facilities and is paying for it out of their meager incomes.

Should targeting be resorted to when initiating social security measures for the unorganized? We have seen how high the costs of programmes can be, particularly in developing countries where the problem of low and uncertain standards of living affect a large proportion of the population. It can also be more difficult for them to raise revenues for this purpose as the demands on the State's revenues are many. Targeting, therefore, becomes inevitable; its success would however depend on how successfully the relatively non-deserving are excluded. Targeting based solely on income criteria may exclude contingencies such as old age, maternity, unemployment, sickness, disability, etc. This obviously, needs to be guarded against.

Existing labour legislation has failed to achieve its objective because of maladministration and because it is based on insufficient data. Discussing this problem, Burgess and Stern suggest that the drawback of insufficient data can be handled to some extent by generating micro-data from existing household surveys for a representative sample and then picking out characteristics from a close analysis of this sample. If the attributes for targeting are chosen carefully, and on the basis of the exactness of available information, this problem can be reduced. As regards maladministration and fraud, that

will have to be tackled through a system of incentives for the administrators and an in-built mechanism in the form of the benefit to avoid cheating by claimants. The fact that social security measures can act as a disincentive to individual initiative and care—for example, unemployment insurance makes people less hard-working—is a trade-off that may have to be treated as a necessary evil.

The low skill levels of those in the unorganised sector restrict their prospects and power. Upgrading their skills is, therefore, another area in which Government intervention becomes necessary. The existing infrastructure of Industrial Training Institutes can be used for this purpose—with some imagination and a lot of flexibility, these institutions can become the engines for change. Loss of wage compensation during training, linking training with employment, and careful design of the programme can help make the skill training practical and attractive to the worker.

In all these efforts, it is the Government machinery that has to be in the forefront for administering the scheme. However, the requirement for participation from many other fronts cannot be over-emphasized. First, let us consider the role of trade unions. We have already seen how trade unionism in the informal sector is mostly non-existent. Where it does exist, it has been weak and not amounting to much, accounting for the fact that even today large sections of the informal sector remain excluded. While participation is now formalised by representation on the Board, involvement at the field level to enrol and register members by trade unions is a must, particularly in administering funds based mostly on contributions. Both Kerala and Tamil Nadu have permitted trade unions to do the work required for registration of workers since this involvement is a necessity.

Second, not only trade unions but also pressure groups functioning in the village or the basic unit level should be prevailed upon to canvass the scheme. After the 73rd and 74th Amendment to the Constitution of India, power has been transferred to local administrations and all beneficiary-oriented schemes are now administered by these decentralised bodies. The routing of application forms for registration through panchayats (rural local bodies) and urban local bodies can ensure that misrepresentation or fraud as regards identity of the registrants, is minimised since these institutions are privy to personal details of these registrants who are already their beneficiaries under some other scheme. This can be a big problem, particularly when there is more than one scheme and one offers a higher scale of benefits or is functioning better than the other.

Third, the useful role of non-Governmental organisations has to be recognized. They can have a crucial say in increasing the membership in schemes because of the trust that they have already built up in their interventions in the community in which they work. Functioning, in fact, through any other successful group like a self-help group can have immense advantages, and can be of great help in popularising programmes and removing uncertainties in the minds of potential beneficiaries.

This brings us to the question of what kind of advocacy, if any, is required and what measures are to be taken to further this. It is a well-known fact that organisations of public opinion have not worked hard enough for informal sector workers. How important it is to remedy this cannot be over-emphasized. Even a well-meaning public does not sometimes perceive aberrations in their own attitudes to some of these issues. The classic examples are the ones of child labour and domestic labour. The consciousness that these categories either should not exist, or if they do, should have rights—the same as any other category—is missing in the public psyche. This is particularly so in the case of the latter category which is one of the most numerous among informal workers in India. They are present in both rural and urban areas and their rights to a minimum wage and to other conditions like prescribed hours of work, time off, etc. have not only not been recognised, but are not even perceived as issues of concern. Any scheme to benefit them cannot be successful unless special efforts are made to garner public opinion and educate the public. The only way to achieve this is through private partnerships and through a concerted effort with public opinion forming bodies that already play a major role in other areas. It is difficult to prescribe any formula for this but the campaign, though initiated by the Government, can succeed only to the extent that it is able to enlist the support of community groups, NGOs and local bodies.

In the context of what is stated above, it may be seen that the role of labour administrators will have to change as the focus shifts to the informal economy. They have to work with trade unions, community organizations, NGOs and panchayats for implementation of schemes. They have to be the advocates for the empowerment of the workers with the public. They will have to move from a regulatory to a developmental phase and implement new schemes which call for different skills. To impart these skills, gearing up of existing training machinery as well as setting up of new training infrastructure will be essential.

Challenges facing Labour Administration in the Informal Economy in Kerala

Elias George

LABOUR ADMINISTRATION AND INFORMAL ECONOMY OF KERALA

The State of Kerala has put in place formal structures for administering social security schemes that are relatively more comprehensive and advanced than those in other States of the Country. The formal social security system in Kerala was established with the founding of the Kerala Toddy Workers Welfare Fund Board in 1969, and thus the structure is more than 30 years old.

However, even before the establishment of formal structures by the State, there have been informal systems in the form of mutually beneficial collective care arrangements by trade unions and workers to cover the contingency of risks and uncertainties. Kerala has had a long history of mobilizing the working classes and workers mutualism has always been a prime ingredient of such mobilisation. In Kerala, trade unions have always been a dominant presence among the political leadership. Hence the political landscape as well as the focus and terms of governance have been dominated by trade union personalities and workers' issues. The trade union struggles for providing income security, work place security and social security to workers have therefore largely been successful.

The establishment of the formal social security system for covering various categories of the work force has thus been the direct result of the dominance of labour issues and personalities in the State. Organised as well as unorganised workers have been able to successfully transform their social security demands and aspirations into formal welfare systems operated by the Government. Over the last 30 years, around 4.9 million workers have been covered by these systems. This is a significant number, given that the total unorganised workforce in Kerala amounts to nearly seven million.

In the eighties, around nine Welfare Funds were set up ranging from motor transport workers to fish workers, cashew workers and coir workers. This process continued in the nineties with the setting up of another seven welfare funds. Although these welfare funds differed in the quantum of contribution and the types of benefits offered, the basic institutional structure was along similar lines: they were Government organisations with a tripartite Board nominated by the Government, a Chairperson and a Chief Executive. They often had a substantive financial contribution by the Government to the corpus of the welfare fund.

In tandem with the establishment of these tripartite welfare funds, the State also set up schemes to provide basic 'lifeline protection' to particularly vulnerable sections by direct subventions such as agricultural workers pension and social security benefits.

Presently, the social security system occupies a very prominent place in the apparatus of the State Government and proposals for extending these systems to cover new categories of workers like plantation workers, shop workers, etc are under the active consideration of the Government.

In keeping with the prescriptions of ILO Convention No 150, the State is implementing Labour Laws for worker's protection, primarily through the State Labour Department headed by the Labour Commissioner. A number of these laws cater primarily to the unorganized sector in the State of Kerala, and are aimed at ensuring income security, workplace security and social security to the population. While the Labour Commissioner's establishment undertakes the enforcement function for ensuring compliance with these laws, there is also a very high degree of public scrutiny for ensuring compliance through the agency of trade unions, the media, political parties as well as public opinion.

FEATURES OF KERALA'S SOCIAL SECURITY SCHEMES

The boundary between formal and informal occupations in Kerala is quite porous. The State's settlement pattern as well as its economy have been described a "rurban"-exhibiting both rural and urban characteristics. Even within what can be described as the formal sector, there are large numbers of workers at its informal fringes.

Presently there are 24 Welfare Fund Boards in the State.

The existing Welfare Fund Boards, as given in **Annexure 1** show the following characteristics.

1. They are run by tripartite Boards consisting of representatives of workers, employers and the Government. In most Boards the Government have retained the powers to give directions on policy matters.
 2. A bureaucratic apparatus headed by a Chief Executive reports to the Board. The greater part of the bureaucratic establishment is drawn from the State Government's Labour Department.
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3. Mandatory financial contributions from the workers and employers are based on specific enactments, except for a few voluntary Boards.
4. Provisions for basic social security, insurance and welfare benefits are made for member workers.
5. In some cases, there is a financial contribution from the State Government's Budget to the corpus of the Board (for 14 schemes).

The formal social security structure in the State and the administrative arrangements for delivery of schemes are basically in line with the ILO's Labour Administration Convention No.150 of 1978.

The enactments that underlie the formation of the particular Boards and their constitution are listed in **Annexure 2**.

Details regarding the clientele of each board are given in **Annexure 3**.

Details about of the coverage of each scheme, the quantum of contribution by the tripartite partners and the present Fund position of the Boards are given in **Annexure 4**.

Details about the scale of benefits flowing from each Welfare Fund Board are given in **Annexure 5**.

THE ADMINISTRATIVE SYSTEM

The administration and supervision of the Welfare Funds is vested with tripartite Boards constituted by the Government under the provisions of various welfare fund legislations. The number of directors varies in each Welfare Fund Board, ranging from 15 to 23. One of the directors is posted as the Chairman of the Board. The Government nominees include the representatives from the Finance Department, Law Department, Labour Commissioner etc. The Chief Executive Officer would be a senior Government officer on deputation, preferably from the Labour Department. The other officers including the finance officer will be on deputation from various Departments. In a few Welfare Funds their own staff will also be there at the level of inspectors and other supporting staff.

It may be mentioned that most of the Welfare Fund Boards follow a typical administrative system with the district office that is the basic field formation of the Board and the Head office under the control of the Chief Executive who reports to the Board.

The regional/district offices are generally led by the officers of the rank of District Labour Officers called Welfare Fund Inspectors. The Chief Executives of these Boards are usually the officers of the rank of Additional/Joint Labour Commissioners. All the officers of the Labour Department who go over to the Welfare Fund Boards do so on a deputation basis and their salaries and expenditure are borne by the Welfare Fund Boards themselves.

The Organizational Chart of a typical Workers' Welfare Fund Board is shown in **Annexure 6**.

FUND COLLECTION

The main functions in the administration of welfare schemes are the collection of contributions from the main constituent partners, viz. workers and employers and their disbursement for specific purposes, as indicated in **Annexure 5**. Normally the contribution of the workers is collected from their salaries by the employers and remitted to the Fund along with their share. In many cases, the employers are reluctant to remit the amount in time. Hence, the Welfare Fund Inspectors have a major role in the realization of contributions from the employers. The Government contributions are normally disbursed by way of grants. It is estimated that around 15 welfare Fund Boards benefit from Government contribution. But due to the financial stresses on the Government, its share due to various Funds are either not paid or paid very late. This creates difficulties in the proper disbursement of benefits to the workers.

In the case of self-employed persons they remit their contribution to the Fund through Banks. Many of the Banks are reluctant to collect these meager amounts. This situation also creates problems in the administration of Welfare Funds.

KEY ISSUES

While Kerala has been highlighted as the State with the most advanced social security system in the country, it cannot be said that the system now in place is in completely good health. Often the Welfare Funds have been set up hastily in a "reactive mode" on the basis of keenly felt political pressures through the agency of Trade Unions. Consequently, there has been little analysis of the long-term sustainability of the schemes on an actual basis. Some of the major issues in this sector that need attention include the following:

(a) Financial sustainability :

Often the scale of contributions and benefits are drawn up by the Government without adequate study of long-term viability. Consequently, some of the Welfare Fund Boards run into difficulties regarding the honouring of welfare commitments. For example, the Kerala Agricultural Workers, Welfare Fund Board which caters to one of the poorest sectors of the working population has accumulated pension arrears for up to two years amounting to Rs.1646 million.

A related issue is the iniquitous scale of Government contributions to these tripartite boards. For instance, the Government is obligated by Statute to contribute 10% of the workers' total contribution annually to the Toddy Workers Welfare Fund Board which

caters to the relatively more affluent sections of the semi-organized work force; while the Statute does not provide for any contribution at all by the Government to the Agricultural Workers Welfare Fund Board whose clientele is perhaps much more deserving of Government largesse.

Another factor contributing to the financial difficulties of the Boards is the reluctance on the part of the employers to honour their statutory payment obligations. For example, land owners possessing half or more hectares of land are obliged to contribute to the Agricultural Workers Welfare Fund Board. But the scale of their contribution has been minimal ever since the formation of the Board thus causing financial difficulties for the operation of the scheme.

Added to these structural defects is the burgeoning administrative costs of the Boards. The bureaucratic apparatus of the Welfare Fund Boards tends to consume a significant part of the Board's resources. Many of the enactments for social security prescribes maximum limits for administrative expenses, but quite often these statutory limits are infringed. For example, only up to 5% of the total contribution received or expected to be realised each year can be utilised for the administrative expenses of the Kerala Agricultural Workers Welfare Fund Board, while in reality the administrative expenses are considerably in excess of this ceiling. Often the Tripartite Boards tend to accord higher priority to employee's issues than to the workers, issues as a consequence of the successful unionization of the employees of these Boards. Many of the functions of the Welfare Fund Boards that require to be computerized are undertaken manually. It is expected that the computerization of functions like enrolment and benefit disbursement would lead to reduction in administrative expenses. Another key measure required is to ensure that the workers, representatives in the Tripartite Boards do indeed represent those who are working in those particular sectors.

(b) Inadequate Fund Management :

It is a truism that the corpus of funds collected by the Welfare Fund Boards have to be properly invested to maximize returns. However, in Kerala these funds are parked in the Government Treasury or Banks without very significant returns. The social security apparatus in Kerala needs to institute a professional fund management system for maximizing returns by way of income.

(c) Declining Government contributions :

Even in the case of Schemes which incorporate a statutory Government contribution, it is often the case that the Government has been defaulting on payment commitments on account of financial pressures. Statutory payouts to these welfare funds are often accorded low priority in the Government agenda, thus impeding the timely disbursement of welfare benefits.

(d) Lack of Integration with Government Schemes :

The Union Government runs a number of lifeline schemes in the country, including old age pension schemes. The State Government schemes are inadequately integrated with these Central schemes. This leads to duplication of efforts and resources.

(e) Non –harmonization of basic benefits :

There is wide variation in the basic lifeline benefits provided by various welfare schemes. These benefits are often structured on an adhoc basis without reference to the needs of the clientele. There is an urgent need to harmonize basic “lifeline benefits”, while the extra variable benefits could be structured around the particular requirements of each sector.

(f) Bogus memberships :

Membership in some welfare schemes is intrinsically more attractive than others. For instance, the construction board is relatively more affluent because of incomes from statutory building cess. Hence, there is wide incidence of fraudulent memberships by workers from other non-related sectors.

(g) Impact of the Supreme Court judgement :

In a recent landmark ruling the Supreme Court of India has held that since Welfare Fund contributions are not a Tax, such contributions can be collected only from those employers who have a direct nexus with the beneficiary employee. This ruling has immobilized certain welfare schemes like the Fishermen Welfare Scheme and the Handloom Workers Welfare Scheme where the employer-contributor has no direct nexus with the beneficiary-worker.

(h) Formation of closed Labour Shops :

The setting up of welfare schemes has strengthened the tendency to form monopolistic labour shops, particularly in sectors like the loading and unloading of goods. This has thwarted the free movement of workers into such sectors.

(i) Gender bias in welfare :

Practically all the Welfare Fund Board in Kerala cater to men, and women members are disproportionate with the total women in the workforce. Even the types of benefits offered by the welfare systems tend to be male oriented.

(j) Demographic transition implications :

With its high life expectancy Kerala has an increasingly large graying population. This leads to large expenditure commitments on items such as pensions.

(k) Govt. Intervention in Welfare Scheme Functioning :

Even though the Welfare Boards are theoretically autonomous, they often have to bend to Government dictates, especially in matters such as fund investment which may not often be in their best interest.

REFORM DIRECTIONS

There is a pressing need to integrate the social security delivery mechanism as well as harmonize the various pieces of enabling legislation. There is no particular need to have separate administrative structures for each Welfare Fund Board. Integration of the administrative system can lead to a dramatic reduction in the administration of these welfare schemes; simultaneously computerization of enrolment, disbursement of benefits and back office functions can substantially reduce transaction costs. The State Government is contemplating a proposal to enact a basic frame legislation for all social security schemes. The proposal would involve some of the following:

(a) Integration of Lifeline Benefits :

The lifeline benefits like pension could be harmonised across sectors, while the insurance component can be farmed out to the insurance companies. Reduction in the wide differentials presently existing in the welfare schemes will ensure that the richer funds do not “crowd-out” poor funds

(b) Contextuality v. Centralization :

There is an urgent need to marry centralized administration with localized delivery. The enrolment and disbursement functions could be localized through systems like the village Panchayats, while the data-base management and the fund management could be centralized and computerised.

(c) Administrative autonomy of Welfare Fund Boards :

The nominations on the Welfare Fund Boards have to be more representative of the workmen being represented. Boards may also have to be given not just de jure but also de facto autonomy in matters like fund investment and posting of officers.

(d) Transparency :

Audit systems in the Welfare Fund Boards are inadequate. There is a need to have an effective audit system and also to open out the functioning of the schemes to scrutiny by interested persons like workers representatives, NGOs and the Local Self Government institutions.

