

## CHAPTER - VII

### UNORGANISED SECTOR

#### **Problem of definition and identification**

One of the two main tasks entrusted to our Commission is to propose an umbrella legislation for workers in the unorganised sector. We have also been asked to see that the legislation, and the system that will be built around it, will assure at least a minimum protection and welfare to workers in the unorganised sector. We are deeply conscious of the urgency and importance of this task. In fact, both the main tasks entrusted to our Commission are urgent and difficult. But in a sense, it can be said that visualising a system of effective protection and welfare for the unorganised sector is a shade more difficult and complicated, if only because of the dimensions and variety of the workforce in the sector, and the various factors that have to be taken into consideration.

7.2 Unlike the organised sector, in this sector we are dealing with

workers who have not acquired a high profile, tasted the benefits that can be gained from organisation, or derived the advantages flowing from high visibility. In the unorganised sector, we have to deal with workers who are engaged in a variety of occupations or employments, ranging from those like forest workers, tribals trying to follow traditional vocations within their traditional habitats, and fishermen who venture out to sea in vulnerable canoes, to those who are working in their homes with software, or assembling parts for a highly sophisticated product. Many of them are victims of invisibility. The laws or welfare systems that we propose for them cannot be effective unless they themselves are conscious of the laws, and acquire the strength to ensure that laws are brought into force; unless there are effective means to implement, monitor and provide quick redress; unless breaches of the law are punished with deterrent penalties, and unless the organs of public opinion and movements and organisations mount vigil, and intercede to ensure that the

provisions of the laws and welfare systems are acted upon.

7.3 We are aware that though other Commissions before us have also looked at the unorganised sector, it is for the first time that the Government has specifically asked a Commission to propose umbrella legislation to ensure the protection and welfare of the workers in this sector.

7.4 We have to begin with a brief reference to the variety of occupations, levels of organisation etc. in the sector, of which, we will have more to say in later paragraphs. But we wish to preface our observations by saying that the variety, complexity, and dimensions of the sector, and the paucity of information about conditions of work are such that we would have liked to undertake a comprehensive, if not an exhaustive, study of the different kinds of employments, and the conditions and needs of workers in this sector. We cannot over-emphasise the need for such a study. But the time and resources at our disposal do not permit us, either to undertake such a study, or to collect comprehensive data. We are aware that our work will, therefore, bear the marks of the

shortcomings that arise from incomplete access to data.

7.5 The first difficulty that we came across was in identifying or defining the unorganised sector. Saying that the unorganised sector covers the area that falls outside the purview of the organised sector, is not saying much. We looked for a single or primary criterion or characteristic by which the sector could be defined. We found that it could not be defined or described on the basis of the nature of the work that workers or employees in the sector are engaged in, because, as we have pointed out earlier, the sector has tribal forest workers as well as home-based, info-tech and software workers. It cannot be based on the number of employees in undertakings because it covers agricultural workers, craftsmen, home-based workers, self-employed workers, workers in weavers' cooperatives, as well as workers in small scale industries where the workforce can be counted on one's fingers. It cannot be based on the level of organisation because some of the enterprises may have very few workers, and even these may be working in a dispersed manner with hardly any organisational link or interaction with each other, sometimes because of the nature of the work,

and sometimes because of the geographical or locational dispersal of the workers pursuing the same vocation. How then can we define the sector? It would seem that the vocations, employments and conditions of work are so varied and disparate that it is impossible to provide protection and welfare to all workers in all these sub-sectors, with one uniform law or one uniform system for welfare and social security. We will attempt to address these problems in the ensuing paragraphs.

7.6 It has often been pointed out, and perhaps universally accepted, that there are areas in the unorganised sector where it is difficult to identify an 'employer', and hence, an employer - employee relationship, which the law can attempt to channelise or influence by defining rights and responsibilities, and building up a system of social security on a contributory basis. The employer of the construction worker or the brick kiln worker can perhaps be identified as a direct employer or a contractor. An employer can perhaps be identified even in the case of a worker who collects minor forest produce, as one, who works for a contractor or the forest department. But no employer can be identified for a fisherman who

casts his net into a pond or stream, or for a woman who spins or weaves, or tends livestock at home, to sell surplus milk to a co-operative or to a consumer who is her neighbour. This difficulty in identifying an employer-employee relationship has its corollaries, which we have to take into account when we come to the formulation of proposals for legislation and social security.

7.7 Now, let us look at what other Commissions or Committees have done to deal with some of the difficulties we have mentioned.

7.8 To begin with, it must be pointed out that it has almost become the universally accepted practice to treat the words 'unorganised sector' and 'informal sector' as denoting the same area. They are, therefore, regarded as interchangeable terms. We too will follow the practice and treat the words as interchangeable for the purpose of our report.