(e) Incentivising employers :

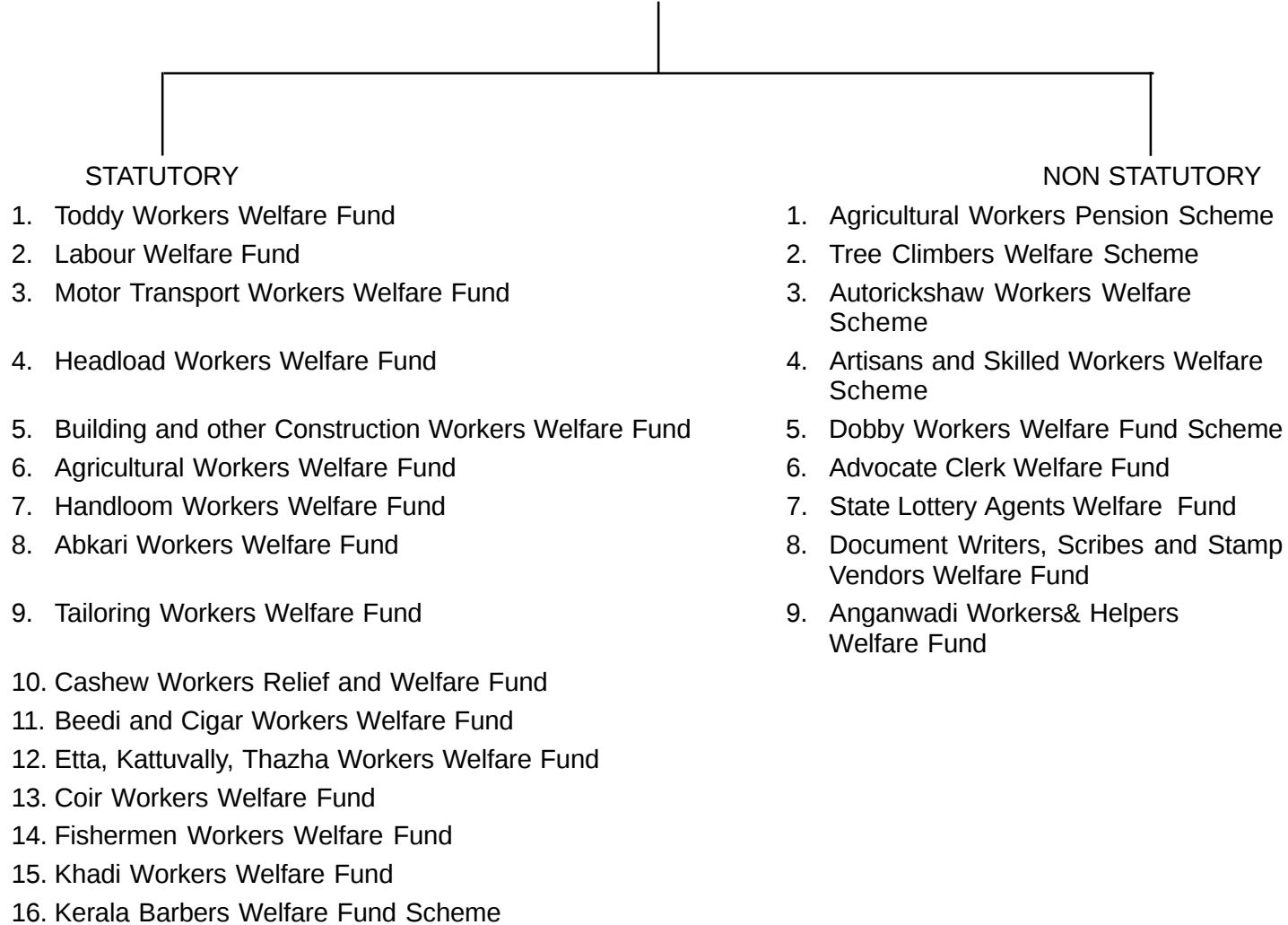
In the absence of positive incentives to employers, the level of their participation and contribution continue to be sub-optimal. Win-Win solutions have to be worked out whereby there are positive inducements for the employers also to energetically participate in the Welfare Scheme.

Most of the social security schemes in Kerala are undergoing a phase of financial crisis. However, this crisis is also a great opportunity to critically analyze the systemic defects and radically overhaul the entire delivery system, particularly using the tools provided by information technology.

THE WAY FORWARD

Kerala's experience over the last 30 years has shown that it is possible to have comprehensive tripartite social security arrangements for protecting not just the organized workforce, but also the unorganized sector. Kerala has also demonstrated that the workers, representatives and the employers can have a dominant role in running the Tripartite Boards. However, the present financial difficulties in some of the Welfare Fund Boards has also demonstrated that schemes need to be rooted in ground realities like the contribution capacities of employers and employees, the age profile of the population, the financial soundness of the concerned sector and the ability of the Government to contribute. Kerala's experience has also demonstrated the dangers of having an unbridled administrative apparatus which tends to expand itself at the cost of the worker whom they are meant to protect.

The Kerala model of development accords a very prominent position to providing security to the working population in the informal sector. Hence successive State Governments will undoubtedly continue to earmark substantial resources and efforts to strengthening the Welfare Fund system. The present crisis afflicting many of the Welfare Fund Boards needs to be seen as a basic opportunity to reform the system along the lines that have been indicated in this paper.

WELFARE FUNDS / SCHEMES

WELFARE FUNDS/SCHEMES AND ITS LEGAL FRAMEWORK

SL. No.	Name of the Fund/Scheme	Legal framework	Constitution of the Board				
			<i>Workers' Representatives</i>	<i>Employer's Representatives</i>	<i>Government Representatives</i>	<i>Others</i>	<i>Total</i>
1	<i>Kerala Toddy Workers Welfare Fund</i>	The Kerala Toddy Workers Welfare Fund Act, 1969 and The Kerala Toddy Workers Welfare Fund Scheme, 1969	7	7	7	Nil	21
2	<i>Kerala Labour Welfare Fund</i>	The Kerala Labour Welfare Fund Act, 1975 (Act II of 1977) and The Kerala Labour Welfare Fund Rules, 1977	4	4	5	6	19
3	<i>Kerala Headload Workers Welfare Board</i>	The Kerala Headload Workers Welfare Act, 1978 (Act 20 of 1980) The Kerala Headload Workers Rules, 1981 The Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983 The Kerala Headload Workers (Attached Group) Welfare Scheme, 1995 and The Kerala Headload Workers (Scattered Group) Welfare Scheme, 1999	5	5	5	Nil	15

4	Kerala Motor Transport Workers Welfare Fund	The Kerala Motor Transport Workers Welfare Fund Act, 1985 and The Kerala Motor Transport Workers Welfare Fund Scheme, 1985	5	5	5	Nil	15
5	Kerala Artisans and Skilled Workers Welfare Scheme	The Kerala Artisans and Skilled Workers Welfare Scheme, 1991	3	Nil	2 (Representing Labour and Finance Depts.)	Chairman of the Labour Welfare Fund will be the Chairman of this Board and the Chief Executive Officer of the Labour Welfare Fund Board will be the Convener	
6	Kerala Handloom Workers Welfare Fund	The Kerala Handloom Workers Welfare Fund Act, 1989 and The Kerala Handloom Workers Welfare Fund Scheme,	5	5 (Employers, Producers and Dealers)	5		15
7	The Building and Other Construction Worker's Welfare Board	The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Act 27 of 1996) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Kerala Rules, 1998 The Building and Other Construction Workers' Welfare Cess Act, 1996 (Act 28 of 1996) The Building and Other Construction Workers' Welfare Cess Rules	5	5 (representing contractors/ employers)	5	Chairman appointed by the State government and an member nominated by Central Government	17

8	Kerala Agricultural Workers Welfare Fund	The Kerala Agricultural Workers Act, 1974 and The Kerala Agricultural Workers Welfare Fund Scheme, 1990	7	7 (Agricultural Land Owners)	7	Nil	21
9	Kerala Abkari Workers Welfare Fund	The Kerala Abkari Workers Welfare Fund Act, 1989 and The Kerala Abkari Workers Welfare Fund Scheme 1990	5	5	5	Nil	15
10	Kerala Tailoring Workers Welfare Fund	The Kerala Tailoring Workers Welfare Fund Act, 1994 and The Kerala Tailoring Workers Welfare Fund Scheme	6	4	4	Nil	14
11	Kerala Cashew Workers Relief and Welfare Fund	The Kerala Cashew Workers Relief and Welfare Fund Act, 1979 (Act 19 of 1984) and The Kerala Cashew Workers Relief and Welfare Fund Scheme, 1988	5	5	5	Nil	15
12	Kerala Autorickshaw Workers Welfare Fund	The Kerala Autorickshaw Workers Welfare Fund Scheme, 1991	This scheme is implemented by the Motor Transport Workers Welfare Fund Board. (The Administrative board is also the same)				15
13	Kerala Beedi and Cigar workers Welfare Fund	The Kerala Beedi and Cigar Workers Welfare Fund Act, 1995 and The Kerala Beedi and Cigar Workers Welfare Fund Scheme, 1996	5	5	5	Nil	15
14	Kerala Etta, Kattuvally, Thazha workers Welfare Fund Board	The Kerala Bamboo, Kattuvally and Pandanas Leaf workers Welfare Fund Act, 1998 (Act 17 of 1998) and The Kerala Bamboo, Kattuvally and Pandanas Leaf workers Welfare Fund Scheme, 1999	5	5	5	Nil	15

15	Kerala Barbers Welfare Fund	The Kerala Barbers Welfare Scheme, 2004	3	Nil	2 (two representatives of the Labour Welfare Fund representing Labour and Finance Departments of Government)	Chairman of the Labour Welfare Fund will be the Chairman of this Board and the Chief Executive Officer of the Labour Welfare Fund Board will be the Convener	7
16	Kerala Dobby Workers Welfare Fund	The Kerala doobby Workers Welfare Scheme, 2004	3	Nil	2 (two representatives of the Labour Welfare Fund representing Labour and Finance Departments of Government)	Chairman of the Labour Welfare Fund will be the Chairman of this Board and the Chief Executive Officer of the Labour Welfare Fund Board will be the Convener	7
17	Kerala Coir Workers Welfare Fund	The Kerala Coir Workers Welfare Fund Act, 1987 and The Kerala Coir Workers Welfare Fund Rules, 1989	5	5 (Exporters, Dealers, Employers and Producers of coir products)	5 (representing Industries and Finance Depts., Coir Board, Director Coir Development and Chief Executive Officer of the Board)	Nil	15

18	<i>Kerala Fishermen's Welfare Fund</i>	The Kerala Fishermen Welfare Fund Act, 1985 and The Kerala Fishermen Welfare Fund Scheme, 1986	No separate Administrative Board
19	<i>Kerala Agricultural Workers Pension Scheme</i>	G.O (P) No.31/80/LBR dated, 26.4.1980	No separate Administrative Board. Implementing through Local Self Government institutions.
20	<i>Kerala Tree Climbers Welfare Scheme</i>	G.O.(P) No. 23/82/LBR, dated 13.07.1982	No separate Administrative Board. Implementing through District Labour Officers
21	<i>Kerala Advocate Clerk Welfare Fund</i>	By Government Orders	No separate Board
22	<i>Kerala Khadi Workers Welfare Fund</i>	By Government Orders	No separate Board
23	<i>Kerala State Lottery Agents Welfare Fund</i>	By Government Orders	No separate Board
24	<i>Kerala Document Writers, Scribes and Stamp Vendors Welfare Fund</i>	By Government Orders	No separate Board

WELFARE FUNDS/SCHEMES – BENEFICIARIES AND QUALIFYING CONDITIONS

Sl.No.	Name of the Welfare Fund/Scheme	Beneficiaries and qualifying conditions
1	<i>Kerala Toddy Workers Welfare Fund</i>	Any person who is directly or indirectly in the production (tapping), collection and distribution of toddy for his livelihood. All toddy shops /premises are covered under the Act (Fund)
2	<i>Kerala Labour Welfare Fund</i>	Workers in factories, plantations employing 10 employees and above Shops and commercial establishments employing two and above and co-operative institutions employing 20 workers and above are covered by the Fund
3	<i>Kerala Headload Workers Welfare Board</i>	A 'Headload Worker' is defined as an individual who works for an establishment either directly or through a contractor for wages, in loading, unloading, carrying on head or in a trolley, any article from any place. But this does not include a person engaged by an individual for domestic purposes.
4	<i>Kerala Motor Transport Workers Welfare Fund</i>	A person who is employed for wages in a motor transport undertaking directly or through an agency to work in a professional capacity on a transport vehicle, like driver, conductor, cleaner, station staff, checking staff, cash clerk, time keeper, watchman or attender. An employee becomes eligible for membership on completion of three months of service.

5	<i>Kerala Artisans and Skilled Workers Welfare Scheme</i>	Workers in the informal sector such as tree Climbers, Gold Smiths, Carpenters, Pappad Makers, Chakku oil extractors, pottery workers, Watch repairers, Cycle repairers, Milk Vendors, Workshop workers, Ice Workers, photographers etc, and who are not having membership in any other welfare schemes within the age limit of 20 and 58 are eligible for membership in this Scheme.
6	<i>Kerala Handloom Workers Welfare Fund</i>	Any person who is engaged in any activity related to Handloom industry and who gets his/her wages directly or indirectly from the employer or contractor and all others who depend mainly on the Handloom industry for his /her livelihood are included (self employed). The scheme also covers their dependants.
7	<i>The Building and other Construction Worker's Welfare Board</i>	Every Building Worker who has completed 18 years of age but have not completed 60 years of Age and who is not a member in any other Welfare Fund, established under any law in force and who has completed 90 days of service as a building worker in the immediately preceding year shall be eligible for membership.
8	<i>Kerala Agricultural Workers Welfare Fund</i>	All Agricultural Workers who are engaged in the agricultural operation within the age limit of 18-60 years and are covered by the Kerala Agricultural Workers Act, 1974 are eligible to obtain benefits of the Fund
9	<i>Kerala Abkari Workers Welfare Fund</i>	Abkari worker engaged in storage, Bottling, transportation and sale of Foreign Liquor, having three months continuous service is eligible for the membership in the Fund

10	<i>Kerala Tailoring Workers Welfare Fund</i>	Every tailoring worker or self employed person who has completed the age of 18 years, but has not completed 60 years of age, who is not a member of any other Welfare Fund Scheme, established under any law for the time being in force and who has been engaged in the tailoring or embroidery work for not less than 3 years shall be eligible for registration as a member under this Act and the Scheme.
11	<i>Kerala Cashew Workers Relief and Welfare Fund</i>	Any person who is engaged in any form of employment in the processing of cashew. The scheme applies to cashew workers and their dependants (husband/wife, unmarried daughters and minor sons and parents, minor brothers and unmarried sisters, fully dependant on the beneficiaries). He/she is eligible for welfare benefits of the Fund, provided he/she is resident of the State, with a minimum of five years in the industry, annual income not exceeding Rs.3600/- and is not covered by ESI/ Maternity Benefit Scheme.
12	<i>Kerala Autorickshaw Workers Welfare Fund</i>	Any person including self-employed person between the age of 20 and 48 years employed in an Autorickshaw used for the purpose of transporting passengers and goods are eligible to become members of this Fund.
13	<i>Kerala Beedi and Cigar Workers Welfare Fund</i>	Every employee or self employed person who has completed 18 years age and has not exceeded 55 years of age shall be entitled to and be required to be a member of the Fund if he has completed 3 months continuous service.
14	<i>Kerala Etta , Kattuvally, Thazha workers Welfare Fund Board</i>	Every Bamboo, Kattuvally and Pandanus Leaf Workers and self employed persons in the industry who has attained the age of 18 years and not completed 60 years

15	<i>Kerala Barbers Welfare Fund Scheme</i>	Workers aged between 18-50 employed in hair cutting and beautician work.
16	<i>Kerala Dobby Workers Welfare Scheme</i>	Workers aged between 18-50 employed in laundry employment
17	<i>Kerala Fishermen Workers Welfare Fund</i>	It covers all fishermen who are employed for wages in a fishing vessel or self employed fishermen who are registered as members of Fishermen's Welfare Society.
18	<i>Kerala State Lottery Agents Welfare Fund</i>	Lottery Agents: A person who is a regular agent and holds a valid identity folder as mentioned in Kerala State Lottery Rules 1977.
19	<i>Kerala Document Writers, Scribes and Stamp vendors Welfare Fund</i>	A person who functions as a Document Writer or as a Scribe or Stamp Vendor and is licensed under the Kerala Document Writer's (Licence Rules) or the Kerala Manufacture and Sale Stamp Rules 1960). Membership is open to any person holding a valid licence and aged below 60 years.
20	<i>Kerala Anganwadi Workers & Helpers Welfare Fund</i>	Persons who are working in Angawadi (Day care centre like health workers, teachers and helpers are expected to be covered by this Fund.

WELFARE FUNDS/ SCHEMES, BENEFICIARIES AND SOURCE OF INCOME

Sl. No.	Name of the Fund/ Scheme	Date of commencement	Estimated No. of workers in the industry /sector	Total workers covered /registered in Fund/Scheme	Corpus of fund				Present Fund position
					Workers	Employers	Government	Others	
1	2	3	4	5	6	7	8	9	10
1	Kerala Toddy Workers Welfare Fund	29.12.1969	41,359	36,350	8% of wages	13% of wages (8% for provident fund and 5% for gratuity)	10% of workers' total contribution	Nil	681.73 Crores as on 30.09.2004
2	Kerala Labour Welfare Fund	01.05.1997	-	5,04,318	Rs. 4/- Half yearly	Rs.8/- Half yearly	Nil	Nil	4,23,30,963
3	Kerala Head load Workers Welfare Board	20.05.1981	2.50 lakhs	76,416 (Unattached workers 30,646 Attached workers – 1,512 workers – 50,111)	10% of the wages	27% of the wages (25% for the welfare benefits and 2% additional contribution for Workmen's compensation Scattered	Nil	Nil	97.00crores
4	Kerala Motor Transport Workers Welfare Fund	10.04.1986	2,58,994	50,982	8% of wages	13% of wages (8% of wages for provident fund and 5% for gratuity)	Nil	Nil	66,70,94,872

5	Kerala Artisans and Skilled Workers Welfare Scheme	23.10.1986	-	2,02,930	Rs.10/- per worker	Nil	Rs. 2/- per (20%)	Nil	23,66,87,901
6	Kerala Handloom Workers Welfare Fund	01.06.1989	2.34 lakhs	48,569	Rs.3/- worker /month Self employed persons Rs.5/- per worker /month	Rs. 6/- worker /month	Sum equal to the contribution of employees and self employed persons received in a year	Contribution at slab rates ranging from Rs. 500/- to Rs. 8,500/- per year based on the sales turnover (the HC of Kerala has held this provision unconstitutional hence a Cess Act is in the active consideration of Government)	21.47000 lakhs as on 30.11.2004
7	The Building and other Construction Worker's Welfare Board	01.01.1990 (initially commenced in terms of the State Act but subsequently in 01.0.1996 it	15 lakhs	11,26,000	Rs. 20/- per month and a Registration fee of Rs. 25/- per person	15 of the total construction charge from the employers/ contractors + 1% of the total construction charges from	Nil	Nil	216 Crores

		was shifted in terms of the Central Act				the owners of residential houses costing 10 lakhs or more			
8	Kerala Agricultural Workers Welfare Fund	09.07.1990	16,53,601 as per 2001 Census	18,49,489	@ Rs.5/- per mensem	@ Rs. 10/- for land above ½ hectare up to one hectare and Rs. 15/- for each hectare of Agl land from the Agricultural land owners	Nil	Nil (An amount of Rs. 5 Crores have been received as a grant)	12,16,68,384
9	Kerala Abkari Workers Welfare Fund	01.01.1990	2500	1987 as on 30.06.2004	10% of the wages	10% of the wages	Nil	Rs. 50/- collected as fee for issuing non liability certificates to participate in the auction	53,32,57,528
10	Kerala Tailoring workers Welfare Fund	06.10.1995	4.5 lakhs	2,52.800	Rs.10/- mwmber / month	Rs. 5/- per worker / month	10% of the total collection received from members	Nil	15,55,88,545/-

11	Kerala Cashew workers Relief And Welfare Fund	15.01.1988	2 lakhs	1.42,330	Rs.1/- per worker for each day of work	Rs.1/ worker for each day of work	Rs. 1/per worker for each day of work	Nil	5,14,88,000/-
12	Kerala Autorick- shaw Workers Welfare Fund	02.04.1991	4 lakhs	18,468	Rs. 25/- worker/ month	Rs. 25/- worker/ month	10% of contribution of workers	Nil	1,53,27,303/-
13	Kerala Beedi and Cigar workers Welfare Fund	01.07.1999	1.50 lakhs	37,964	Rs. 3/- per month +Rs.5/- month from self employed persons	Rs.6/- per month per worker	Equal to the yearly contri- bution paid by the employees by way of grant	Nil	1,05,03,117/-
14	Kerala Etta, Kattuvally, Thazha Workers Welfare Fund Board	1999	2 lakhs	7,236	Rs.7/-	Rs.7/-	Rs.7/-	Nil	10,56,375
15	Kerala Barbers Welfare Fund (Very recently constituted.)	03.01.2004	-	-	Rs.20/- per month / worker (Rs.10 for benefits including retirement benefit and Rs. 10 for pension)	Nil	Rs.12/-per month/worker (Rs.2 for benefits including retirement benefit and Rs. 10 for pension)	Nil	-

16	Kerala Dobby Workers Welfare Fund (Very recently constituted.)	03.01.2004	-	-	Rs.20/- per month / worker (Rs.10 for benefits including retirement benefit and Rs. 10 for pension)	Nil	Rs.12/-per month/ worker (Rs.2 for benefits including retirement benefit and Rs. 10 for pension)	Nil	-
17	Kerala Coir Workers Welfare Fund	31.12.1987	1,96,000	1,76,400	Rs.1/- month per worker	1% of the turnover	Grant which is twice the amount contributed by the workers	Co-operative society Rs.1/- per month per worker and others Rs.2/- per month per worker	65,947,471 as on 15.11.2003
18	Kerala Fishermen's Welfare Fund	1989	-	22,45,89	3% of value of fish caught or 3% of wages and Rs.30/- per worker per year	-	Contribution for pension and group insurance premium	Exporter 1% Other Dealers 1% of the turnover Vessel Owners Rs.1/- to 7/- per month for nine months Net owner Rs.1/- per month Farm owners 2% of value of fish caught 1000/- per month Crafts Rs.2/- to 10/- per month Nets Rs.5/- (Rs.3/- per 9months) Farms P.F.Rs. 100/- to 300/-	-

19	Kerala Agricultural Workers Pension Scheme	01.04.1980	(A social assistance Scheme administered by the Labour Commissionerate and implemented through Local Self Government institutions)						
20	Kerala Tree Climbers Welfare Scheme	Brought into force with effect from 01.04.1979 but actually implemented from 1980-1981	(A social assistance Scheme administered by the Labour Commissionerate and implemented through District Labour Officers)						
21	Kerala Advocate Clerk Welfare Fund	1985			Rs.60/- per annum per member	Nil	Rs.90/- per year per member	-	-
22	Kerala Khadi Workers Welfare Fund	1989			10% of the workers wages	10% of the workers wages	10% of the workers wages	-	
23	Kerala State Lottery Agents Welfare Fund	1991			Category A/B Rs.15/- month Rs.10/- month	Nil	20 % of the member's contribution	-	-
24	Kerala Document Writers, Scribes and Stamp Vendors Welfare Fund	1991			Category A/B Rs.15/- month Rs.10/- month	Nil	10 % of the member's contribution	-	-

WELFARE FUND BENEFITS

Name of the Fund/ Scheme	Superannuation / pensionary benefits	Disability, Death	Educational Benefits	Medical	Marriage and Maternity	Unemployment	Housing	Others / Special Allowance
1	2	3	4	5	6	7	8	9
Kerala Toddy Workers Welfare Fund	Monthly pension @ Rs.100/- month for the workers who have not less than ten years of membership and retired before the commencement of the scheme and the workers who retires after the scheme. In addition to the above Rs.10/- for each additional completed year of membership from the date of supeannuation will also be sanctioned for those who have more than ten years of membership and retired after the commencement of the scheme Funeral Expenses @ Rs. 5000/- to the legal heirs of the members	Disability Allowance Rs. 150/- per month for totally and permanently disabled workers	Scholarships for the children for the courses from 8 th Std to Professional courses Gold Medals to the children / dependants of toddy workers who secure 1 st , 2 nd and 3 rd ranks for the S.S.L.C examinations in the State. Cash awards to the to the children / dependants of toddy workers who secure 1 st (Rs.1000/-) 2 nd (Rs.500/-) and 3 rd ranks (Rs.250/-) for the S.S.L.C examinations in the district level. Non refund-able advance (deductible) from his contribution Rs. 100/- or 50% of his contribution, whichever is lower.	Non- refund-able advance of his months wages or 50% of his contribution, whichever is lower for Cancer care Rs.7000/- as grant (on deductible)	Non refundable advance from his contribution. But he should have at least Rs.500/- at the Fund (on deductible)	Refund-able advance in case of unemployment, provided he should have at least Rs. 500/- at the Fund (Refund-able)	Provided he must have at least three month wage at the Fund	Members can withdraw Funds from his account in order to pay the insurance premium

Kerala Labour Welfare Fund	Compassionate Relief @ Rs.2,500/- as immediate relief to the dependants of the employees who die harness	Since the Fund is an insurance Fund, there is no retirement benefit	Ex-gratia Rs.2500/- as Death Relief to the dependants of the members Permanent disabled Rs.2500/- Funeral Expense Rs.200/-	Grant for High School education @ Rs.250/- to Rs.3,000/- per annum. Grant for Higher education @ Rs. 400/- to Rs.1800/- per annum for post metric courses, professional courses, technical courses etc. through out the course. Craftsman training to students in Govt. I.T.Is with stipend @ Rs.150/- per month. Computer training Programmes to the children of workers on concessional rate of fees Cash award to the students of the members who secure highest marks in S.S.L.C examinations.	Medical grant (Non- deductible of Rs. 1,500/- (Maximum amount) Medical Aid Scheme @ Max: Rs. 10,000/- Financial assistance for the purchase of equipment for workers disabled in the course of work. Financial assistance @ Rs.100/- per month for the workers having unmarried children in the categories of Blind, Dumb, Deaf and Mentally retarded for five years	No provision	No provision	Grant to Libraries @ Rs.5000/- for the purchase of books. Tour Subsidy for the workers and their family members
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Kerala Headload Workers Welfare Board	Invalid pension @ Rs.150/- per month till death for permanent disability on account of accident or due to irrecoverable illness Terminal Benefit / gratuity @ 10% of total wages earned during the entire periods of service on superannuation, retirement, disability, death etc. Special Superannuation Assistance @ Rs.15,000/- to the members who may not have much amount in their Terminal benefit Account due to short service.	Death Ex-gratia benefit @ Rs.3000/- is paid as funeral expenses Normal Death @ rs. 15,000/- accident Death @ Rs. 30,000/- Calamity Relief @ Rs.10,000/- Special Death Ex-gratia , distress relief etc. Rs.2000/- A Family Welfare Assistance @ Rs.10,000/- when any worker becomes permanently disabled due to accident	Educational grant @ Rs.200/- year at the time of re - opening of schools/ colleges if any member has a school/college going children Annual Scholarship @ Rs. 100/- to Rs.3000/- for the children of workers for the upper primary course to professional and technical courses	Medical reimbursement @ Max:Rs.7000/- annum and in the case of spouse, children below the age of 18 years and dependant parents the amount is limited to Rs.2,000/-per year Medical assistance @ Rs. 5000/- A Special Medical Assistance of Rs. 25,000/- for the cancer/ heart/kidney patients Distress Relief a grant in aid @ Rs.60/- or average daily wages whichever is less for 2 months and if treatment is continued, 50% of the above rate will also paid for further 2 months subject to a maximum of	Financial assistance@ Rs.5,000/- (interest free loan) or an amount of three times of his average monthly earnings whichever is less.(repayable in 20 instalments) in connection with the marriage of the daughters After the marriage a further amount of Rs.2000/- will be paid to the worker as grant In addition a loan up to an amount of Rs.10,000/- on a nominal interest	No other specific benefits	House construction loan @ Rs.1,00,000/- for the construction of new house and @ Rs.50,000/- for repair/ extension of the existing house. (refundable)	Festival Bonus @ 11.5% of the total wages earned by a member during each financial year Holiday allowance for 9 days @ of average daily wages Festival Advance @ Rs.5000/- for any one of the festivals during a calendar year(refundable) Family Planning Assistance as grant @ Rs.1650/- in the case of member and @ Rs.1250/- for spouse who undergoes a sterilization operation.
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	Special Death Ex-gratia @Rs.15,000/- for normal death, Rs.30,000/- for accidental death and Rs.5,000/- for death in the course of his employment Pension and revised terminal Benefit @ Minimum Rs.300/- or Rs.350/- (for the workers who has 10 or 15 years of service) to Rs.2400/- per month based on their length of service wage earned. When the pensioner dies a family pension @ Rs.100/- to the family			Rs.5400/- On the death of dependants Rs.1000/- also will be paid as grant.			Calamity relief Plan @ Rs.10,000/- for the reconstruction or repairs of the house subject to a maximum of three times of the average of monthly wages where a member's residential house is destroyed in natural calamities Multipurpose Loan @ Rs.20,000/- with an annual interest of 12% per annum (repayable in 12 months)
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Kerala Motor Transport Workers Welfare Fund	Pension has been sanctioned but not yet commenced. Provident Fund @ of whole amount of PF contribution along with compound interest at the time of superannuation, retirement, dismissal etc. Gratuity @ 15 days wages (last drawn) for each completed years of service or a part thereof exceeding six months Ex- gratia death benefit @ Rs. 25,000/- to the dependants of diseased worker	Ex-gratia payment @ Rs. 25,000/- for permanent total disablement as a result of employment accident	Education loans @ not exceeding Rs.1200/- at a time Scholarship ranging from Rs.1000/- to Rs.3000/- depending on the courses	A medical benefit subject to a maximum amount @ Rs. 25,000/- or 50% of the actual expenses whichever is less for certain chronic diseases. A loan for medical treatment subject to a maximum amount equal to his basic wages for three months.	Marriage Advance for the marriage of daughters @ not exceeding 50% of the total contributions made by the worker with interest thereon available at his credit.	Financial Assistance for the period of unemployment @ not exceeding an amount of provident fund contribution in his credit	For the construction of dwelling house or purchase of sites to workers to a maximum of his Provident Fund contribution with interest thereon.	Non-refund advance not exceeding Rs.50/- for purchasing shares from co-operative societies. Withdrawals from Provident Fund account for making payments towards Insurance policies
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Kerala Artisans and Skilled Workers Welfare Scheme	Death Benfit @ Rs.10, 000/- for the dependants of the members who dies before his retirement. Funeral Expenses @ Rs.500/- A member who dies before his retirement completes 42 years of service will get Rs.62,720/- as retirement benefit. For lesser service proportionate amount is paid	Rs.10,000/- to the dependents as death Benefit and Rs.500/- as funeral expenses	Educational scholarships for the technical and other courses including professional @ Rs. 300/- to Rs.1000/- depending on the course.	No other specific Benefits	Rs.1000/- as marriage benefit for the marriage of the daughter. Maternity Benefit @ Rs.500/- in two times for the female members	No other specific Benefits	No other specific Benefits	A member who accept any employment or abandon his membership will be given his entire contribution to the scheme after deducting 5% or Rs.5/- which ever is high as service charge.
Kerala Handloom Workers Welfare Fund	Superannuation pension @ Rs.100/- (previously the rate was Rs.75/- month but it has been enhanced from 01.04.1997 Pension was extended to self employed persons also @ Rs.100/- month from 01.08.1998	Ex-gratia financial assistance @ Rs.5000/- for accidental death or prolonged illness or permanent disablement. Death relief @ Rs.5000/- to the dependants	Educational grant to various courses from High school to professional courses @ Rs.250/- to Rs.2000/- depending on the course. Cash award @ Rs.500/- to the children of members who secure highest marks for the SSLC examinations in the district level	No other specific Benefits	Financial Assistance for marriages @ Rs.2000/- for the marriage of female members and daughters of members.	No other specific Benefits	No other specific Benefits	Refund of contribution of deceased members is paid subject to a minimum of Rs.1000/-

The Building and other Construction Worker's Welfare Board	Pension @ Rs.200/- month and an additional Rs.20/- per year of service beyond five years Family pension to the spouse @Rs.100/- or Half of the pension received by the Pensioner whichever is higher Invalid pension @ Rs.150/- per month to member who becomes invalid due to disease or accident Funeral Expenses @ Rs.1000/- to the nominees	Death Benefit @ Rs.15,000/- for any cause to the nominee If the Death is due to an accident at the work spot during employment his nominee will receive Rs.1,00,000/- as accident death relief. In the case of permanent disability the member is eligible for Rs.50,000/-	Scholarship for various post metric courses and cash awards for SSLC examination on merit basis Financial assistance @ Rs.5000/- to the children of the members for attending coaching classes for professional courses	Medical Benefit @ Rs.300/- to the member for five days hospitalization and for an additional amount of Rs.50/- per day to a maximum of Rs.5000/- If the member is permanently disabled to carry out further employment he will be eligible for financial assistance @ Rs. 10,000/-	Marriage Benefit @ Rs.Rs.3,000/- to the female members or daughters of such members and Rs.2000/- to the marriage of male members and sons of such members Maternity Benefit @ Rs.2000/- to the female members for two deliveries	No other specific Benefits	House Building Advance of Rs. 50,000/- if a member	Too advance @ Rs. 10,000/- in lump sum on a nominal interest (refundable)
Kerala Agricultural Workers Welfare Fund	Rs.25, 000/- as Superannuation Benefit for a member who has completed 40 years of continuous service. For lesser period proportionate amount @ rs.5,000/- provided the period of contribution of the member is not less than 36 months	Rs. 1000/- to the dependents	Scholarship for the SSLC students on the basis of merit	Rs.1000/- (reimbursement)	Rs.2000/- for the marriage of the female members of the member's daughter Maternity benefit @ Rs.1000/-	No provision	No provision	No provision

Kerala Abkari Workers Welfare Fund	A Minimum pension of Rs. 200/- and an additional amount of Rs.10/- for each completed year (Max. pension limited to Rs.300/-) Gratuity @ of 50% of average monthly pay for every year of valid membership P.F- 10% off the employee's contribution and 8% of the employer's contribution and interest for the total amount	Financial benefit @ Rs.10, 000/- to the nominee of the deceased.Funeral Expenses of Rs. 1,000/- to the nominee of the member	No specific Benefits	Amount not exceeding Rs.500/- as medical advance (non-refundable)	Amount not exceeding Rs.2000/- as advance (non-refundable) for the marriage of the daughter	No provision	Employee's contribution at the credit of the member will be disbursed as construction of building or for purchase of land(non-refundable but limited to 12 months wages)	No other specific Benefits
Kerala Tailoring Workers Welfare Fund	Disability Pension @ Rs.100/- per month to disabled tailors /self employed tailors who had attained the age of 60 but couldn't join the scheme when it was started.	Death Ex-gratia @ Rs.10,000/- to the family members	Scholarships @ Rs.600/- to Rs.3000/- for the children of members for various courses from 11th standard to professional courses. Cash Award @ Rs.500/- on	No other specific Benefits	Marriage benefit @ Rs. 1000/- to a female member for her marriage and for the marriage of two daughters. Maternity Benefit @ Rs.600/- for the female members for two deliveries	No other specific Benefits	No other specific Benefits	Terminal refund of contribution together with Board's share of 10.5% to retired members.

	Members who have three years membership are eligible to receive members disability pension @ Rs.100/- per month on disability due to accident Retirement Pension ranging from Rs.100/- to Rs. 430/- per month to the members who had attained the age of 60 years and had a minimum membership tenure of three years. Family Pension ranging from Rs.100/- to Rs.258/- per month after the death of the pensioner.		merit basis for the children of members who passed 10 th standard.					
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Kerala Cashew Workers Relief and Welfare Fund	Monthly pension @ Rs. 125/- per daily rated workers and Rs.200/- per month to the monthly rated staff members on their superannuation	Ex-gratia payment @ Rs.2,500/- in the case of prolonged illness or permanent disablement of the members Funeral Expenses @ 1000/- in the case of member dies in service and Rs.500/- in the case of a pensioner	Scholarships for the children of members @ Rs. 500/- to Rs.2,000/- for post metric courses including professional courses Cash award are also given for the academic excellence in various courses	No other specific benefits	Financial; Assistance @ Rs. 1000/- for the marriage of the daughters of widowed members	Not yet started	Not yet started	In the event of death of member or a on voluntary retirement or on the death of a pensioner the amount of contribution standing to the credit of the member will be refunded to his nominee or legal heirs. However in the case of pensioners the payment is limited to the employee's contribution alone
Kerala Auto-rickshaw Workers Welfare Fund	Retirement Benefit Rs. 1,45,264/- for a member who has completed 30 years in the Fund. For less than 30 years it is paid as per a schedule of rates.	Death Benefit @ Rs.25,000/- to the nominee	Provisions are there but not yet started due to the shortage of Fund	No other specific Benefits	Provisions are there but not yet started due to the shortage of Fund	No other specific Benefits	Provisions are there but not yet started due to the shortage of Fund	Advance for the purchase of Auto-rickshaw (75% of the contribution paid by the worker)

Kerala Beedi and Cigar workers Welfare Fund	Pension @ Rs.100/- per month commenced from 01.04.2003 In addition to this another pension to the traditional cigar workers commenced from 29.02.2002	Death benefit @ Rs. 10,000/- to the nominee In the case of prolonged illness/ permanent disablement of a member Rs. 10,000/- will be provided as disablement benefit	Not yet commenced	Not yet commenced	Marriage benefit @ Rs.2000/- to a female member Rs.500/- as maternity benefit	No provisions	No provisions	Not yet commenced
Kerala Etta, Kattuvally, Thazha workers Welfare Fund Board	Provisions for pension are there but not yet started	Up to Rs. 10,000/- as permanent disability or dies in accident	Scholarship for SSLC/+2 courses @ Rs.1000/- per year for two years on the basis of merit	Non- refund-able advance up to 80% of the amount in the credit of the member	Rs.3000/- as grant for marriage of the member or daughter of the members Rs.1000/- as maternity benefit to the female members	No provisions	50% loan and 50% grant subject to availability of funds for the members who has completed 5years service	No provisions
Kerala Barbers Welfare Fund (Very recently introduced. provisions are there but not yet commenced)	Provision for pension but the amount is not prescribed Retirement Benefit @ Rs. 62,750/- for the member who has 42 years of membership in the scheme.	Death relief @ Rs.10,500/- will also be given to the dependants of the members in addition to the retirement Benefits Financial Assistance @ Rs.1000/-	Scholarships for the courses from post metric courses to professional and technical @ s.500/- toRs.1500/-	No provisions	Marriage Benefit @ Rs.2000/- for the marriage of the daughters of the members Maternity benefit @ Rs.1000/- for a female member	No provisions	No provisions	Financial Assistance @ 75% of the total contribution of the member or Maximum Rs.2000/- whichever is less will be paid for the purchase of employment tools.