7.9 The concept of an informal/unorganised sector began to receive world-wide attention in the early 1970s, when the International Labour Organisation (ILO) initiated serious efforts to identify and study the area through its World Employment

Programme Missions in Africa. Since then, the informal sector has been the subject of several studies and seminars covering various aspects like its size, employment potential, its relationship with the formal sector, technological levels etc. In 1987, the Director General of the ILO submitted a report to the International Labour Conference on the "Dilemma of the Informal Sector." In it, he referred to the role of this sector in promoting employment, the absence of adequate laws for providing protection to workers in this sector, and the scope for application of international labour standards in this area.

7.10 In India, however, the term informal sector is of recent origin, and has been in use only during the last two decades. A number of studies have been conducted to assess the size and employment structure of the sector in different urban localities by agencies like The Institute of Applied Manpower Research (IAMR) etc. during the late eighties and early nineties.

7.11 The first National Commission on Labour, under the Chairmanship of Justice Gajendragadkar, defined the

unorganised sector as that part of the workforce 'who have not been able to organise in pursuit of a common objective because of constraints such as (a) casual nature of employment, (b) ignorance and illiteracy, (c) small size of establishments with low capital investment per person employed, (d) scattered nature of establishments and (e) superior strength of the employer operating singly or in combination.' The Commission listed 'illustrative' categories of unorganised labour: 'These are: (i) contract labour including construction workers; (ii) casual labour; (iii) labour employed in small scale industry; (iv) handloom/power-loom workers; (v) beedi and cigar workers (vi) employees in shops and commercial establishments; (vii) sweepers and scavengers; (viii) workers in tanneries; (ix) tribal labour; and (x) 'other unprotected labour' (p.417).

7.12 The National Commission on Self-Employed Women, set up in 1987 under the Chairpersonship of Smt. Ela R. Bhatt, included in their terms of reference, the women workers in the unorganised sector. This report characterised the unorganised sector as one in which women 'do arduous work as wage earners, piece-rate

workers, casual labour and paid and unpaid family labour. The economic and social conditions of these women are dismal.' The report also observed that 'the unorganised sector is characterized by a high incidence of casual labour mostly doing intermittent jobs at extremely low wages or doing their own account work at very uneconomical returns. There is a total lack of job security and social security benefits. The areas of exploitation are high, resulting in long hours, unsatisfactory work conditions, and occupational health hazards.'

7.13 The National Commission on Rural labour, set up in 1987, defined rural labour as 'a person who is living and working in rural area and engaged in agricultural and/or non agricultural activities requiring manual labour, getting wage or remuneration partially or wholly, in cash or in kind or both during the year, or such own account workers who are not usually hiring labourers but are a part of the petty production system in rural areas.' According to this definition, rural labour comprised 150 million persons or roughly 60% of the total rural workforce in the country during 1986-87. The Commission pointed out

that (a) the number of rural labour both in agricultural and non-agricultural operations was increasing at a faster rate than the rate of growth of the rural population, and (b) a number of factors like the uneven and declining labour absorption in agriculture, declining land base, and scarcity of non-farm employment opportunities had led to large scale migration and casualisation of rural labour.

7.14 The National Council for Applied Economic Research (NCAER) and Self-Employed Women's Association (SEWA) conducted a joint workshop on the subject of defining the informal sector in March-April 1997. The Central Statistical Organisation formed an expert Group on the informal sector (Delhi Group) to suggest a definition of the informal sector. In the NCAER-SEWA workshop, a Gujarat-based Group of experts on Estimation of the Informal Sector proposed a definition for the informal sector based on employment. According to the Group, the informal sector included all workers in informal enterprises, some workers in formal enterprises, self-employed workers, and those doing contract work for informal or formal sector enterprises

and contractors<sup>1</sup>. The NCAER-SEWA workshop raised doubts on the enterprise-based definition of the informal sector. It pointed out that such a definition would leave out workers who were working on contract basis. It said that the definition should be based on activities and ranks of the self-employed producing non-tradeable services and items for the local markets. It further said that the National Accounting must cover the informal sector which included home-based workers, artisan groups and contract workers, besides workers in the unorganised sector of services, manufacturing and agriculture.

**Definition and Identifiable characteristics**

7.15 It may be seen from these observations that the unorganised sector is too vast to remain within the confines of a conceptual definition. Hence, descriptive means are often used to identify the unorganised or informal sector.

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<sup>1</sup> Kantor, 1997

7.16 The term 'informal' per se, denotes the informal nature of work in the activity concerned, irrespective of the actual number of workers employed, and irrespective of whether it is within the purview of the requirements for registration. Some studies done in India restrict the informal sector to enterprises employing less than 10 persons. These tend to set an upper limit of employment at 9 persons and also identifies other criteria for identifying informal sector activities.

7.17 As we have said earlier, in India, the terms 'unorganised sector' and 'informal sector' are used interchangeably in research literature. The term 'unorganised sector' is used commonly in all official records and analyses. It is defined as the residual of the organised sector. The term 'organised' is generally used when we refer to enterprises or employees in which 10 or more employees work together. The various methods employed in estimating data on employment in the organised sector by the Annual Survey of Industries (ASI), Employment Market Information (EMI) programme, etc., as well as those used in assessing overall employment like the decennial

Population Census and quinquennial surveys of the National Sample Survey Organisation (NSSO) have their own limitations.<sup>2</sup> Problems of underestimation and insufficient coverage in the unorganised sector lead to further problems in deriving the residual estimate of the unorganised sector. Therefore, definitions based on the residual approach, that consider the organised sector as employing 10 or more workers and the unorganised sector as the residual, no longer seem to be dependable. Many new types of enterprises and employments that have emerged in recent years, have to be taken into account.

7.18 As we have said earlier, the unorganised sector is very diverse. Many efforts have been made to identify the characteristics of employments or undertakings in the sector. But none of the characteristics can be termed as crucial in defining the sector. However, it will be useful to list some of these characteristics:

- (a) low scale of organisation
- (b) operation of labour relations on a casual basis, or on the basis of kinship or personal relations
- (c) small own account (household) or family-owned enterprises or micro enterprises
- (d) ownership of fixed and other assets by self
- (e) risking of finance capital by self
- (f) involvement of family labourers
- (g) production expenditure indistinguishable from household expenditures and use of capital goods
- (h) easy entry and exit
- (i) free mobility within the sector
- (j) use of indigenous resources and technology
- (k) unregulated or unprotected nature
- (l) absence of fixed working hours
- (m) lack of security of employment and other social security benefits
- (n) use of labour intensive technology
- (o) lack of support from Government

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<sup>2</sup> Suryanarayanan, 1998

- (p) workers living in slums and squatter areas
- (q) lack of housing and access to urban services
- (r) high percentage of migrant labour

7.19 Some analysts differentiate the terms unorganised and informal. They argue that the number of workers in an undertaking or employment is not the factor that enables one to distinguish the unorganised from the organised. According to them, the organised sector can be distinguished from the unorganised by the presence of legal protection, size of establishments, capability of the workers to organise themselves in unions, and the systematic manner in which production processes are organised in perceptible patterns. The distinguishing factors often mentioned to demarcate the organised from the unorganised, cannot be applied to the informal sector. For instance, let us look at the rules that municipal bodies frame for licensing shops that sell medicines under the Drugs Act, and those that are framed for licensing eateries. There is considerable difference in the nature of the work undertaken by these establishments.

The nature of medical practice or druggists' shops is highly organised, systematic and sophisticated, requiring high levels of skills acquired through formal education. On the other hand, the nature of the work involved in small or medium restaurants cannot be said to be formal or organised. Again, work in numerous garment-manufacturing units, many of which employ a large number of workers, is organised in nature, but is entirely informal.

7.20 However, the formal-informal categorising has helped in identifying a variety of new income generating activities that have hitherto remained un-enumerated and excluded from statistics. It has also been pointed out that the informal sector employment often occurs in circumstances in which the labour processes and the conditions of work are outside the area of public scrutiny.

7.21 In the broader sense, the number of workers employed in an enterprise cannot be the basis of defining the unorganised sector because such an enterprise based definition does not take into account the vast masses of unorganised labour who work as agricultural

workers, cultivators, construction workers, self-employed vendors, artisans, traditional crafts persons, home-based workers, traditional service workers, workers depending on the common property resources such as forests and fisheries and others. Almost the entire non-agricultural activity in rural India is unorganised. All these sectors are mostly unorganised in terms of organisation, employment and labour participation.

7.22 The unorganised sector is in no way an independent and exclusive sector. It is linked to, or in many cases, dependent on the organised sector and the rest of the economy through a variety of linkages. It depends on the organised sector for raw materials and other capital requirements, generation of employment, marketing facilities, and so on. The subcontracting model is used by the formal sector for engaging labour in the unorganised sector.