	For others proportionate amount will be paid as per the Schedule to the Scheme Funeral Expenses @ Rs.1000/-	will be paid in the case of permanent and total disability. In addition to this minimum pension also will be given on basis of the decision of the committee						
Kerala Dobby Workers Welfare Fund (Very recently introduced. provisions are there but not yet commenced)	Provision for pension but the amount is not prescribed Retirement Benefit @ Rs. 62,750/- for the member who has 42 years of membership in the scheme. For others proportionate amount will be paid as per the Schedule to the Scheme Funeral Expenses @ Rs.1000/-	Death relief @ Rs.10,500/- will also be given to the dependants of the members in addition to the retirement Benefits Financial Assistance @ Rs.1000/- will be paid in the case of permanent and total disability. In addition to this minimum pension also will be given on basis of the decision of the committee	Scholarships for the courses for the courses from post metric courses to professional and technical @ s.500/- to Rs.1500/-	No provisions	Marriage Benefit @ Rs.2000/- for the marriage of the daughters of the members Maternity benefit @ Rs.1000/- for a female member	No provisions	No provisions	Financial Assistance @ 75% of the total contribution of the member or Maximum Rs.2000/- whichever is less will be paid for the purchase of employment tools.

Kerala Coir Workers Welfare Fund	Member Pension @ Rs.100/- per month to a member who is unable to work due to old age, infirmity or who has completed the age of sixty years. Old Coir workers Pension @ Rs.100/- month to a coir worker who has attained sixty years before the commencement of the Act or who suffer from permanent disablement and is out of employment Family Pension @ Rs.75/- to the spouse of the deceased member	Financial Assistance for permanent disability @ Rs.2500/- for the members. Financial Assistance for temporary disability @ Rs.300/- for the members. Death relief @ Rs. 5000/- to the spouse of the member Funeral Assistance @ Rs.200/- if a member or his spouse dies.	Education Assistance @ Rs.500/- to Rs.1500/- depending upon the course of study. Computer training to the children of the members Merit scholarship to the three rank holders of the children of the members in the SSLC examination	Medical Assistance @ maximum Rs.350/- per annum to the members and their dependants Free medical camp to the members, their family and the dependants	Marriage assistance @ Rs. 1000/- for the marriage of the female members and their daughters. Maternity Assistance @ Rs.300/- to the female workers	No other specific Benefits	No other specific Benefits	Institutional care to the destitute coir workers Ever rolling trophy to the school who produced the 1st rank in the S.S.L.C examination Assistance for sanitation purpose @ Rs.3500/- per family with the beneficiary contribution of Rs.500/- (special assistance received from Govt. of Kerala) Assistance for electric connection @ Rs.2000/- per family with the beneficiary contribution of Rs.250/- (special assistance received
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								from Govt. of Kerala) Separate programme for Drinking water distribution in the Panchayats where more coir workers are living Separate training in mechanized Ratt & Ratt supply to women coir workers Self Reliance Societies for the Panchayats for the coir workers.
Kerala Fishermen's Welfare Fund	Old age pension @ Rs.120/- to a member who attained 60 years	Death Relief @ Rs. 20,000/- to the dependants of the deceased members Financial assistance for the death of dependants @ Rs.600/-	Hospitalization expenses @ Rs.2000/-	Marriage Assistance @ Rs. 1,500/- for the marriage of the daughters of the members				Group insurance Scheme covering Accidental Death, Missing, Permanent total disability and permanent partial disability

Role of Labour Administration in Promoting Decent work for Construction workers in Tamil Nadu

M.B. Pranesh

INTRODUCTION

According to the 2001 Census the population of Tamil Nadu is 62.11 million. It constitutes about 6.05% of the total population of India, which is reported as 1,027 million. Out of the total population of 62.11 million, the number of workers is reported as 27.81 million constituting 44.78% of the population. Out of the total number of 27.81 million workers, the number in the organized sector is about 2.52 million constituting only 9%. The vast majority of workers, namely 91% of the total work force, are in the unorganized sector. (GOTN, 2004). Among these unorganized sector workers the break-up among different employments is not available. It is roughly estimated that about two million would be engaged in construction activities. (Sankaran, T.S., 2004).

There is a plethora of labour laws in India to protect the interests of labour in general and the organized labour in particular. However only a few labour laws protect the interests of workers in the unorganized sector and that too partly. Labour laws like the Factories Act, 1948, the Plantations Labour Act, 1951, the Payment of Wages Act, 1936, the Payment of Gratuity Act, 1972, the Payment of Bonus Act, 1965, the Maternity Benefit Act, 1961, the Employees' State Insurance Act, 1948 and the Employees Provident Fund Act, 1952 do not cater to the needs of workers in the unorganized sector. Labour laws like the Tamil Nadu Shops and Establishments Act, 1947, the Tamil Nadu Catering Establishments Act, 1948, the Motor Transport Workers Act, 1961, the Minimum Wages Act, 1948, the Contract Labour (Regulation and Abolition) Act, 1970, the Inter-State Migrant Labour (Regulation of Employment and Conditions of Service) Act, 1973, the Equal Remuneration Act, 1976, the Workmen's Compensation Act, 1923 have relevance

to the workers in the unorganized sector. Though it appears that a few labour laws applicable to certain employments in the unorganized sector exist, in reality the vast majority of workers are unaware of the laws and do not have strong unions to agitate for their rights.

The informal sector is characterized by income insecurity and vulnerability of the workers. The notion of social security was consolidated by ILO in 1952, in Convention 102, which included nine core contingencies leading to stoppage or reduction of earnings to be covered under social security. It included sickness, maternity, employment injury, unemployment, invalidity, old age, death and provision of medical care and subsidies for families and children. India has not ratified this Convention. However many steps have been taken to provide most of the above securities, particularly to workers in the organized sector. However such benefits are yet to be extended to most of the workers in the unorganized sector.

According to Dreze and Sen (1991), a large proportion of the population lives in conditions of deprivation. The basic insecurities faced by the people are severe and in addition, they are vulnerable to random shocks resulting in loss of even the little income they ordinarily derive. Social security has to counter the effects of random shocks and also increase security for all, so that poor people need not live in constant fear of a calamity. Hence Dreze and Sen argued that both protective security and promotional security are needed. Protection is concerned with preventing a decline in existing conditions of living. Promotional social security aims to improve the normal living conditions (Jeemol Unni and Uma Rani, 2001).

Families in the unorganized sector live lives of uncertainty and poverty. But they make a large contribution to the economy. It is estimated that nearly 60% of the national income is contributed by the unorganized sector. Social protection is the way in which their contribution to the economy is protected and enhanced. The concept of a social safety net will be feasible if the number of people who need the net is a small percentage of the work force. But no net can support over 92% of the labour force of a country, particularly when their absolute number is over 300 million (Bhatt, Ela 2000).

Welfare funds represent one of the models tried out in India for providing social security protection to workers in—the unorganized sector. There are broadly two types of welfare funds—contributory and tax based. Benefit payments may be paid from current receipts on pay-as-you-go basis or by creating special funds. The system of financing a scheme depends on the nature of the benefit to be provided. There are broadly two types of benefits— short-term and long-term. Benefits which are paid one time or for a short period such as medical care, sickness benefit, maternity benefit, etc. are short-term benefits. These benefits are usually paid from the current receipts on pay-as-you-go basis. Benefit payments which continue for a long time, such as old-age benefit,

permanent disability benefit, etc. are long-term benefits which require funding either fully or partially. In the former case it is called the General Average Premium System. In this, a rate of contribution is assessed which is sufficient to ensure indefinitely the stability of the contribution rate. This system leads to the accumulation of substantial resources in the fund. The alternative is called Scaled Premium System. It seeks to ensure that the rate of contribution remains constant within a limited period of say 15 to 20 years. The ILO Committee of Social Security Experts has recommended the Scaled Premium System as the most appropriate system of financing pension schemes in developing countries. The general principle governing investment of social security funds is that any surplus with regard to immediate requirements should be invested taking into account the cash flow requirements of the various branches and the investment income to be allocated among the branches in proportion to the amounts invested by them. The considerations governing the instruments in which investments are to be made are the same as of other financial institutions, such as safety, yield and liquidity. Considering the magnitude of the amounts available for investment, social and economic utility is also given some consideration in choosing the instruments. In making investments, it should not be overlooked that the social security institution functions as the trustee of the beneficiaries (Subrahmanya RKA, 2000).

The Government of India has set up tax-based welfare funds for mine workers (3 funds), beedi rollers, cine workers and workers in the building industry. They are financed by cess levied on the production or export of specified goods or construction works. They provide mainly medical care, assistance for education of children, housing and water supply and recreational facilities. The State Governments of Tamil Nadu and Kerala have a number of similar welfare funds for select categories of workers in the unorganized sector. Some other States like Madhya Pradesh, Delhi and Pondicherry have also set up such welfare funds.

Tamil Nadu has a welfare fund specifically for construction workers. This study will focus on the role of the Labour Department and Labour Administration in the Tamil Nadu Welfare Schemes for construction workers and look at the following:

- ILO Convention 150 on labour administration and, in that context, the existing labour laws and the exclusion and inclusion of informal sector workers;
 - The legal framework;
 - The labour administration units involved in administration of welfare schemes and the structure of welfare schemes;
 - Their main functions in the administration of the welfare schemes;
 - The role of head office and district offices in implementation;
 - The levels of officers involved in implementation;
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- The key administrative arrangements for implementation;
- The role of workers' and employers' organizations in administration and management of the funds;
- The existing welfare schemes—a cost benefit analysis;
- Human Resource Development issues; and
- Policy recommendations to improve labour administration in management and implementation of these schemes.

ILO CONVENTION 150

Convention No.150 cited as the Labour Administration Convention, 1978 was adopted on 26 June, 1978 by the General Conference of the International Labour Organization. This came into force from 11 October, 1980. Salient Articles of the Convention are as follows:

Article - 1

For the purpose of this Convention—

- (a) the term labour administration means public administration activities in the field of national labour policy; and
- (b) the term system of labour administration covers all public administration bodies responsible for and/or engaged in labour administration—whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralized administration — and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organizations.

Article - 2

A Member which ratifies this convention may, in accordance with national laws or regulations, or national practice, delegate or entrust certain activities of labour administration to non-governmental organizations, particularly employers' and workers' organizations, or—where appropriate—to employers' and workers' representatives.

Article - 3

A Member which ratifies this Convention may regard particular activities in the field of its national labour policy as being matters which, in accordance with national laws or regulations, or national practice, are regulated by having recourse to direct negotiations between employers' and workers' organizations.

Article - 4

Each Member which ratifies this Convention shall, in a manner appropriate to national conditions, ensure the organization and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly co-ordinated.

Article - 5

1. Each Member which ratifies this Convention shall make arrangements appropriate to national conditions to secure, within the system of labour administration, consultation, co-operation and negotiation between the public authorities and the most representative organizations of employers and workers, or—where appropriate—employers' and workers' representatives.

2. To the extent compatible with national laws and regulations, and national practice, such arrangements shall be made at the national, regional and local levels as well as at the level of the different sectors of economic activity.

Article - 6

1. The competent bodies within the system of labour administration shall, as appropriate, be responsible for or contribute to the preparation, administration, co-ordination, checking and review of national labour policy, and be the instrument within the ambit of public administration for the preparation and implementation of laws and regulations giving effect thereto.

2. In particular, these bodies, taking into account international labour standards, shall—

- (a) participate in the preparation, administration, co-ordination, checking and review of national employment policy, in accordance with national laws and regulations, and national practice;
 - (b) study and keep under review the situation of employed, unemployed and underemployed persons, taking into account national laws and regulations and national practice concerning conditions of work and working life and terms of employment, draw attention to defects and abuses in such conditions and terms and submit proposals on means to overcome them;
 - (c) make their services available to employers and workers, and their respective organizations, as may be appropriate under national laws or regulations, or national practice, with a view to the promotion—at national, regional and local levels as well as at the level of the different sectors of economic activity—of effective consultation and co-operation between public authorities and bodies and employers' and workers' organizations as well as between such organizations;
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- (d) make technical advice available to employers and workers and their respective organizations on their request.

Article - 7

When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to include activities, to be carried out in co—operation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons, such as—

- (a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;
- (b) self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice;
- (c) members of co-operatives and worker-managed undertakings;
- (d) persons working under systems established by communal customs or traditions.

As may be seen from the above, the Convention encourages entrusting of certain activities of labour administration to employers' and workers' representatives. It calls for setting up of a properly co-ordinated system of labour administration, consultation between public authorities, employers and workers' representatives. Among other points, Article 7 calls upon members to permit extension of the functions of labour administration to include activities relating to the conditions of work and working life of self-employed workers in the informal sector.

The Convention has been ratified by 61 countries. India has not ratified this Convention. However, the welfare of workers in the informal or unorganized sector has been actively addressed both at the national and state levels.

LEGAL FRAMEWORK

Central Act

A bill to regulate employment and conditions of service of building and other construction workers and providing for their safety, health and welfare was introduced in Parliament in 1988 but was not enacted. The subject was discussed further with State Governments and two Ordinances were promulgated in 1995 to achieve the above objectives. These were subsequently replaced by the Central Acts 27 of 1996 and 28 of 1996.

The Central Act 27 of 1996 is the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. It covers every establishment which employs 10 or more workers. It provides for the constitution of Central and State Advisory Committees to advise the appropriate Governments, registration of establishments, registration of building workers, provision of identity cards, constitution of Welfare Boards by the State Government, providing and augmenting the resources of the Welfare Board, fixing hours of work, weekly rest, wages for overtime, provision of basic welfare amenities like drinking water, latrines and urinals, crèches, first-aid, canteens, provision of temporary living accommodation near the working site, provision of safety and health measures, etc.

Central Act 28 of 1996 is the Building and Other Construction Workers' Welfare Cess Act, 1996. This Act provides for levy of cess at a rate not less than 1% and not exceeding 2% of the cost of construction incurred by an employer. The cess shall be collected by the local authority or the State Government and remitted to the Board constituted by the State Government under Act 27 of 1996. It also grants power to the Central Government to grant exemption from demand of cess in a State where such cess has already been levied under any corresponding law in force in that State.

Act 27 of 1996 does not apply to individuals who employ workers in a building or construction work for their own residence, the total cost of such construction not being more than Rs.1 million. Consequently, the Cess Act 28 of 1996 will also not apply to such constructions.

The Central Government has issued the Building and Other Construction Workers' Welfare Cess Rules, 1988 and the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Central Rules, 1988. The latter rules relate to conditions in the work place such as hours of work, provision of latrines and urinals, canteens, etc. in constructions coming under the purview of the Central Government. The Central Rules have been drafted in detail and provide for safety and welfare of construction workers at the work place. Provision of welfare measures outside the work place for workers and their families has been entrusted to the Boards to be constituted by State Governments.

State Act

Tamil Nadu was among the first States in the country to consider concrete steps for the welfare of construction workers. As early as 1973, the Government of Tamil Nadu set up a Committee to study the living conditions of workers engaged in beedi making and 16 other industries and make suitable proposals for providing them welfare amenities such as housing, medical facilities, etc. The Committee submitted its report in 1975 and recommended setting up of Welfare Boards at District and State levels for providing

housing and other welfare amenities to workers in the unorganized sector. It recommended that employers and workers in unorganized industries should be registered and the workers should be given identity cards. Based on the report of this committee, the Government enacted the Tamil Nadu Manual Workers (Regulation of conditions of Work) Act in 1982 (Act 33 of 1982). This was done well before the enactment of the Central Act, viz. the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

The Tamil Nadu Act provides for formulation of schemes for welfare of workers in 67 occupations (as listed in Annexure 1). The Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Rules were framed under this Act in the year 1986.

The Act has 32 sections. Section 3 of the Act provides for preparation of schemes for ensuring regular employment of manual workers. The scheme may provide for registration of employers and manual workers, provide for the terms and conditions of work of manual workers and make provision for their general welfare.

Section 6 provides for the establishment of a Board responsible for administering schemes framed under the Act by the Government. One or more Boards may be established for one or more scheduled occupations and for one or more areas. The Board shall consist of members representing employers and manual workers which shall be equal in number and the members representing the Government shall not exceed one-third of the total number of members representing employers and manual workers. Section 8 specifies the powers and duties of the Board. The Board shall be responsible for administering the scheme, shall exercise such powers and perform such functions as may be conferred on it by the scheme, may take such measures as it may deem fit for administering the scheme, may nominate persons or officers who would be competent to act on behalf of any manual worker, initiate action for making any claim under any law or rules or award or settlement and appear on behalf of the manual worker in such proceedings and may nominate persons or officers who would be competent to act in an industrial dispute raised under Section 2A or 2(k) of the Industrial Disputes Act, 1947 in any conciliation proceedings before Labour Courts, Industrial Tribunal or before an Arbitrator under Section 10-A of the said Act.

Section 8A was introduced by the amendment of the Act in 1993. This section which came into force from 1 November, 1994 stipulates that every person who makes an application for a building permit for any building work to a local authority and every person who undertakes other construction work shall pay a sum not exceeding 1% of the total estimated cost of the building or construction work as may be fixed by the Government, as contribution to the fund constituted for the benefit of construction workers. The Act was again amended during 1998, 2001 and 2003. However, these amendments were intended to facilitate the work of other Boards set up for manual workers in other employments and do not affect the Construction Workers' Board.

The Act requires formulation of schemes to provide for welfare of workers in different employments. The first scheme framed under this Act is the scheme for construction workers. The notification issued in the year 1994 spelt out the scheme for construction workers and provided for establishment of the Construction Workers Welfare Board to look after the welfare of over 38 classes of workers employed in construction or maintenance of dams, bridges, roads or other building operations. List of occupations covered by this Board is given in Annexure2.

The Tamil Nadu Construction Workers Scheme notified in 1994 prescribes the procedure for registration of manual workers, renewal of registration, and supply of identity cards for them. It provides for crèches to look after babies of women construction workers, a group personal accident insurance scheme for relief in cases of accident, assistance for the education of son or daughter of the worker, assistance for the marriage of son or daughter of the worker, assistance to meet expenses towards delivery of a child, assistance to families of manual workers who die due to accident and due to natural causes, assistance to meet funeral expenses, etc. It also provides for a pension scheme to cover every worker who has been a member for a continuous period of not less than five years and has attained the age of 60 years. It also states that the Board shall formulate appropriate schemes for providing contributory provident fund and ESI benefits to registered manual workers. The Scheme, which was formulated in the year 1994, has been amended in the year 1998, 1999, 2001 and 2002 to provide additional welfare schemes and increase the quantum of assistance.

As may be seen from the above, the scope of the Act and the Scheme are very wide and ambitious. Provision of welfare on such a large scale will require a strong source of revenue. Recognizing this, the 1993 amendment provided for contribution to the fund at a rate not exceeding 1% to be prescribed by the Government. The Government initially fixed the rate of contribution in 1994 as 0.1% of the total estimated cost of the building or construction. This was subsequently raised to 0.3% with effect from 1 July, 1997. An earlier study (Krishnamurthy V. and Nair R.P.) had recommended that the rate of contribution should be raised to 1%. A Task Force set up by the State Government has recommended increase to 0.5% as the first step and to 1% after a few years. (GOTN, 2003). However this rate has not yet been increased, perhaps because the present level of expenditure of the Board is less than its present revenue.

The scheme actually notified under the Act does not provide for regulation of employment even though Section 3 speaks about schemes for ensuring regular employment of manual workers. The notified scheme has focussed on provision of benefits to construction workers and their families. The scheme has not yet entered the area of regulation of working conditions.

Central Act or State Act?