7.23 It cannot be denied that the unorganised sector does not get enough protection through labour legislation. Despite the existence of labour laws, for various reasons, the

workers in this sector do not get social security and other benefits, as do their counterparts in the formal sector. Here, workers are highly exploited by entrepreneurs. They are employed on a casual basis. With the exception of very few cases (where organisations like SEWA are present), there is hardly any trade union or other institutional machinery to fight for the workers. Up to now, collective bargaining has not been able to get any visible space in the unorganised sector. As the workers in the unorganised sector, particularly women, have not been able to organise themselves, they are further discriminated against in the sector. Thus, this is a sector in which workers do not have protection or adequate bargaining power.

7.24 In the organised sector too, there is a section of permanent workers who are getting casualised and contractualised as a consequence of the new economic and industrial policies. At the same time, there are sections of workers in the unorganised sector, who are organised and unionised as, for example, the head load workers in some of the industrial and trade centres. However, for practical purposes, we propose to

look upon these unionised workers too as part of the workers in the unorganised sector. Thus, workers in the unorganised sector include all the workers of the unorganised sector as well as the casual and contract workers in the organised sector who, for one reason or another, have failed to get the benefits of protective legislation or laws on social security.

7.25 In a sense, all workers, who are not covered by the existing Social Security Laws like Employees State Insurance Act, Employees Provident Fund and Miscellaneous Provisions Act, Payment of Gratuity Act and Maternity Benefit Act, can be considered as part of the unorganised sector.

7.26 Perhaps, then, the unorganised sector is a term that eludes definition. Its main features can be identified, and sectors and processes where unorganised labour is used can be listed, though not exhaustively. Apprentices, casual and contract workers, home-based artisans, and a section of self-employed persons involved in jobs such as vending, rag picking and rickshaw pulling come in the unorganised sector. Agricultural workers, construction workers, migrant labour and those who perform manual

and helper jobs also come in the category of unorganised sector workers. Workers who depend directly or indirectly on natural resources that are open or common property-based are also included in the unorganised sector provided:

- a) that it does not include any such person who is subject to the three armed forces Acts or prison services;
- b) and that they are not employed as permanent workers in:
  - factories, as defined in section 2(m) of the Factories Act of 1948,
  - plantations, as defined in section 2(f) of the Plantations Labour Act of 1951,
  - mines, as defined in section 2(j) of the Mines Act of 1952, and
  - shops and commercial establishments, as defined by the different State Acts.

7.27 Other casual and contract workers in defence establishments, factories, plantations, mines and shops and commercial establishments,

who for some reason do not enjoy the benefits of the Social Security Laws, should however, be regarded as part of the unorganised sector workforce. The form of employment or the labour relationship is important in demarcating different sectors. However, conventional labour laws do not define most of them as employees or workers, because a principal employer is unidentifiable in most of these sectors.

7.28 In India, the official definition of the informal sector enterprises consists of Directory Establishments that employ at least six persons but not more than nine, Non-Directory Establishments which employ five persons or less, and Own Account Enterprises that employ oneself. Officially, these constitute the unorganised sector of industries. However, the available database and hence, the modes of estimation of the unorganised sector workforce are not so dependable.

7.29 Now, let us turn to another characteristic of employment in the unorganised sector. According to Haensenne, 'what all informal sector activities have in common is their vulnerability. Their vulnerability is due

to the fact that they have to rely as best as they can on self-supporting and uniform institutional arrangements which operate separately and independently of the institutions of the modern economy.'

7.30 The sample study of economic activities that our study group conducted, has brought out some general characteristics of enterprises or employment in the unorganised sector. It has been seen:

- a) It is in general a low wage and low earning sector.
- b) Women constitute an important section of the workers in this sector.
- c) Family labour is engaged in some occupations such as home-based ones.
- d) Economic activities, which engage child labour, fall within this sector.
- e) Migrant labour is involved in some sub-sectors.
- f) Piece-rate payment, home-based work and contractual work are increasing trends in this sector.
- g) Direct recruitment is on the decline. Some employees are engaged through contractors.

An increasing trend to recruit workers through contractors is visible in areas of home-based work. There is a sort of convergence of home-based work and engagement in work through contractors.

- h) If some kinds of employment are seasonal, some others are intermittent. As such, under-employment is a serious problem.
- i) Most jobs are, for the greater part, on a casual basis.
- j) Both employed and self-employed workers can be found in a number of occupations.
- k) Workers are not often organised into trade unions. The self-employed are seldom organised into associations. There is not much recourse to collective bargaining.
- l) There are many co-operatives of self-employed workers.
- m) Very often, others supply raw materials, Production by self-employed workers, therefore, becomes dependent on, or linked with enterprises or individuals active in other sectors.
- n) Debt bondage is very common among the employed as well as the self-employed workers in the unorganised sector.
- o) The self-employed have less access to capital. Whatever capital they manage, is mostly from non-banking and usurious sources, especially from the trader-contractor.
- p) Health hazards exist in a majority of occupations.

7.31 There are certain other factors specific to some of the sub-sectors in the unorganised sector. For instance, the depletion of, or decreasing access to open resources such as forests and fisheries, is adversely affecting those who depend on common property resources for their livelihood. Hawkers and vendors face harassment from authorities such as police, traffic police and local self-Governments.

**Instances/examples of categories and conditions**

7.32 We will now look at some of the specific groups of employments in the unorganised sector and the problems confronted by them.

7.33 HOME WORKERS/HOME-BASED WORKERS: The home worker or home-based worker falls within a grey area, in a category between employed workers and self-employed workers. There is no system to enforce minimum wages because of the informal contractual relationship between the worker and the employer, the employer's agent or the contractor. Usually, the home worker is looked upon as a self-employed person, and not a 'worker.' But, there are self-employed workers, as well as workers employed by others, among home-based workers. It has been pointed out that 'the term 'home-based workers' refers to two types of workers who carry out remunerative work within their homes - a) independent own-account producers, and b) dependent subcontract workers - whereas the term 'home workers' refers only to the second category. Under this usage, home workers are a subset of home-based workers. Both types of home-based work involve production for the market, and should not therefore, be confused with unpaid housework or subsistence production.' Another term used for the subcontract workers who work from home is 'industrial outworkers.'<sup>3</sup>

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<sup>3</sup> Carr, et all June 2000

7.34 The ILO Convention No. 177 of 1996 (Convention Concerning Home Work) clarifies that 'many international labour Conventions and Recommendations laying down standards of general application concerning working conditions are applicable to home workers.' It says further, 'it is desirable to improve the application of those Conventions and Recommendations to home workers, and to supplement them by standards which take into account the special characteristics of home work.'

7.35 Article 1 of the Convention No. 177 defines a home worker and an employer. In the eyes of this Convention Article I of this Convention says:

- a. the term 'home work' refers to the work carried out by a person, who is to be referred to as a home worker,
  - in his, or her home, or in other premises of his or her choice, other than the workplace of the employer;
  - for remuneration;
  - that which results in a product or service as specified by the employer,

irrespective of who provides the equipment, materials or other inputs used, unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;

- b. persons with employee status do not become home workers within the meaning of this Convention simply by occasionally performing their work as employees at home, rather than at their usual workplaces;
- c. the term 'employer' means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.'

7.36 The ILO definition, thus, does not give importance to who provides the raw materials and inputs. It only refers to such factors as the dependency of the worker, his or her involvement in producing the product/

rendering the services specified by the employer for remuneration, and the work being carried out at home or a place of the worker's choice.

7.37 Article 4 of the Convention calls for the promotion of equality of treatment for home workers including provision of the right to organise, protection against discrimination, occupational safety and health, remuneration, statutory social security protection, access to training, minimum age for admission to employment, and the right to maternity protection. The South Asia Declaration on Home-based Workers, held in Kathmandu on 18-20 October 2000, in which the national Governments of India, Pakistan, Bangladesh, Sri Lanka and Nepal, and Trade Unions, NGOs etc. from South Asia participated, also endorsed the need to assure these rights. The ratification of this Convention of the ILO will offer substantial safeguards to millions of home workers in India.

7.38 A National Consultation with the Labour Secretaries, Labour Commissioners of the State Governments, representatives of Central Ministries and Departments, research and academic institutions, and NGOs/representatives of home-

based workers was held on the 17<sup>th</sup> of January 2000 in New Delhi. The discussion paper presented by the Ministry of Labour at the Consultation made an effort to define home-based workers (HBWs). Paragraphs 4 to 12 of the paper try to explain the characteristics and situation of HBWs in India. The paper says: "Home-based Workers are those who are otherwise unemployed, intending to, but not absorbed by the organised sector, with skills limited to certain jobs which have economic value... The issues and problems of such workers are complicated, because of there being no direct employer-employee relationship between the home worker and the person or organisation for whom he works- the relationship being of a loose, contractual and tenuous nature. The home worker has, thus, economic dependence on the person for whom he works, but the latter carries no responsibility for him. The relationship being ambiguous and indefinite, he is also subjected to exploitation in various forms. The home worker is, thus, a self-employed person conducting his economic activity for a person or an organisation. The mode of payment or price can be on piece-rate or time rate basis, depending on the economic activity.

7.39 "Among these home-based workers there are some for whom this is their main economic activity, while there are others for whom this is a supplementary source of income during their spare time. The gravity of the problems of home workers is therefore felt more acutely by the former category than by the latter.