The Central Act, namely, the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act provides for Boards to be set up by the respective State Governments for administering welfare schemes. The Building and Other Construction Workers Welfare Fund Cess Act, 1996 provides for levy and collection of cess at a rate not exceeding 2% but not less than 1% of the cost of construction incurred by an employer as may be notified by the Central Government. The rate currently notified is 1%.

A question has arisen whether the State Government should continue the present arrangement under the existing State Act or set up a Board under the Central Act. The latter course would increase the rate of contribution from 0.3% to 1%. However, the Central Acts are not applicable for certain works costing less than Rs.1 million. It is reported that a large number of private constructions in the State are estimated to cost less than Rs.1 million. For this reason, the Board has estimated that the revenue from private construction activity may actually come down if the Central law is applied, even though the rate of contribution would increase. However, there will be revenue on account of levy on construction work for the Central Government which is presently not under the purview of the State Act. The Board would like to tap this additional source without losing the existing contributions. A possible way is for the State Government to follow the Central Act after making State amendments, which would keep the minimum rate at 0.3% and take away the exemptions for certain works costing less than Rs.1 million. This would bring in revenue from Central constructions and also provide for eventual increase in the rate of contribution up to 2%.

Other Boards

To provide for welfare of manual workers other than those covered by the Construction Workers Welfare Board, the Government set up the Tamil Nadu Manual Workers' Social Security Welfare Board on 17March,1999. Subsequently, in response to demands for separate Boards for different classes of workers, the Government also set up Boards as follows :

Name of the Board	Date of constitution
Tamil Nadu Auto Rickshaws and Taxi Drivers Welfare Board	20.07.2000
Tamil Nadu Washermen Welfare Board	20.07.2000
Tamil Nadu Hairdressers Welfare Board	20.07.2000
Tamil Nadu Tailoring Workers Welfare Board	20.07.2000
Tamil Nadu Handicraft Workers Welfare Board	18.10.2000
Tamil Nadu Palm Tree Workers Union	18.10.2000
Tamil Nadu Handlooms and Handloom Silk Weaving Workers Welfare Board	14.03.2001
Tamil Nadu Foot Wear and Leather Goods Manufacturers and Tannery Workers Welfare Board	14.03.2001
Tamil Nadu Artists Welfare Board	14.03.2001

Since most of these Boards were not financially viable, the Government has merged them back into the Tamil Nadu Manual Workers' Social Security and Welfare Board with effect from 21 July, 2004. The Construction Workers Welfare Board and Manual Workers Welfare Board are serviced by the Labour Department. There are also two other Boards set up under this Act. These are the Tamil Nadu Agricultural Workers Welfare Board looked after by the Revenue Department and Tamil Nadu Village Temple Employees Welfare Board looked after by the Hindu Religious Endowments Department.

Second National Labour Commission

The Second National Commission on Labour constituted by the Government of India in 1999 was specifically asked to look into the welfare of workers in the unorganized sector and suggest an umbrella legislation for ensuring a minimum level of protection to them. In its report given in 2002, the Commission has reported elaborately on the subject and also suggested draft legislation. The Commission has observed that there is difficulty in identifying or defining the unorganized sector and difficulty in identifying the employer. The Informal sector is characterized by low level of organization, casual labour relations, absence of fixed working hours, unregulated and unprotected nature of work, etc. Despite the existence of some labour laws the workers in this sector do not get social security and other benefits and there is hardly any trade union or institutional mechanism to fight for them. General characteristics of employment in this sector are low wages, high percentage of employment of women, employment of family labour, migrant labour, piece-rate payments, lack of organization into trade unions, casual and multiple jobs, dependence on others for supply of raw material, less access to capital, existence of health hazards, etc.

Regarding construction industry, the Commission has noted that most of the workers in the construction industry are employed on casual basis. Unstable employment and earnings and shifting of work places are the basic characteristics of work for construction workers. Women engaged in construction work are the most exploited. Frequent changes in their work and instability deprive them and their children of primary facilities like health, water, sanitary facilities and education.

The Second National Commission for Labour has highlighted the importance of social protection, need for skill development and umbrella legislation for the unorganized sector labour. The provision of minimum protection to the unorganized sector workers has been stressed by the Commission. It has made many major recommendations which include: introduction of an unemployment insurance scheme, transformation of welfare funds into instruments of social security, formulation of national policy on social security, constitution of high-powered national social security authority and umbrella legislation for unorganized sector workers. The draft umbrella legislation suggested by the Commission incorporates elements of core labour rights from the Constitution of India,

UN Covenants and ILO Conventions. Such an umbrella legislation will apply to over 90% of the workforce in India. If properly conceived and effectively implemented, it is expected to lead to growth of the economy, improve the quality of employment, provide decent life to the workers and integrate them with the growing opportunities in the country. It will be an affirmation of rights of the workers in the unorganized sector.

The broad objectives of the umbrella legislation are to:

- Obtain recognition for all workers in the unorganized sector.
- Provide a minimum level of economic security.
- Ensure a minimum level of social security.
- Remove the poverty of these workers.
- Encourage membership based organizations of workers.
- Ensure representation of the workers in local and national economic decisions.

The recommendations of the National Labour Commission were discussed in the Indian Labour Conference. The draft umbrella legislation was also discussed in a National Seminar with representatives of all stakeholders. Later the Government of India drafted a Bill which is currently under discussion with the State Governments and representatives of workers and employers. (GOI, 2002).

THE STRUCTURE OF WELFARE SCHEMES FOR CONSTRUCTION WORKERS IN TAMIL NADU

The Tamil Nadu Construction Workers' Welfare Board has so far registered 591,000 workers. The registered workers of the Welfare Board are provided with the following types of assistance:

- All registered workers have been insured under Group Personal Accident Insurance Scheme. In the event of death of a registered worker due to accident, a sum of Rs.100,000/- is paid to the nominee of the deceased. In the case of injury or loss of limbs or loss of eyesight compensation is paid up to Rs.100,000/- depending upon the loss.
 - Assistance of Rs.1,000/- is given for the education of the son or daughter of a registered worker who has passed 10th standard. An amount of Rs.1,500/- is given for passing 12th standard. Educational assistance ranging from Rs.1,000/- to Rs.6,000/- is also given to the son or daughter of the worker who is studying in an I.T.I., Polytechnic Course, regular degree course or professional course.
 - A sum of Rs.2,000/- is paid as assistance to meet the marriage expenses of the worker or his son or daughter.
-

- A sum of Rs.2,000/- is paid as financial assistance for the delivery of a child or for the miscarriage of pregnancy or for the termination of pregnancy by a registered woman worker.
- Assistance of Rs.2,000/- is paid to the nominee of the deceased worker to meet the funeral expenses of the deceased worker.
- A sum of Rs.10,000/- is paid to the nominee of the registered worker if the registered worker dies due to natural causes.
- A sum of Rs.250/- is paid to 1,000 registered Construction Workers every year as assistance for purchase of spectacles on first-come-first-served basis.
- The scales of benefits currently available are given in tabular form in Annexure 3. The numbers of beneficiaries assisted by this scheme during the year and since its inception are given in Annexure 4.

Income and expenditure in the last five years are summarized in Annexure-5. The Board had an annual revenue of Rs.258.61 millions during 2003-04 and accumulated a large surplus. Growth of membership is shown in Annexure6.

LABOUR ADMINISTRATION UNITS INVOLVED IN ADMINISTRATION OF WELFARE SCHEMES

The Government has established the Tamil Nadu Construction Workers Welfare Board as per the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982. As per the provisions of the Act the Board is responsible for administering the scheme. The Board is a corporate body. The Board consists of nine members representing employers, nine members representing manual workers and six members representing the Government. The Chairman of the Board nominated by the Government is one of the members appointed to represent the Government. The Chairman of the Tamil Nadu Construction Workers Welfare Board is the Commissioner of Labour. Annexure7 indicates the Board as last constituted. The Board is now due for reconstitution. Having the head of Labour Department as the Chairman, has provided good co-ordination between the Board and the Department.

The Act has empowered the Board to take such measures as it may deem fit for administering the scheme. The Act empowers the Government to make a scheme, which could also provide for appointing persons or authorities who are to be responsible for the administration of the scheme and for the administration of the fund constituted. Accordingly, the Board has been empowered to create the posts of officers and other employees and appoint such persons to such posts.

The Board has its Head Office at Chennai and has 15 regional offices. The Secretary of the Board is the Chief Executive Officer. He is an officer of the rank of Joint Commissioner of Labour deputed from the Labour Department. There are 35 members of staff in the

headquarters. This number includes an Accounts Officer, 8 Superintendents, 12 Assistants, 5 Junior Assistants, 2 Typists and 1 Steno Typist. Each regional office, comprising one superintendent and one Junior Assistant, is attached to the offices of Labour Department in 15 places of the State for doing the work of the Board.

- Zonal Joint Commissioners, Regional Deputy Commissioners, Inspectors and Assistant Inspectors of Labour are also assisting the Board.
- An Organizational Chart of the Board is given in Annexure - 8.
- The Regional set-up of the Enforcement Wing of the Labour Department, which assists the Board, is given in Annexure - 9.
- Location of officers of the Board is given in Annexure - 10.

THE ROLE OF HEAD OFFICE

The Head Office is in charge of conducting Board Meetings, recording minutes of meetings, communicating the minutes to the concerned persons for implementation and follow-up action. The Head Office issues necessary instructions to the Regional Offices and the Assistant Inspectors of Labour regarding registration, renewal, issue of duplicate identity cards, maintenance of registers, remittance of fee collected from workers and other connected matters. The Head Office makes arrangement for printing the required identity cards, application forms for registration and claims, cash receipt books for registration, renewal and issue of duplicate identity cards, register of workers and sends them to the regional offices. The Head Office makes payment to the insurance company towards renewal of policy for the group personal accident insurance scheme for the registered workers and makes periodical payments towards premium for the newly-registered workers under the scheme.

The applications received from the workers/nominees of workers claiming various types of assistance are verified and the claims are sanctioned in the Head Office. Since there were cases of bogus claims for marriage assistance, applications for marriage assistance are now received from workers by the Assistant Inspectors of Labour of the areas where the workers reside. The Assistant Inspector of Labour makes enquiries to determine the genuineness of the claim. Thereafter, he sends reports to the Head Office which looks into all aspects and then sanctions the assistance in fit cases.

All other applications are received from the workers/nominees of workers claiming various assistances directly at the Head Office. After verification, assistance is sanctioned in fit cases.

The payments towards scheme assistances up to Rs.2,000/- are sent to the beneficiaries directly through Money Orders. The payments towards scheme assistances exceeding Rs.2,000/- are sent by way of Demand Drafts to Inspectors of Labour and the payments are made to the workers/nominees through the Inspectors of Labour or Assistant Inspectors of Labour.

The Commissioner of Labour is the Chairman of the Board. The Chairman presides over the Board meetings. He gives appropriate instructions to the Secretary of the Board

and officials of the Labour Department for implementing the decisions of the Board. The Chairman also corresponds with the Government and other Departmental Heads in connection with important matters concerning the Board.

The Secretary of the Board is the Chief Executive Officer of the Board. He keeps the record of the minutes and takes necessary steps for carrying out the decisions of the Board. He is the sanctioning authority for all the claims seeking scheme assistance. He is also the authority for cancellation of registration of those who have registered with the Board giving false or incorrect statement or who have not renewed the registration as stipulated in the scheme. The Secretary is an officer of the rank of Joint Commissioner of Labour drawn on deputation from the Labour Department. Hence, he is able to co-ordinate effectively with officials of the Labour Department.

ROLE OF REGIONAL OFFICES

The Regional Offices undertake the work of registration of construction workers. The Regional Superintendents issue Identity Cards to the workers on registration. They maintain the register of workers and other connected registers. They send periodical reports to the Head Office regarding the details of registration, renewal and issue of duplicate identity cards. They also send the amounts collected towards such purposes to the Head Office every month.

Registration of Workers

The Construction Workers' Welfare Board has so far registered over 591,000 members. A manual worker who has completed 15 years of age but has not completed 60 years of age and who is engaged to do any manual work in construction or maintenance of dams, bridges, roads or in any building operations as a worker falling under any one of the 38 classes of workers specified in the scheme, may register his name with the Board for the purpose of the scheme.

The worker has to make an application for such registration in the prescribed form together with the certificate of employment issued by an employer engaged in construction industry or any Government organization or agency engaged in building industry or a registered trade union.

The worker is required to produce two passport size photographs and a document for proof of age at the time of registration. The registration fee is Rs.25/-. The registration is valid for two years. The registration has to be renewed once in two years. The renewal fee is Rs.10/-.

Registration of the construction workers is made by the Regional Superintendents working in the Regional Offices of the Board functioning in the offices of Labour Department in 15 places and also in the Head Office of the Tamil Nadu Construction Workers' Welfare Board at Chennai. Recently, the Government has ordered that the Assistant Inspectors of Labour of the Labour Department can also undertake the work of registration.

The presence of workers is not insisted upon at the time of registration. The leaders of Trade Unions bring the applications of the construction workers directly to the Registering

Authorities and make the registration by remitting Rs.25/- for each worker towards registration fee. The workers who are registered with the Board are issued with identity cards assigning registration numbers.

ROLE OF OFFICERS OF THE DEPARTMENT OF LABOUR

The Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982 has provided for the constitution of an Advisory Committee to advise upon such matters arising out of the administration of this Act or any scheme made under this Act or relating to the application of the provisions of this Act to any particular class of manual workers and employers, or co-ordination of the work of various Boards. The Chairman of the Advisory Committee is the Commissioner of Labour.

The Commissioner of Labour is the Head of the Labour Department. The Commissioner of Labour issues necessary instructions to all the officers under his control for involving them in the work relating to the Board. The Commissioner of Labour co-ordinates the activities of the Board with that of the Labour Department. The Commissioner of Labour reviews the subject relating to the functioning of the Board amongst the other subjects while conducting the periodical review meetings of the officers of the Labour Department at the State level and at the Regional level. The claim applications seeking assistance for marriage which are submitted by the workers directly to the Inspectors of Labour in the districts are being verified by the Inspectors of Labour regarding the genuineness of claims and sent to the Board for sanctioning. The Commissioner of Labour reviews the pendency details of such claim applications so that delay does not occur. The Commissioner of Labour has given instructions to the Joint Commissioners of Labour to organize special campaigns for registering more number of workers with the Board in their jurisdiction involving all officers of the Labour Department. Being the Head of the Department, he is in a position to issue necessary instructions to the officers of the Labour Department for involving them in the work relating to the Board.

The Joint Commissioners of Labour and the Deputy Commissioners of Labour who are the controlling officers of the Zones and Regions, respectively have been also reviewing the work of the officers under their control regarding the pendency of claim applications for marriage assistance.

The Inspectors of Labour have been entrusted with the work of receiving the applications from workers seeking marriage assistance in their offices and sending those applications to the concerned Assistant Inspectors for making verification. The Inspectors of Labour were instructed to ensure that the enquiry is completed and the reports are sent to the Board within a month. The Demand Drafts for payment towards scheme assistance exceeding Rs.2,000/- are sent to Inspectors or Assistant Inspectors of Labour who, in turn, make the payments to the workers/nominees.

The Assistant Inspectors of Labour have been notified as Registering Authorities for registering construction workers with the Board. The Assistant Inspectors of Labour are required to make verification of applications received from the workers seeking marriage assistance regarding the genuineness of the claims. After making verification, the Assistant Inspectors of Labour are required to send reports to the Board. The Assistant Inspectors of Labour are also asked to conduct enquiries and report wherever necessary to find out whether the worker registered with the Board is actually a construction worker. The Demand Drafts for payments towards scheme assistance exceeding Rs.2,000/- are disbursed to the workers/nominees by the Assistant Inspectors of Labour.

KEY ADMINISTRATIVE ARRANGEMENTS

A key function is collection of all revenues due to the Board from local bodies. According to the Tamil Nadu manual workers Act, a person who makes an application for building permit for any building work to a local authority and a person who undertakes or is in charge of any construction work is required to pay 0.3% of the total estimated cost of the building or construction work as contribution to the fund. The Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982 has prescribed that the local authority should collect the amount towards contribution and remit it to the Board. Accordingly, all Corporations, Municipalities, Town Panchayats and Panchayats have been remitting the contribution amounts to the Board. Similarly, Public Sector Undertakings have also been sending contribution amounts to this Board.

The Board does not have a database regarding the actual construction works that are being undertaken for which building permits have been obtained from the Corporations, Municipalities, Town Panchayats and Panchayats. Similarly, the actual construction works undertaken by other Departments are also not available with the Board. However, the concerned authorities have been addressed on various occasions asking them to remit the contribution amounts to the Board informing them of their statutory obligation. The Commissioners of various Corporations, Directors of Town Panchayats and other Heads of Public Sector Undertakings have been addressed for remittance of contribution to the Board by the Chairman and also by the Secretary of the Board.

Steps to Increase Membership

It is estimated that there are over two million construction workers in the State of Tamil Nadu. So far, less than 0.6 million have become members of the Board. A number of steps have been taken to increase the membership. The applications for registration of workers are printed and issued to the Trade Unions on request free of cost. This has removed difficulties in getting the prescribed application form.

Handbooks containing details of registration procedure, benefits given and the procedure for making claims have been printed and issued to the Trade Unions.

About 10,000 posters giving details of schemes were printed and pasted in various places in the State. Publicity about the benefits available to members was also given through boards displayed in the pavilion of the Labour Department in the Trade Fair at Chennai.

When assistance is disbursed through Regional Deputy Commissioners of Labour, wide publicity is given in local newspapers. All these steps are taken to make workers aware of the benefits they can receive by joining the Construction Workers' Welfare Board as members.

There were only 16 Registration Authorities throughout the State for registration of construction workers. In order to broad base the registration work, the Government has ordered that all the Assistant Inspectors of Labour in the Labour Department would also undertake registration work. This recent order of the Government increases the number of places where registration can be done to over 200. This will facilitate workers to have easy access to registering authorities and get themselves registered.

Steps to Check Bogus Membership

The registration of construction worker is done after getting an application from the worker along with a Certificate of Employment. A Trade Union leader normally gives the Certificate of Employment. The same Trade Union leader brings the application to the Registering Officer for registering the worker with the Board. The presence of the worker at the time of registration is not insisted upon. This system has also given rise to a few cases of bogus membership. In some cases, while verifying claims for assistance, the Assistant Inspectors of Labour have mentioned that certain claimants are actually not construction workers. Based on such information further enquiries are conducted. If reports indicate that the said workers are not actually construction workers, the registration of such workers is cancelled. The registrations of 16 workers in the year 2002, 6 workers in 2003 and 26 workers in 2004 were cancelled.

Group Insurance

Another important arrangement is the Group Personal Accident Insurance. As may be seen from the figures of disbursement, the largest amounts of expenditure are on account of accidental death and disablement. These are covered by the Group Personal Accident Insurance Policy with the Insurance Company. It has to be ensured that the premium is competitive and benefits are paid promptly. The Head Office selects the Insurance

Company by open tender to get the best premium. It also closely monitors settlement by the Insurance Company to avoid delay.

Prompt Payment

A large number of applications are received for educational assistance, marriage assistance and relief in case of natural death. These have to be disposed of speedily. The Head Office monitors settlement of such claims without delay.