7.40 "There is still some amount of avoidable confusion regarding the term Home-based Workers. HBWs would really indicate that they are workers within the confines of their respective homes and could be termed: 'self-employed' as well. In many of these cases, either the head of the family or a member of the family does the work himself/herself with the help of other members of the family. It is a collective self-employment effort and strictly speaking, there is neither an employee nor an employer. In fact, all these home-based workers are workers, materials managers, production managers, finance managers, personnel managers, marketing managers and chief executives of their businesses – all rolled into one.

7.41 "The absence of specific data pertaining to HBWs in official statistics

in India is a reflection of lack of recognition of their legitimacy as workers and also of a refusal to acknowledge their economic contribution. It is argued that HBWs 'subsidize capitalist growth by providing space, tools, and equipment and by working for below minimum wages.' Their contribution to national income in quantifiable terms is yet hazy, but is estimated to be substantial. Partly because of this lack of recognition, HBWs, particularly women workers, have borne the consequences of the inequality in economic structures (formal vs. informal) and policies, in all forms of production and access to resources including social security. In fact, there would be a strong case for granting a formal status to HBWs by accepting the validity of home-based work" (Ministry of Labour, 2000).

7.42 The paper presented by the Ministry of Labour cited above, puts the informal count of home workers in India at around 50 million. It bases its tentative count on the survey done by SEWA (Self-Employed Women's Association) on the status of home-based workers in ready-made garments, *pappad* and *agarbatti* making in the States of Gujarat, Karnataka, Rajasthan, MP and UP.

Studies done by SEWA, point out that female workers constitute the majority of home-based workers.

7.43 As the paper cited above puts it, SEWA has also identified the presence of certain distinct categories of home-based workers in some of the major States of India. They are:

**Rajasthan:** *beedi*, *agarbatti*, readymade garments, weaving shawls and *durries*, wool spinning, food preparing and packing, handicrafts and traditional crafts, block printing.

**Delhi:** *zari* work, garments, *lifafa* (envelope) making.

**Madhya Pradesh:** *beedi* making, readymade garment stitching, smocking, embroidery, making *agarbatti*, *pappad* making, *zari* work, collection of *tendu* leaves, and *jadi booti*, and *jhadoo* making.

**Bihar:** lacquerwork, weaving, spinning, bamboo work, *pappad* rolling, shawl weaving, *beedi*, packing cooked food, *tussar*.

**Maharashtra:** *beedi* making, leatherwork, rope making, cashew, garment making, cardboard box

making, cleaning and sorting onion, seafood, handicrafts, food products.

**West Bengal:** handicrafts, lacquer work, bamboo work, spinning, weaving seafood, jute work, carpet making, garment stitching, sack making, leather work and footwear.

**Tamil Nadu:** woollen carpet making, shawl weaving, beedi rolling, manufacture of scented betel nuts, garment stitching, handloom weaving, ornament making, polishing gems, making utensils, lacquer work, sea foods, footwear.

**Karnataka:** *beedi* making, *agarbatti*, readymade garments, making pickles, cleaning and packing food.

**Uttar Pradesh:** beedi making, working on handlooms, readymade garments, *chikan* work, food products, lacquer work, rope making, *zari* work, carpet weaving.

7.44 The National Consultation on Home-based workers, mentioned in earlier paragraphs, was of the view that terms like 'home worker,' 'self-employed person' and 'own-account worker' should be defined, and policies should be formulated to cover each of them.

7.45 The recommendations that emerged from the Consultation suggest that the definition of home workers be limited to wage earners working for outside employers; that they should be included under the Minimum Wages Act so as to receive a minimum level of wage protection; that welfare schemes and provisions existing under different labour laws should be extended to them; and that the existing provisions in the organised sector should not be transplanted to the home workers. These recommendations, however, ignore the fact that self-employed home workers are also workers in the unorganised sector. Technically, it is important to note that there are both wage-employed and self-employed among the home-based workers. These two groups of home-based workers may need different measures for protection and welfare.

7.46 **DOMESTIC WORKERS:** We have now to refer to a category of workers who may well be one of the most numerous categories of workers in our country.

7.47 These are the domestic workers whom we find in the urban areas as well as rural areas. Perhaps, it is necessary for us to clarify that we are

not here referring to home-based workers who work from their homes but are not categorized as persons engaged in domestic service. There is no reliable estimate of the number of persons who are engaged in domestic service. Perhaps, no effort has been made to arrive at such an estimate. We are well aware of the difficulty in trying to make an estimate of this category of workers. They are somewhat visible in the urban areas, and it may be possible to make some estimate of their numbers in the towns and cities of our country. But we cannot forget the fact that households all over the country, even in the most distant, dispersed and intractable areas of our country employ women or children, in some cases, both women and children, for helping them with their household work. There are some men too, who are employed in such work. But, it can perhaps be said without fear of contradiction, that a large majority, perhaps a predominant majority of those engaged in this category of service are women and children. An estimate made by the College of Social Work in Bombay claims that 80% of domestic workers are women.