THE ROLE OF WORKER'S AND EMPLOYER'S ORGANIZATIONS IN ADMINISTRATION AND MANAGEMENT OF FUNDS

As per Section 6 of the Act, the Government constituted the Tamil Nadu Construction Workers Welfare Board to administer the fund of the Board and the scheme formulated under the Act. The Board consists of nine members representing employers, nine members representing manual workers and six members representing the Government. Members of the Board as last constituted are listed in Annexure 7. The Board is now due for reconstitution. The Construction Workers' Welfare Fund is vested with the Board to be applied for the purposes of the schemes. Members representing workers take initiative and offer suggestions for better implementation. They also bring to notice, cases of delay in grant of assistance. Organizations of workers are also repeatedly pressing for sanction of Pension scheme and other welfare measures. Representatives of employers' organizations give constructive and practical suggestion for smooth implementation. The Board has been working harmoniously.

HUMAN RESOURCE DEVELOPMENT ISSUES

The construction industry is undergoing changes. As a consequence of the rapid modernization in the construction industry, there will be greater demand henceforth for skilled and multi-skilled. It is estimated that only about 5% of the labour force in the age group 20-24 have skills acquired through formal training (GOI, 2002(2)). Hence, there is need for special efforts to enable workers to acquire skills through formal training. This will require higher investment in skill development and training.

The Second Labour Commission has recommended introduction of modular approach to vocational training which will aid multi-skilling. In the informal sector where skill requirements are rudimentary and simple, an informal on-the-job training arrangement may work adequately and may be even cheaper than formal, institution based arrangements. But when high technologies are adopted and higher level skills are required, they cannot be given effectively under unsystematic, informal and limited arrangements. This type of training can be more effective in formal training arrangements.

While arranging for training for informal sector workers the following issues need to be taken into consideration:

- Training needs assessment;
- Identification of employment opportunities;
- Choice of proper training methods;
- Multi-tasking should be a part of the training process;
- Training should be relatively of short duration; and
- Training should be job-oriented, so as to minimize mismatch of skills.

In furtherance of this objective, the Board has taken some initiatives. In consultation with the Builders, Association of India and the Tamil Nadu Institute of Labour Studies, training for masons, plumbers, carpenters and other categories of construction workers is planned. To begin with, the Tamil Nadu Institute of Labour Studies conducted a five-day training programme for a group of masons in September 2004 at Chennai. These efforts must be continued. Construction workers should be encouraged to acquire skills that will be in demand in the changing scenario of the construction industry. They should also be encouraged to give better education to their children, for greater economic advancement of the next generation.

EXISTING WELFARE SCHEMES—A COST BENEFIT ANALYSIS

According to figures collected from the Board, the income and expenditure of the Board for the last five years is as follows :

Year	Total income by way of fees from members*** (Rs.)	Total income (Rs.)	Admisnistrative Expenditure (Rs.)	Scheme Expenditure (Rs.)	Total Expenditure (Rs.)	Surplus of Income over Expenditure (Rs.)
1999-00	2,129,275	104,105,114	3,204,267	7,702,920	10,907,187	93,197,927
2000-01	2,665,530	141,580,946	6,472,770	14,732,002	21,204,772	120,376,174
2001-02	2,761,960	135,333,284	41,869,747 [*]	25,821,057	67,690,804	67,642,480
2002-03	2,424,540	171,146,659	14,460,092 ^{**}	44,024,175	58,484,267	112,662,392
2003-04	2,510,350	258,614,318	10,324,992	58,812,850	69,137,842	189,476,476

* Includes building expenditure of Rs.33,112,300 during 2001-02

** Includes building expenditure of Rs.1,523,063 during 2002-03

*** Total Income by the way of fees from workers includes registration fees, renewal fees and duplicate card fees.

The Board has furnished the following particulars of registration, number of beneficiaries and amount disbursed during the years 1999-2000 to 2003-2004

S. No.	Year	No. of members at the beginning of the year	No. of members at the end of the year	No. of beneficiaries during the year	Total amount disbursed
1.	1999-00	131,471	207,478	590	2,549,750
2.	2000-01	207,478	313,240	4,099	14,040,000
	2001-02	313,240	398,858	3,375	17,027,300
	2002-03	398,858	463,800	6,728	29,387,250
	2003-04	463,800	536,090	14,512	43,401,875

From the above figures benefit to cost ratios from different perspectives can be estimated as follows. However it should be remembered that the Board is a welfare board and a benefit-cost approach cannot be strictly applied for welfare boards. Though the Board is ten years old, registration of members started only in 1995. Many of the welfare activities have been started in recent years. Hence the level of activities is still low. This has to be borne in mind while interpreting the cost-benefit analysis.

The Board's point of view

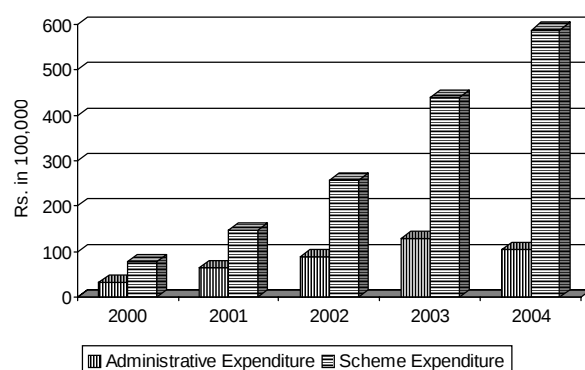
Scheme expenditure represents the benefit provided by the Board. The administrative expenditure represents the cost incurred by the Board. The ratio between scheme and administrative expenditure may be regarded as the benefit to cost ratio from the Board's point of view.

(Amounts in 100,000 Rs.)

	Year ending March	Administrative Expenditure		Scheme Expenditure		Benefit to cost ratio
		During the year	Present value *	During the year	Present value *	
	2000	32.04	39.73	77.02	95.50	2.40
	2001	64.73	76.38	147.32	173.84	2.28
	2002	87.58	98.09	258.21	289.20	2.95
	2003	129.37	137.13	440.24	466.65	3.40
	2004	103.25	103.25	588.13	588.13	5.70
Purchase of Building	2002	331.12	370.85			
	2003	15.23	16.14			
Total			841.57		1,613.32	1.92

* interest assumed at 6% per annum

Administrative and Scheme Expenditure



The ratio can be estimated as 1.92. While it is more than 1, it is not adequate. The norm for Welfare Boards of this nature may be taken as 1:9 meaning that only 1/10 or 10% of the total expenditure would be on account of administration. As against such a norm of 1:9, the existing ratio is only 1:1.92. Hence the Board should endeavour to increase its benefit expenditure or reduce its administrative expenditure.

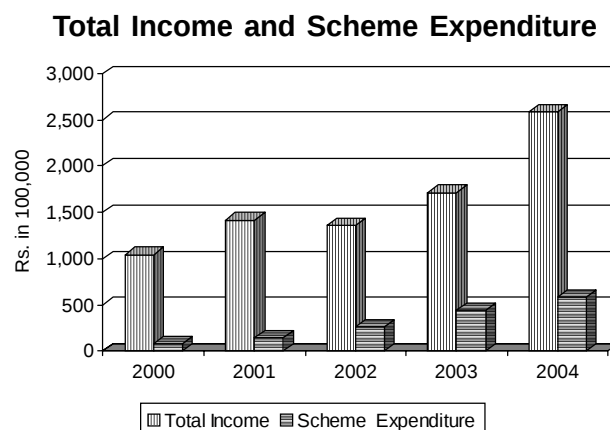
The State's Point of View

The State has created sources of revenue for the Board so that benefits may be given to construction workers. Total income of the Board may be taken as the cost of providing the benefits represented by the scheme expenditure. This ratio would indicate the benefit to cost ratio from the perspective of the Government in the as following manner

(Amounts in 100,000 Rs.)

Year ending March	Total Income		Scheme Expenditure		Benefit to cost ratio
	During the year	Present value *	During the year	Present value *	
2000	1,041.05	1,290.90	77.02	95.50	7.40%
2001	1,415.81	1,670.66	147.32	173.84	10.41%
2002	1,353.33	1,515.73	258.21	289.20	19.08%
2003	1,711.47	1,814.16	440.24	466.65	25.72%
2004	2,586.14	2,586.14	588.13	588.13	22.74%
Total		8,877.59		1,613.32	18.17%

* interest assumed at 6% per annum



The ratio is low indicating that the Board is not giving all the benefits possible with the income at its disposal. Only a small portion of the income —18.17%— is being used for scheme expenditure. Since the Board has a surplus, it should increase scheme expenditure.

The Members' Point of View

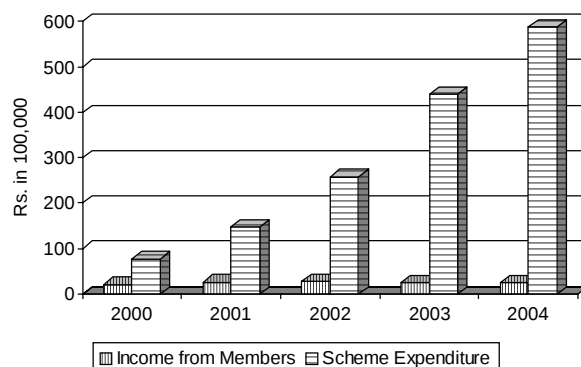
Members pay dues at the time of admission and for renewal of membership. Hence, cost benefit ratio from the member's point of view would be the ratio between members' contributions and scheme benefits.

(Amounts in 100,000 Rs.)

Year ending March	Income from Membership		Scheme Expenditure		Benefit to cost ratio
	During the year	Present value *	During the year	Present value *	
2000	21.29	26.40	77.02	95.50	3.62
2001	26.65	31.45	147.32	173.84	5.53
2002	27.62	30.93	258.21	289.20	9.35
2003	24.24	25.69	440.24	466.65	18.16
2004	25.10	25.10	588.13	588.13	23.43
Total		139.57		1,613.32	11.56

* interest assumed at 6% per annum

Members' Contribution to Scheme Expenditure

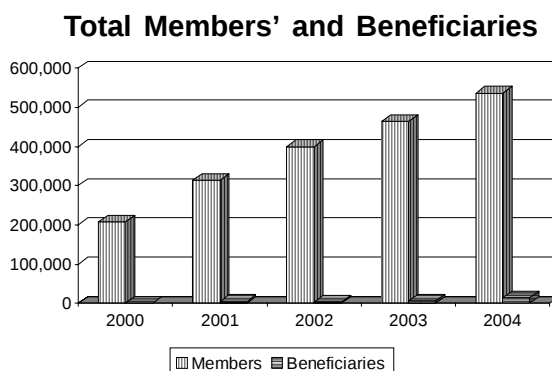


The ratio is very high and increasing. It indicates that members can expect to receive benefits well in excess of their contribution. This is because the benefits are funded not so much by members as by the levy on builders. Members have to contribute only to remain members and be eligible for the benefits.

Likelihood of Receiving Benefit

Members may also perceive the benefit ratio in another way. They may look at the likelihood of getting benefit. This would be the ratio of the number of beneficiaries to the number of members.

Year ending March	Number of Members	Number of Beneficiaries	Ratio of Beneficiaries to total members
2000	207,478	590	0.28%
2001	313,240	4,099	1.31%
2002	398,858	3,375	0.85%
2003	463,800	6,728	1.45%
2004	536,090	14,512	2.71%
Average	383,893	5,860	1.53%



The ratio is extremely poor. It has been only 2.71% at best and only 1.53% on an average. This indicates that the number of beneficiaries is very small compared to the total membership. Most of the members may find that they are unlikely to derive any benefit from the Board and hence lose interest in remaining members. The Board has to come up with schemes to benefit a larger number of members each year to make membership of the Board attractive.

POLICY RECOMMENDATIONS TO IMPROVE LABOUR ADMINISTRATION IN MANAGEMENT AND IMPLEMENTATION OF THESE SCHEMES

The Construction Workers Board is now 10 years old. It has established itself and built up substantial reserves. The following points have emerged in the course of its existence:

(a) While its membership has crossed 591,000, it is still estimated to cover only about 25% of construction workers in the State. The purpose of setting up the Board will be secured only if most of the eligible workers are enrolled. Hence, a strong drive is needed for enrolling all eligible workers as members of the Board. The recent Government Order enabling registration in all Taluk-level offices in Labour Department is a step in the right direction. This has to be followed by concerted action to improve membership. Practical difficulties, if any, in the actual procedure for registration have to be identified and removed. Workers' Unions can play a substantial role in bringing more eligible workers for registration.

(b) The amount disbursed by the Board as benefit to members every year, is still a very small percentage of the annual revenue. This has to be rectified by increasing the volume of benefits. Some increase may automatically take place when the membership base is widened to cover more eligible workers. Increase in the rate of benefits sanctioned under the existing schemes may be considered. In addition, introduction of new welfare schemes can also be considered.

(c) It is pertinent to note that even though construction workers are engaged in building houses, there is no scheme to build houses for them. It would be worthwhile for Construction Workers Board to come up with a scheme for construction of houses for its members.

(d) The existing scheme envisages payment of pension for workers on reaching the age of 60. An announcement was also made by the State Government in 2001 that the scheme would be operationalised. However, this has not yet been possible. Detailed studies with the help of an Actuary, seem to have indicated that the revenues of the Board will not be adequate to sustain payment of pension even at the rate of only Rs.200/- per month for more than five years. The pension scheme can become viable only if the rate of contribution levied on construction is increased from the present rate of 0.3% and some contribution is also collected from workers. The report of a Task Force set up by the Government to consider introduction of the pension scheme is reported to be under consideration by the Government.

(e) Meanwhile, the Government of India has announced a scheme for health cover and payment of Rs.500/- per month as pension to workers in the unorganized sector. This Central Scheme would cover construction workers also. It requires payment of a substantial monthly contribution both by workers and employers for a considerable number of years (GOI, 2004). An Announcement to this effect is likely to have caused delay in taking a decision on the State Board Scheme of paying only Rs.200/- per month as pension. The Government of India has not yet moved forward on the Central scheme, after the change of Government. The scheme is also said to require review from the financial angle. Pendency of a decision on the pension scheme has held up consideration of other schemes by the Construction Workers' Board. Even though the Board has a surplus at present, the revenues will be fully stretched if a pension scheme is introduced. There may be no room to consider any other scheme if the pension scheme is introduced.

(f) In this context, a prudent course of action may be to go along with the Central Government scheme as far as health and pension benefits are concerned. As and when a feasible scheme is actually introduced by the Government of India, it could be availed of by the construction workers in Tamil Nadu also. If such a decision is taken, funds of the Board can be applied to introduce other schemes like a housing scheme, or provision of holiday homes to benefit the construction workers. Increase of benefits under existing schemes may also be considered.

(g) The present administrative arrangement is already providing for a close interaction between the Board and the Labour Department. Such interaction must be encouraged. The Board should, as far as possible, utilize the staff of the Labour Department who are available in all Taluk headquarters for work relating to registration of members, renewal

of membership, examination of merits of the claim when a member asks for assistance, enquiry for the purpose of grant of accident benefit and similar other purposes. Since members are spread all over the State, a wide network is needed to reach them. If the Board tries to set up its own machinery for this purpose, its administrative cost will become prohibitive.

(h) Members of the Board would expect speedy consideration of their claims. However, the Board will have to examine the facts and merits of the claim, get a report and then take a decision. There are financial procedures to be followed for audit purpose before disbursement. All these steps should be studied in detail to introduce improvements in procedure that would shorten the time taken from the date of application to the date of disbursement of benefit. Properly designed computerized procedures will definitely help in this regard.

(i) At present all claim applications seeking benefits are sanctioned by the Secretary of the Board at the Head Office. It is considered that the workers should be brought closer to the Board by effectively decentralizing the system of dispensation of claims. An arrangement may be made whereby all claims other than accident death and natural death may be sanctioned by the regional officers of the Labour Department. Similarly, the claims relating to funeral expenses may be sanctioned by the officers of the Labour Department immediately upon getting such applications in their regional offices. The necessary amendments in the scheme could be made to facilitate this procedure.

(j) Generally, the construction workers acquire more skills while at work over a period of time. The individual employers in the construction industry are not interested in training their workers but are picking up the best available trained manpower in the market. The existing skills of workers in the construction industry are not that much upgraded as in the case of workers in other industries. Therefore, the Board could undertake this work in co-ordination with the Builders' Association and other similar agencies and devise appropriate training programmes for imparting training to the construction workers. An attempt could also be made to evolve suitable training programmes to give training to women workers.

(k) Presently, the Board has no mechanism to confirm that all amounts due to the Board on account of construction activities in the State are actually being received. It may be desirable to set up an internal audit wing to verify that all dues are being received.

(l) The Board may consider fixing time limits for settlement of different types of claims and evolve a mechanism to watch adherence to time limits.

(m) While rules relating to safety at construction sites have been issued by the Central Government, similar rules have not yet been issued by the State Government. This may be done on priority basis to promote safety of construction workers.

- (n)** The following important suggestions made in a recent study (Sankaran, T.S., 2004), may be considered.
- (o)** Inclusion of experts like economists, social scientists or social workers in the Construction Workers' Welfare Board in addition to representatives of workers and employers;
- (p)** Monetary incentive for education of girl child;
- (q)** Subscribing to Universal Health Insurance Scheme on behalf of workers;
- (r)** Decentralization of the procedure for sanction and empowering Deputy Commissioners of Labour to sanction relief in certain cases instead of processing all cases in Head Office; and
- (s)** Including the work done for Welfare Boards in the performance assessment of Labour Inspectors and Assistant Inspectors of Labour to impress upon them the importance of welfare work.
- (t)** Members pay a membership fee of Rs.25 and renew their membership by paying Rs.10 once in two years. This is very small compared to the practice in Kerala and other States, where membership dues are about Rs.20 per month. The Task Force set up by the Government to examine the Pension Scheme has recommended that Rs.20 per month or Rs.240 per annum should be collected in Tamil Nadu also. Even though the Board has surplus at the moment, it will be depleted fast when the pension scheme is introduced. Hence the Task Force has recommended levy of Rs.20 per month on all members. Such regular contribution promotes greater interaction between the Board and the Members. It increases the sense of belonging among all members who realize that they are stakeholders in the Board. It also helps in weeding out names of persons who are no longer genuinely interested in the Board. The Pension Scheme introduced by the Government of India requires contribution of Rs.100 per month. Considering all these points, it is desirable that the Board starts collecting at least Rs.20 per month from its Members, as is being done in Kerala.
- (u)** The purpose of the law [Section 3(2) (d) of Act 33/1982] under which the Scheme has been framed is regulation of employment. This has not been attempted. So far this has to be addressed at an early date to achieve the objective of Act 33/1982.
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ANNEXURE - 1

**List of Occupations under the Tamil Nadu Manual Workers'
(Regulation of Employment and Conditions of work) Act, 1982**

Employment in connection with:	
1	loading, unloading, stacking, packing, carrying, weighing, measuring or such other manual work including work preparatory or incidental to such operations.
2	loading of goods into public transport vehicles or unloading of goods therefrom and any other operation incidental or connected thereto
3	loading, unloading and carrying of food grains into godowns, sorting and cleaning of food grains in bags, stitching of such bags and such other work incidental and connected thereto
Employment in:	
4	Salt pans
5	Fishing industry
6	Toddy tapping
7	Boat working
8	Timber industry
9	Coir industry
10	Construction or maintenance of dams, bridges, roads or in any building operations
11	Stone breaking or stone crushing
12	Tanneries and leather manufactory
13	Automobile workshop
14	Appalam manufactory
15	Bleaching and dyeing
16	Bullock-cart driving
17	Bricks and tiles Manufacturing
18	Construction of pandals
19	Cooking
20	Coconut peeling
21	Collection of forest produce
22	Catering establishments
23	Cashewnut industry
24	Driving autorickshaws and taxi
25	Distribution of liquid petroleum gas cylinders
26	Driving cycle rickshaws
27	Engineering works
28	Fire and match works
29	Folding textile goods
30	Footwear and leather goods manufacturing
31	Gunny industry
32	Gold and silver articles manufacturing
33	Handlooms and handlooms silk weaving
34	Incense sticks manufactory
35	Laundries and washing clothes
36	Neera tapping
37	Nib-making
38	Flour mills, oil mills, dhal mills & rice mills
39	Printing presses
40	Power-loom industry
41	Private security services
42	Plastic industries
43	Pottery works
44	Rag-picking
45	Hair dressing and beauty parlour
46	Street-vending
47	Sago industry
48	Synthetic gem cutting
49	Sericulture
50	Shops and establishments
51	Tailoring
52	Tree climbing
53	Tin containers manufacturing
54	Vessels Manufacturing
55	Wood working units

56 Domestic work	57 Cycle repairs
58 Agriculture	59 Sculptor (in stone and other materials)
60 Handicrafts including articles manufactured from clay and paper pulp	61 Cigar manufacturing
62 Employment as artist	63 Video and photography
64 Sound and light services and equipments.	65 Repair & servicing of electronic goods
66 All Temples excluding temples under the control of the Hindu Religious and Charitable Endowment Department	67 Folk arts (playing folk musical instruments) such as Melam, Nathasuram, Thavil, Aadhi Melam(Parai), Thaara, Thappattai, Urimbi Melam, Naiyandi Melam, Band, etc.