7.48 It is well known that many persons, who are employed in

domestic work, are people who have migrated to the urban areas in search of employment. It is believed that domestic service does not need any special skill. Perhaps those who seek such service are also under the impression that they will be protected in the household, and will receive the kind of treatment that can be expected from the members of a respectable family. There are many instances which show that they are extremely poor, illiterate, that they come from rural areas and have no acquaintance with the ways of the town and townspeople.

7.49 They have to eke out their existence and therefore, often agree to work at nominal wages, taking the risks of uncertainty and uncivil or inhuman conditions of work and treatment. The existing laws do not provide them the protection they need. It is well known that there is no system of social security on which they can fall back. In general, the circumstances are such that domestic workers have a very hard life. They have to work many hours, rising much before their employers do, doing a variety of work, and sometimes making do with very few hours of undisturbed sleep. There are no fixed hours of work. They have to be at the

beck and call of their employer. In many cases, they are not provided with adequate food. In some cases, they have to be satisfied with the leftovers of the employers. They do not earn enough to buy adequate clothing, and in some cases clothing that will protect them from the rigours of the climate. Again, in many cases, they are not provided with a safe and clean place where they can rest and sleep. It is not our contention that all households in which domestic servants are employed treat their servants shabbily. There are many employers whose attitude is enlightened, and who look upon those who work in their homes, as those who work with them, helping them with the daily chores in the household. In many houses, the housewife also works with the domestic worker. In spite of all these, it can hardly be claimed that the domestic worker gets his/her hard earned dues, in terms of wages, limitation on hours of work, humane treatment, care in cases of illness, opportunity to enjoy leisure, medical needs and so on. It must be pointed out that since most of the domestic servants are women and children, they run the risk of sexual harassment and exploitation in some houses.

7.50 It is therefore, very clear to us that domestic servants must be provided at least a modicum of protection and satisfactory safeguards for security. In our discussions in Mumbai, during evidence sessions, we were told that a Non-Governmental group has formulated a Bill that incorporates provisions for protection and safety of domestic workers. They wanted that any such law must provide for the benefits of PF, Gratuity, medical needs, leave, fixed working hours, wages and social security. The promoters of the Bill asked for the following:

- a) The domestic worker should be recognised as a worker, and issued an Identity Card or/and letter of appointment.
- b) Working hours for domestic workers should be fixed at 8 hours a day.
- c) They should be paid overtime allowances in case they have to work longer.
- d) They must be entitled to some personal free time during the day.
- e) They must be entitled to a night's rest.

- f) They must be entitled to one paid holiday in a week, and 15 days leave with wages after one year of service.
- g) They should be allowed 15 days sick leave every year.
- h) They should have access to the provisions of PF, and Gratuity, and be provided with uniforms.
- i) They should have living quarters which are strictly hygienic, and have security.
- j) The employer should give one month's notice if he wants to dispense with the services of the worker.
- k) There should be provisions in the law for periodic inspection to verify that the conditions in which domestic workers are employed are consistent with what the law lays down.

7.51 The Bill provides for the appointment of an Advisory Body consisting of social workers, representatives of trade unions, and domestic workers. It also wants labour judiciary to be empowered to look into disputes between domestic workers and employers.

7.52 We are not including a bill of this kind in our recommendations, though we agree that the proposals contained in the bill are goals towards which we have to work. We strongly feel that adequate protection should be made to ensure satisfactory conditions of work, humane treatment and acceptable levels of social security. We are recommending that all workers in whatever employment they are engaged, should be provided with Identity Cards that specify the names of their employers, wages paid, entitlement to social security and so on. We have also talked elsewhere in the report, of the protection that must be available, minimum wages that should be paid, etc. to workers in the unorganised sector. We believe that acting on the suggestions that we have made in this regard can make a reasonable beginning. We are not proposing a separate piece of legislation to cover the domestic workers, primarily because we want to minimize the number of separate laws for different kinds of workers. Our attempt is to ensure that the existing laws are consolidated, and reformulated to provide protection and welfare, to all workers.

7.53 **SEX WORKERS:** In all the sessions for evidence that we held in

the many States, and in the many seminars that we held, the question of those who are now described as sex-workers was raised only once, and that too furtively. We feel that we cannot close our eyes to this question. There are no grounds today, to believe that the phenomenon, or if one wants to term it a 'profession,' will disappear merely through exhortation. And as long as it exists, we have to recognise that it is related to exploitation, inhuman conditions and public health. The fear of sexually transmitted diseases has been with humanity for long. But in recent times, the rapid spread of AIDS is causing concern and anxiety in most countries and all continents. We do not have to go into the suffering and dangers that the disease holds. But we have to point out that these can be ignored only at the risk of enervation and decimation of our species.