ANNEXURE - 2

**List of Occupations under the Tamil Nadu Manual Workers
(Construction Workers) Welfare Scheme, 1994**

1. Stone cutter or stone breaker or stone crusher 2. Mason or brick layer 3. Carpenter 4. Painter or varnisher 5. Fitter including bar bender 6. Plumber for road pipe work 7. Electrician 8. Mechanic 9. Well sinker 10. Welder 11. Head mazdoor 12. Mazdoor 13. Sprayman or mixerman (road surfacing) 14. Wooden or stone packer 15. Well diver for removing silt 16. Hammerman 17. Thatcher 18. Maistry 19. Blacksmith 20. Sawyer 21. Caulker 22. Mixer (including Concrete Mixer Operator) 23. Pump operator 24. Mixer driver	25. Roller driver 26. Kalasis or sarang engaged in heavy engineering construction, like heavy machinery, bridge work, etc. 27. Watchman 28. Mosaic polisher 29. Tunnel worker 30. Rock breaker and quarry worker 31. Marble/Kadappa stone worker 32. Road worker 33. Earth worker connected with construction work 34. Worker engaged in processing lime 35. Worker engaged in anti-sea erosion work 36. Any other category of worker who is actually engaged in the employment in construction or maintenance of dams, bridges, roads or in any building operation 37. Bricks manufacturing other than the brick manufacturing under the Factories Act, 1948 (Central Act 63 of 1948) 38. Employment in construction of pandals
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ANNEXURE - 3

Scale of Benefits under the Construction Workers' Welfare Scheme

Assistance					Amount (Rs.)
1.	A	Accident death			100,000/-
	B	Loss of	(i)	Both hands	100,000/-
			(ii)	Both feet	
			(iii)	One hand & one foot	
			(iv)	Total and irrecoverable loss of sight in both eyes	
	C	Loss of one hand, one foot or loss of sight in one eye			50,000/-
	D	Permanent partial disablement			Percentage as assessed by doctor
2	Natural death				10,000/-
3	Funeral expenses				2,000/-
4	Educational assistance (for two children of the worker)				
	(i)	10 th std. pass			1,000/-
	(ii)	12 th std. pass			1,500/-
	(iii)	Regular degree course			
		For each academic year			1,500/-
		For the hostel students			1,750/-
	(iv)	Regular postgraduate course			
		For each academic year			2,000/-
		For hostel students			3,000/-
	(v)	Law, engineering, medicine, veterinary medicine & allied professional courses			
		For each academic year			2,000/-
		For hostel students			4,000/-
	(vi)	Post graduate professional course			
		For each academic year			4,000/-
		For hostel students			6,000/-
	(vii)	I.T.I. or polytechnic education			
For each Academic year			1,000/-		
For the hostel students			1,200/-		
5	Marriage assistance (two times per family)				2,000/-
6	Maternity assistance				2,000/-
7	Spectacle assistance (construction workers only)				250/-

ANNEXURE - 4

Volume of Assistance Extended by the Board

The number of beneficiaries assisted by the scheme during the period January 2004 to September 2004.

Sl.No.	Assistance	No. of Workers	Amount Rs.
1	Accident death	104	10,400,000
2	Disablement due to accident	3	154,000
3	Natural death	1,302	12,990,000
4	Funeral assistance	1,406	2,810,500
5	Spectacles assistance	169	42,005
6	Maternity assistance	291	582,000
7	Marriage assistance	4,383	8,766,000
8	Education assistance		
	10 th std.,	3,529	3,528,750
	12 th std.,	2,101	3,151,500
	Higher education	928	1,511,050
Total		14,216	43,935,805

The number of beneficiaries assisted by the scheme since inception, up to 30.09.2004

Sl.No.	Assistance	No. of Workers	Amount Rs.
1	Accident death	424	39,380,000
2	Disablement due to accident	101	1,749,550
3	Natural death	4,438	41,280,000
4	Funeral assistance	4,981	9,746,500
5	Spectacles assistance	345	86,005
6	Maternity assistance	509	1,015,000
7	Marriage assistance	10,961	20,534,000
8	Education assistance		
	10 th std.,	10,368	10,045,250
	12 th std.,	5,651	8,200,500
	Higher education	1,579	2,471,900
Total		39,357	134,508,705

ANNEXURE - 5

Income and Expenditure Statement 1999-2000 to 2003-2004

Year	Total Income by way of Fees from Members***	Total Income (Rs.)	Administrative Expenditure (Rs.)	Scheme Expenditure (Rs.)	Total Expenditure (Rs.)	Surplus of Income over Expenditure (Rs.)
1999-00	2,129,275	104,105,114	3,204,267	7,702,920	10,907,187	93,197,927
2000-01	2,665,5301	41,580,946	6,472,770	14,732,002	21,204,772	120,376,174
2001-02	2,761,960	135,333,284	41,869,747*	25,821,057	67,690,804	67,642,480
2002-03	2,424,540	171,146,659	14,460,092**	44,024,175	58,484,267	112,662,392
2003-04	2,510,350	258,614,318	10,324,992	58,812,850	69,137,842	189,476,476

* Includes building expenditure of Rs.33,112,300 in 2001-02

** Includes building expenditure of Rs.1,523,063 in 2002-03

*** Total income by way of fees from workers includes registration fees, renewal fees and duplicate card fees.

ANNEXURE - 6

Growth of Membership

Sl. No.	Year	No. of members at the beginning of the year	No. of members at the end of the year	No. of beneficiaries during the year	Total amount disbursed Rs.
1.	1999-2000	131,471	207,478	590	2,549,750
2.	2000-2001	207,478	313,240	4,099	14,040,000
3.	2001-2002	313,240	398,858	3,375	17,027,300
4.	2002-2003	398,858	463,800	6,728	29,387,250
5.	2003-2004	463,800	536,090	14,512	43,401,875

ANNEXURE - 7

Composition of the Board

Members nominated by the Government to the Board vide G.O.(D) No.866, Labour and Employment (I1) Department, dated 6.12.2001

Members representing the Government:

1. Commissioner of Labour Chairman
2. Secretary to Government, Municipal Administration and Water Supply Department
3. Secretary to Government, Finance Department
4. Commissioner of Municipal Administration
5. Director of Town Panchayats
6. Commissioner, Corporation of Chennai

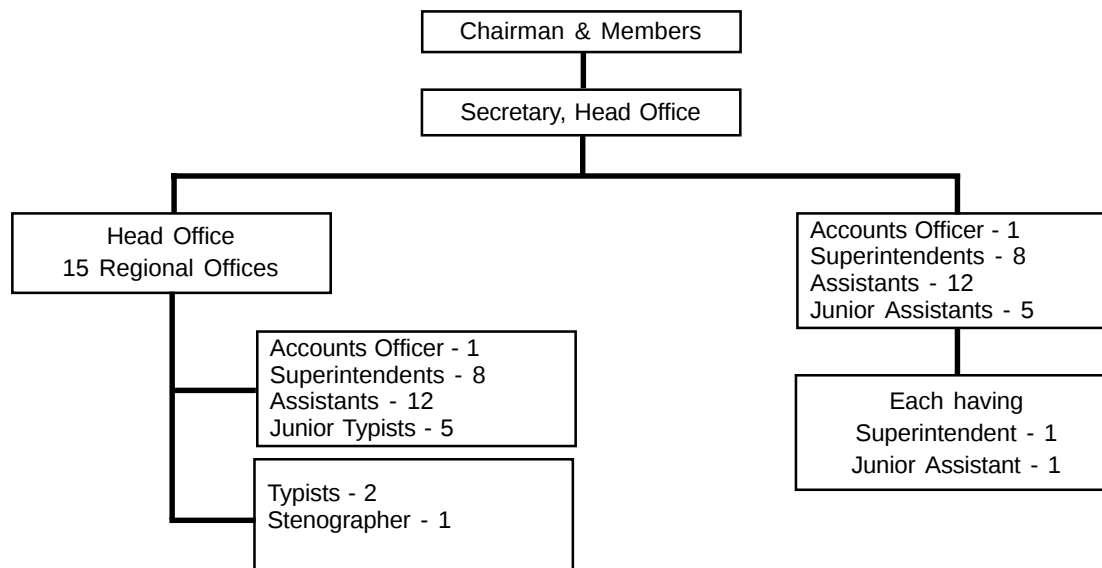
Members representing the Manual Workers' Unions:

1. Thiru B.Manohar, General Secretary, Anna Thozhir Sanga Peravai
2. Thiru R.Singaravelu, CITU
3. Selvi. R.Geetha, Secretary, Kattida Thozhilalar Panchayat Sangam
4. Thiru S.Balakrishnan, Secretary, INTUC
5. Thiru T.R.S.Mani, Secretary, Tamil Nadu AITUC
6. Thiru Pon Kumar, President, Tamilaga Kattida Thozhilalargal Mathiya Sangam
7. Thiru K.R.Krishnan, General Secretary, Tamilaga Kattida Thozilalargal Mathiya Sangam
8. Thiru R.V.Chitharthan, President, Tamil Nadu Anna Kattida Thozhilalar Sangam
9. Thiru K.Sankaradas, Joint General Secretary, Anna Thozhir Sanga Peravai.

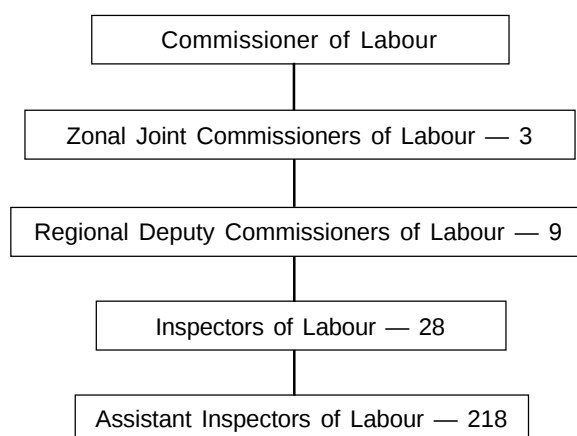
Members representing the Employers:

1. Chairman/Superintending Engineer, Tamil Nadu Housing Board
2. Chairman, Tamil Nadu Slum Clearance Board
3. Secretary to Government, Highways Department
4. Secretary to Government, Public Works Department
5. Thiru K.Ramanujam, President, Builders Association of India
6. Secretary to Government, Rural Development Department
7. Chairman/Managing Director, Tamil Nadu Construction Corporation
8. Thiru V.Sengottaiyan, Member, Builders Association of India
9. Thiru L.Moorthy, Honorary Secretary, Southern Centre Builders Association of India.

ANNEXURE - 8

Organization Chart of Construction Workers' Welfare Board

ANNEXURE - 9

Regional Set-up of Enforcement Wing of the Labour Department

ANNEXURE - 10

List of Offices of Construction Workers' Welfare Board**Head Office :**

Chennai	The Secretary Construction Workers Welfare Board 8, Valluvar Kottam High Road Chennai - 600 034.
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Regional Offices :

1	Madurai	O/o The Deputy Commissioner of Labour, 141/1, Sundaram Theatre Road, K.K.Nagar, Madurai-625 020.
2	Coimbatore	O/o The Deputy Commissioner of Labour, Regional Transport Office Complex, Balasundaram Road, Coimbatore - 641 018.
3	Salem	O/o The Deputy Commissioner of Labour, 85, Sankar Nagar, Salem-7
4	Trichy	O/o The Deputy Commissioner of Labour, 3/163, Kaja Nagar, Trichy-620 020.
5	Thirunelveli	O/o The Deputy Commissioner of Labour, 106, Tiruvanandapuram Road, Palayamkottai, Tirunelveli-627 002.
6	Dindigul	O/o The Deputy Commissioner of Labour, 55, Nehruji Nagar, 3 rd Cross Street, Dindigul-1.
7	Cuddalore	O/o The Labour Officer, No.22A, Main Road, Pudukalayam, Cuddalore-1.
8	Vellore	O/o The Labour Officer-I, No.2/43, Katpadi Road, Thottapalayam, Vellore-632 004.
9	Kancheepuram	O/o The Inspector of Labour, 311/7, First Main Road, M.M.Avenue, Kancheepuram
10	Thiruvarur	O/o The Inspector of Labour, 13, Pidari Koil Street, Thiruvarur
11	Kumbakonam	O/o The Deputy Inspector of Labour, 92A, Mothilal Street, Kumbakonam
12	Villupuram	O/o The Inspector of Labour, 6C/1, Kandasamy Lay-out, 1 st Street, Villupuram
13	Nagarcoil	O/o The Asst. Commissioner of Labour (Conciliation) 222, 74(A) Water Tank Road, Nagarcoil-629 001.
14	Erode	O/o The Labour Officer Tamil Nadu Housing Board Building, Sooranpatti Nal Road, Erode-9
15	Krishnagiri	O/o The Labour Officer, 33, Bairappa Colony, Krishnagiri

ANNEXURE - 11

Comparison of Benefits with Beedi Workers Welfare Board

Sl.No.	Benefits available under Beedi Workers Welfare Fund	Whether benefit is available under Tamil Nadu Construction Workers' Welfare Board
1.	Starting of static-cum-mobile static dispensaries	Not available
2.	Scheme for reservation of beds in T.B. hospitals	Not available
3.	Scheme for domiciliary treatment of T.B.	Not available
4.	Scheme for treatment of beedi workers suffering from cancer	Not available
5.	Scheme for treatment of mental diseases	Not available
6.	Scheme for treatment of leprosy	Not available
7.	Grant of financial assistance for purchase of spectacles	Available
8.	Financial assistance to workers suffering from heart diseases	Not available
9.	Financial assistance to workers for kidney transplantation, etc.	Not available
10.	Scheme for payment of monetary compensation for sterilization	Not available
11.	Maternity benefit scheme	Available
12.	Group insurance scheme	Available
13.	Scheme for grant of subsidy/financial assistance to co-operative societies of workers for construction of work-sheds and godown	Not available
14.	Grant of scholarship to children of workers for education	Available
15.	Financial assistance to school going children of workers for supply of one set of dress/text books/notebooks/slates	Not available
16.	Scheme to pay incentive to the children of workers on passing final examination conducted by the Board/University from 10 th onwards	Available
17.	Scheme to provide incentive/financial assistance on the basis of attendance in schools colleges, etc to female students	Not available
18.	Supply of television sets	Not available
19.	Scheme for sanction of grant-in-aid for setting up of community centre in the residential colony of workers	Not available
20.	Scheme for excursion-cum-study tour of workers to the Holiday Home "Puri"	Not available
21.	Integrated housing scheme	Not available

ANNEXURE - 12

Comparative Statement of Benefits Given by Construction Workers Welfare Boards in Various States

S.No.	Assistance	Tamil Nadu Construction Workers' Welfare Board	Kerala Building and Other Construction Workers' Welfare Board	Delhi Building and Other Construction Workers' Welfare Board	Pondicherry Building and Other Construction Workers' Welfare Board	Madhya Pradesh Building and Other Construction Workers' Welfare Board
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Pension	Under consideration	Available	Available	Available	Available
2.	Family pension	Not available	Available	Available	Available	Available
3.	Invalid pension based on the report of medical board	Not available	Available	Available	Available	Not available
4.	Assistance to family in case of natural death	Available	Available	Available	Available	Not available
5.	Accident death	Available	Available	Available	Available	Available
6.	Permanent disability	Available	Available	Not available	Not available	Not available
7.	Funeral assistance	Available	Available	Available	Available	Not available
8.	Marriage benefit to women workers and daughters of members male members and sons of members	Available	Available	Available	Available	Not available
9.	Maternity benefit (for 2 deliveries)	Available	Available	Available	Available	Available
10.	Medical benefit for permanent disability	Not available	Available	Available	Available	Not available
11.	Educational assistance	Available	Available	Not available	Not available	Available
12.	House building advance	Not available	Available	Available	Available	Available

(1)	(2)	(3)	(4)	(5)	(6)	(7)
13.	Tool advance	Not available	Available	Available	Available	Not available
14.	Cash award/scholarship	Available	Available	Not available	Available	Not available
15.	Financial assistance for Entrance coaching class	Not available	Available	Not available	Not available	Not available
16.	Monsoon allowance	Not available	Not available	Not available	Available	Not available

S.No.		Tamil Nadu	Kerala	Delhi	Pondicherry	Madhya Pradesh
1.	Registration fee	Registration fee of Rs.25/- Renewal fee of Rs.10/- once in two years	Rs.25/-	Rs.25/-	Rs.25/-	Rs.25/-
2.	Contribution from workers	—	Rs.20/- p.m.	Rs.20/-p.m.	Rs.20/- p.m.	Two slabs (i)Rs.5/-p.m. or 60/- p.a. (ii)Rs.10/-p.m. or 120/- p.a.
3.	Cess from builders	0.3%	1%	1%	1%	1%

Bonded Labour in Tamil Nadu - A Challenge for Labour administration

Sathya Maria

INTRODUCTION

Bonded labour is one of the forms of forced labour and is defined as the “status or condition arising from a pledge by a debtor of his personal services, or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”¹ The ILO’s second global report on forced labour “A Global Alliance Against Forced Labour” points out that the bonded labour system in South Asia accounts for the greatest number of forced labourers in the world today.

Studies and surveys indicate that bonded labour is prevalent in South Asia in different sectors of the informal economy including agriculture, quarrying, gem cutting, silk industry, beedi making, handloom and power loom weaving, leather products making, brick kilns, rice mills, etc. Localized and trafficked forms of bonded labour are found to be in practice in several areas. Bonded labour perpetuates poverty, widens the gap between the rich and the poor, impedes economic development and, most importantly, violates fundamental human rights.

A vast majority of the workforce in the informal economy has long been denied adequate social security and protection. Due to lack of regular employment and income, most of the workers in the unorganized sector are unable to cope with the risks and economic shocks inherent to the informal sector and have only a few means of meeting their consumption needs and other financial needs. These few means include borrowing at

¹ UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institution and Practices Similar to Slavery, Section 1 (Article 1)

exorbitant rates of interest from unscrupulous moneylenders and/or their employers, who earn a large profit by exploiting the poverty of the workers. The bonded debt denies the worker of his/her negotiating power and puts him/her at a greater risk of exploitation by way of long working hours, appalling working and living conditions at the worksite, and restricted freedom to move around and change occupation. As several of these sectors are unregulated as a result of weak enforcement of labour laws, the workers are forced to live under sub. human conditions. Thus bonded labour remains largely as a problem of the unorganized sectors in the informal economy.

PROBLEM SITUATIONS

- Recent studies indicate that there is a progressive disappearance of traditional forms of bondage and new forms of bondage are emerging in various sectors. In most of these sectors where bonded labour is reportedly prevalent, the bonded debt is paid in the form of a cash advance to the workers either directly by the employer or by middlemen who recruit workers. The advance system represents an institutional form of bondage in these sectors, to fulfill the need for disciplined labour supply to meet the needs of continuous and cyclic production processes. The worker intending to separate from the employer, has to either repay the advance or find another employer willing to pay the money required to release him/her. Verbal abuse and physical violence are not uncommon as a way of disciplining the workforce. On the supply side, demanding an advance is the only way the workers cope with their various financial needs, as they are unable to avail formal credit.
- Traditional hierarchies and caste/community-based discriminatory practices can be linked to the prevalence of bonded labour. In South Asia, the most severely affected communities are the scheduled castes and scheduled tribes in India; indigenous minorities in Nepal, referred to as the *Janjatis*; and religious minorities in Pakistan, such as Hindu minorities known as *Haris* as well as Christian minority groups.²
- Migration as a coping strategy for survival purposes involving entire families most often includes indebtedness to the employer for which labour is pledged. Migrant labourers are most vulnerable and are put to extreme hardship in new places of work. Full repayment of advance within a short period is impossible given the low wages paid to such workers.
- The South Asian financial sector is characterized by a strong predominance of the informal sector, in particular among the poor in rural areas. Even if micro-finance has expanded vigorously during the last few years, the supply represents only one small part of the need and the migrants have only very little access to it.

² Global Alliance at 30.

The flexibility of informal credit modes as opposed to the rigidity of most micro-finance services, explains to a great extent the very limited impact of micro-finance on the problem of bondage.

- Although there is Selfhelp Group-based developmental intervention in most parts of South Asia, migrant labourers are outside the ambit of SHGs due to the nature of their work and non-permanent residential status. Thus, they are deprived of several credit- supported self-employment opportunities limiting their source of income. Although there are some very good educational programmes to cover the children of migrant families, in most areas, these facilities are far from adequate.
- As far as insurance is concerned, since the pioneering efforts of the SEWA in the early 1980s, it is estimated that today there are some 20 schemes³. Over the last few years, insurance schemes intended for the poor have developed significantly because of public entreaties. Now, and in compensation for the liberalization of the insurance sector, the Indian Government requires that insurance companies invest a minimum of their portfolio with the so-called “weaker sections” of the population. It is probably too early to come to a decision regarding the suitability of the schemes thus put in place. It can, however, be noted that the provision of emergency loans or voluntary saving services, much simpler to implement than micro-insurance, while they are just as likely to help the poor to better manage risks (Churchill 2003), have difficulty in developing.
- Children are either sold individually or work together with other family members in debt bondage. Although the male head of the family bonds the entire family, in many cases, the labour of children is unremunerated and even unacknowledged for the most part. For instance, in Pakistan, brick kiln owners advance loans to Afghan refugee families, against which entire families’ work as bonded laborers.⁴ Similarly, sharecroppers in the Punjab province in Pakistan operate on the basis of bonded labour system that extends to wives and children who are bonded as domestics⁵. Another example is the system of agricultural bonded labour in Nepal referred to as the Kamaiya system, which has been officially outlawed since July 2000. Under this system, landlords include the labour of children within the terms of debt repayment; and consequently, while boys work as livestock herders, girls work in domestic servitude⁶. Frequent reports of children being sold/trafficked to sweet/snack making units and marine food processing units for pittance and the appalling working and living conditions they are subjected to, having no means of contacting their families, indicate the entrenched presence of the well organised trafficking menace.

³ Information from the web site <http://www.microinsurance-india.org/default.htm>.

⁴ Afghan workers trapped by debt available at http://news.bbc.co.uk/2/hi/south_asia/3490926

⁵ Supra note 1 at 35

⁶ Gender Dynamics in Bonded Labour Situation in Nepal – ILO’s Study Report.

- The piece-rate system of payment is slowly replacing the daily wage system in most of these sectors. For the employers, it is quite obviously a means to ensure the productivity of the workers and to shift part of the risks of the activity (in particular, risks in connection with the climatic conditions).
 - Absence of trade unions in most of these sectors deprives the workers of an opportunity to bargain collectively and fight for their rights. In the brick kilns in Tamil Nadu, in a deliberate manner (constraint imposed by the employers/supervisors), workers from the same village are not sent to the same production site in order to avoid any risk of unification and organization. We have encountered no case of a union or any other form of collective action with the aim of defending the rights of workers. The workers are unanimous on this point: this responsibility belongs to the *maistry* – a “good” maistry is, moreover, evaluated in part as regards this issue. A considerable number of workers are aware of the existence of a minimum wage fixed by the government, but very rare are those who know the actual amount.
 - During the last few decades, the sectors such as textiles, rice mills and brick kilns have seen an enormous boom and insufficient skilled labour supply and increased competition among the owners, resulted in higher amounts of advance to the workers. Although the workers may be able to escape from one employer to the other source of credit, they don’t escape the organised structures of subordination to the employers as a group. While the employers don’t allow the unionisation of workers, they themselves are well organised when it comes to their collective interests and the question of wages.
 - Reliable data is essential for understanding the magnitude and addressing the problem of bonded labour, developing suitable and effective interventions and evaluating their impact. The deficit of accurate data is revealed in the discrepancy within internal records as well as between official and unofficial estimates.
 - Often it is found that the enforcing authorities are unaware of what constitutes bonded labour and invariably they confuse it with only those circumstances where labourers are chained and kept. There is a need to educate the enforcing authorities on new forms of BL and the complexities within the informal sector. Proactive survey/monitoring of bonded labour cases is not the case. The officials act only when cases are reported and the pressure to attend to these cases is enormous. Rate of prosecution of the offenders is very poor, as indicated in several reports on the subject.
 - In many cases the employers enjoy multiple dominant roles in society and hold the monopoly of labour and credit markets. Given their dominance, the political parties and the enforcement officials are dependant on them for some of their needs. The non-confrontational attitude of the officials towards the employers and, in many instances, the connivance between them and taking bribe, are major concerns.
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- Although vigilance committees are established in most places under the law, they are ineffective in identifying the victims and rehabilitating them and in bringing the offenders to justice.
- Near absence of active Citizens For a to constantly monitor the progress in abolition of bonded labour is yet another reason for the existence of this practice.
- Despite prosecution of employers and efforts to develop social awareness among them, profit making seems to be the only motive of the employers which is evident from the way the brick kiln owners are increasing the amount of advance every year at the time of recruitment.
- The delay in securing the release of bonded labourers since the time of identification/report by third parties give the employers a chance to get rid of the complaining workers or the workers are put to further harassment as a result.
- The rehabilitation package is not formulated before securing a release. In most cases, rehabilitation schemes are provided much later, putting the victims to extreme vulnerabilities and in several cases causing relapse into bondage.

RECOMMENDATIONS TO ENGAGE AGAINST BONDED LABOUR

PEBLISA applies and advocates the following comprehensive approach to prevent and eliminate bonded labour:



Prevention Programmes at Source

It is evident that poorest people choose to enter into a bondage relationship to meet out large expenses such as social ceremonies (marriage, attaining puberty, naming ceremony, etc), religious festivals and for health reasons. Therefore, it is necessary to fight the social and economic drivers at their native places by helping people with micro-finance schemes to initiate additional income-generating activities, cut down on unsustainable expenses and save for future and avail micro-insurance schemes. Diversifying income sources by developing other vocational skills and entrepreneurship training programmes will give the client base self-confidence and necessary skills to cope with changes in market economy.

It is also essential to find a good balance⁷ between “discipline” (indispensable to avoid opportunistic behavior) and “flexibility” (indispensable in view of the vulnerability of the target population). Let us mention the lessons acquired by the PEBLISA project (Churchill and Guérin 2004): to adopt a progressive approach ensuring the borrower’s competence to repay, acknowledging her/his cash constraints; to count on incentives rather than on sanctions; to adapt repayment methods to the flow of income; to suspend repayment in the event of an unforeseen problem; and to modify the usual financial ratios, in particular the portfolio at risk (a rate from 10 to 30% can be tolerated instead of the usual 5%)

To help people to manage risks better, which pre-supposes:

- Providing innovative savings services, taking account of the constraints of the target population (preference for systems of “forced” saving and instant access); and
- Helping people to plan better for their large expenditures (especially marriage), *via* adapted savings products (for example, contractual saving meant for a particular project) coupled with financial education. The prime objective of this financial education should consist of convincing the people of the need to save *a priori* (and not *a posteriori*, recalling that for many, the advance system represents a form of saving).

All of these services must obviously take into account the fact that the target populations are essentially migrants, which explains why they do not have access to the services of standard micro-finance.

Awareness Generation and Social Mobilization

Awareness raising campaigns targeting vulnerable segments of the population as well as landowners and employers to create an understanding that bonded labour is illegal, and to build awareness of human rights, labour rights and the risk inherent in bonded labour arrangements.

⁷ Indebtedness, vulnerability to debt bondage and micro-finance study by French Institute of Pondicherry

Organising Workers and Collective Bargaining

One of the crucial factors leading to bondage is illiteracy and ignorance among the workers. Therefore, to find a sustainable solution to the problem of bonded labour, the workers in the informal economy have to be imparted basic literacy and numeracy skills to the level that they can read and understand their contract and payment patterns, can calculate interest rates and wages that are due to them and what is being paid, etc. In addition, they also need labour rights education, including all the relevant legal protections that exist.

Also important inputs are continuation of educational facilities for the children of migrant labourers, in the absence of which the children end up joining the work force. The cycle of bondage thus extends to the children and they are trapped forever.

Sensitizing the Employers

The role of the employers is obviously central⁸. We have seen the importance of factors related to the production process (a continuous and cyclic production processes, requiring a disciplined labour force; strong competition which requires cost-cutting, etc.). To convince the employers is easier said than done: on the one hand, they often have great economic, social and political power; in addition, they are seldom in direct contact with the workers (who are in contact only with the brokers).

To threaten the employers *via* the legislative argument is probably doomed to failure. A more realistic option consists of gradually convincing them that they have a lot to gain by ensuring decent wages, even to eliminate the advance system (which costs them more, perhaps, than what they gain, but unfortunately it is very difficult to evaluate this point with precision). In continuing the actions carried out by the ILO/PEBLISA project in Thiruvallur District, some employers, more “progressive” than others, can be selected on a voluntary basis and used as an example.

With regard to the brick-kiln, some employers appear to be prepared to become involved and have already taken a number of measures (largely supported by the PEBLISA project), for example, the setting up of schools on the production sites. Others, however, and without doubt the majority, refuse to acknowledge the existence of bondage in any form, or of child labour. The most honest of them admit that child labour does exist, while deeming that this type of problem falls under parental responsibility and that the parents persist in making their children work notwithstanding the interdictions of the employers. The last meeting of the Brick and Tile Manufacturers Association (an association that includes roughly 80% of the brickyard owners in Tamil Nadu) was very

⁸ Indebtedness, vulnerability to debt bondage and micro-finance study by French Institute of Pondicherry, October 2004

clear on this point⁹ and one of the conclusions was: “we create employment; there is no bondage insofar as the workers are free to move about. There is no child labour. The children only help their parents during their free time after school.” Let us note that this resistance is also the result of the thoughtless action of some NGOs, that would appear to be solely preoccupied with media coverage and those who confine themselves to raids to liberate workers without any clear identification of the problem and without adequate back-up support in terms of rehabilitation. The analysis carried out by Gupta (2003) in Haryana also indicates the helplessness of the employers faced with the unreadability of the legal texts: their multiplicity and their complexity discourage any preactive attempt to act.

Shall We Modify the Advance System ?

In the sectors where the advance is a key factor in the situations of bondage (as we saw, it is not systematically the case), if it seems impossible to remove the advance system (which is requested by the employers as well as the workers), on the other hand it is possible to:

- Test the feasibility to transfer the advance system to a third organization (bank or NGO), which supposes as a prerequisite a strong dialogue with the employers and possibly the brokers, in order to think of a way in which the “virtues” of the advance system can be replaced.
- Ensure the transparency of the work “contract”; this supposes a written contract involving witnesses, and indicating the remuneration, the advance and the mode of repayment, and the mutual obligations of each party.
- Convince the employers/middlemen, but also the workers, to fix an amount which the workers are able to repay in one season without involving the whole family, in particular the children.

Forming Collaborative Alliances

The ILO's Global Report calls for a global alliance against forced labour. No single organisation or entity can solve the problem of this magnitude and complexity. The governmental organization, international organizations, civil society groups, media, NGOs, trade unions, people's organizations, employer's organizations and academic institutions must come together. Alliances that are active, will enable testing out different approaches, research into evolution and forms of bondage and offer directions, complement and supplement strategies and activities, avoid the wastage of resources in reinventing the wheel, tap and make efficient use of resources, and exchange knowledge and experiences for maximizing effectiveness will prove to be most faithful.

⁹ One of the team members attended this meeting.

To arrive at an alliance at the global level, the process has to begin from below, from the grassroots where the problem exists. Most often, we find actors working separately with hardly any effort to seek assistance and initiate a social movement. Proactive citizen's fora must act as watch dogs at source district/state level to monitor recruiters and recruitment practices and raise an alarm to the enforcement authorities.

Strengthening Enforcement Systems

Although the laws are strong enough, enforcement of these laws is far from satisfactory. The key point is to ensure that the enforcement officials are given at least a three-year term at a position and place and with proper training input on their duties and responsibilities, link the enforcement to their performance evaluation. Regular training for enforcement officials from all the concerned departments is essential to clarify doubts and have a uniform approach.

The reports of bonded labour incidences are highlighted in the media on a regular basis, and not the reports of action taken by the enforcement authorities. To ensure public accountability and transparency, action-taken reports should be published in newspapers and journals for public scrutiny and to avoid corrupt practices hampering the provision of justice to the victims.

By active enforcement of Minimum Wages Act in India combined with regulation of production houses/units (under Factories Act), debt bondage can be prevented. In all sectors, especially those where bonded labour is rampant, it is critically important to ensure that feudal practices and oral agreements are substituted with an employment contract. Such contracts should stipulate the rights and obligations of both parties in accordance with established labour rights and human rights standards.

Labour administration has to ensure that all workers welfare boards are fully functional and have the required active membership. As awareness about the welfare boards and the workers, welfare schemes are far from adequate, the labour administration should take proactive measures to publicize them in rural areas through various media. Labour Departments can take the assistance of the trade unions in spreading the message. Enrollment of all eligible workers in these welfare boards should be achieved by the Labour Department.

Labour administration and factories department should make periodic inspection of worksites and establishments and register complaints with senior officials regarding non-payment of minimum wages and back wages along with fine should be claimed from the concerned employers. Good practices are noticed in Orissa where back wages were claimed from the employers and recently in Tamil Nadu where several claim

petitions have been made against the owners of rice mills and brick kilns. Labour officials should carry out a thorough inspection of work places, including discussions with workers separately to know the real situation.

The details of the migrant labourers and their contract and payment patterns should be kept by the labour department and monitored closely for violations.

In every sub-district level administrative units, tripartite monitoring committees should be established to ensure payment of minimum wages.

Compulsory education at worksites or residential schools at source districts will prevent child bonded labour to a large extent. There are examples of good practice in Tamil Nadu, where the SSA programme has been/is being delivered to the children from migrant families.

External monitoring of law enforcement is a must, so that they are disciplined for wrongful conduct such as failing to investigate complaints filed by bonded labourers and failing to take action and responding to their complaints.

Policy Advocacy

Civil society groups should proactively advocate for the cause of bonded labourers and not be driven away by other interests. A number of loopholes exist in the laws and their enforcement and there is lack of empathetic understanding of bonded labour. These loopholes and gaps should be identified and civil society should proactively engage in policy advocacy. Although a number of schemes exist for the advancement of poorest families such as bonded labourers, the convergence of such schemes and inter departmental coordination to ensure that it happens are missing. Participation and consultation of the persons/family to be rehabilitated has to be at the core of the rehabilitation strategy and a holistic package is crucial rather than a minimalist approach, to ensure that the families don't revert to debt bondage. Additionally, the time lag from identification to release and the commencement of rehabilitation efforts should be minimized as far as practicable to ensure the success of rehabilitation efforts. The time frame for such release and rehabilitation grant sanction has to be fixed and adhered to.

Also, an important input into the rehabilitation process is the counseling and assistance on how to best use these resources in an effective and sustainable manner that would support families and communities in the future.

Another important area for civil society engagement is to press for prosecution of offenders, which alone can serve as a deterrent.

Strengthening Vigilance Committees

Once a year, the government should conduct orientation workshops for the Vigilance Committees (VCs) to enable them function effectively as members.

VCs should be reconstituted at least once in two years with all stakeholders to make them broad based and have the orientation to proactively monitor vulnerable groups and sectors that are likely to engage in debt bondage. Their role should not be limited just to follow-up on identified cases. The enforcement authorities should again be made responsible if the VCs don't meet at least once in three months.

VCs and enforcement officials should also extend protection to the victims, as they are most at risk once they have complained. They should also continue to monitor the changes in employer behaviour and contract patterns and where the rehabilitation assistance of released labourers actually reach.

Action Plans to Eliminate Bonded Labour

In the absence of clear-cut action plan at the local, state/province and national levels, despite the presence of a strong Act and several schemes, elimination and prevention of bonded labour practices is unlikely. Implementation of the Action Plan denotes political and bureaucratic commitment to ending this social evil. Achievement against the Action Plans should be subjected to public scrutiny and should serve as an indicator of a Government's performance as part of its social development goals.