7.54 We cannot therefore ignore the problems of 'sex-workers' to respect norms of prudery.

7.55 In the interest of public health, sex-workers need to be subjected to periodic health checks. To ensure this, they have to be registered. In terms of protection and welfare as workers,

they have to be considered as self-employed workers. They should, therefore, have the facility to be registered as self-employed workers with access to health policies, insurance etc. that all self-employed workers will be entitled to under the schemes that we have recommended. As for the need to ensure safe and humane working conditions and protection from occupational hazards, we have not gone into the related questions in detail.

7.56 We recommend that the Government undertakes consultations with social scientists, NGOs, Trade Unions, human rights organisations, and vigilance authorities, and formulate policies and measures that will ensure protection, public health and public safety, including the protection of public morality.

7.57 We do not have any reliable estimates of the number of women who fall in the category of sex-workers or the number of those who work in brothels with their own special problems of unlawful confinement, exploitation, torture, buying and selling of these "workers" and so on. The number of sex

workers may run into many lakhs or millions.

7.58 The experience of many countries has revealed the insidious ways in which AIDS is contracted and transmitted even to the innocent and unsuspecting. We have seen results leading to highly reduced life expectancy, infant mortality, disintegration of the power of resistance and resilience in body and mind, and the erosion of the ability to work. We, therefore, recommend that sex workers should have the right to register themselves as self-employed workers, and should be entitled to benefits of all the schemes that we are recommending for self-employed workers, including welfare, medical benefits, etc. We should make special mention of the children of these women workers. They should not be denied opportunities for education etc. open to other children. Mothers should, therefore, have access to the children's allowances that we have recommended elsewhere.

7.59 PLANTATION WORKERS: We have already dealt with the condition of the plantation industry elsewhere in this Report. Since the focus in this chapter is on the working conditions of

plantation labour, it is necessary to refer to the definition of plantation workers. The Plantation Labour Act 1951 applies only to those plantations which measure 5 hectares or more, and in which 15 or more persons are employed or were employed on any day during the preceding 12 months. It includes workers employed in offices, hospitals, dispensaries, crèches, *balwadis* and schools, but does not include those employed in a factory, medical officers or those employed in managerial capacity. It also does not apply to workers who get monthly wages of more than Rs. 750/-. The minimum wages received by a plantation worker in the Plantation industry in the South today vary between Rs. 59.02 – Rs. 81.75 per day, and in the North East, from Rs. 40 – Rs. 61.20 per day, both of which are much higher than Rs. 750 per month. Thus, legally, the situation that exists today is highly anomalous. No worker in any plantation is covered under the Act because the Act stipulates an upper wage limit of Rs. 750/- per month.

7.60 Every plantation has a certain number of employees in its regular workforce. They are required for day to day jobs such as pruning, weeding,

making roads and drains, planting and filling, spraying pest control chemicals, manuring, irrigation and other related jobs, including the manning of offices and administering, and overseeing welfare measures. A large number of additional workers are employed during the harvesting season for work such as plucking coffee beans or tapping rubber, or plucking cardamom pods, and pepper (plucking of tea leaves goes on almost round the year). Casual workers are employed for harvesting activity for a certain number of months depending upon the nature of the crop/plantation and the time of harvest. The method of recruitment of these workers is the same as that of other workers. It is migratory labour that is specially recruited during the harvesting season. These are mostly brought through middlemen. In the southern plantations these middlemen are known as Kanganis. A similar system of engaging casual workers through middlemen exists in Assam. During the Commission's visit to different States, the trade unions operating in plantations told us that large numbers of casual and contract workers are employed even in jobs that are regular, and which are, in no way, seasonal.

7.61 Essentially, plantation operations have to be carried out in open fields. The workers are, therefore, exposed to all the vagaries of climate and weather, such as scorching sun, heavy rain, and chilly winter, while at work. They have to go through slushy roads and tricky paths during the rainy season, often infested with worms, beetles, and blood sucking insects. The Act stipulates that plantations employing 300 or more workers should provide the prescribed number of umbrellas, blankets, raincoats etc. for the protection of workers. These amenities have to be provided even in smaller plantations where 50 or fewer workers are employed. To protect workers from insect bites, snakebites, etc., it should be made mandatory for all employers to provide gumboots. It is also necessary to lay down safety norms in respect of the work of handling fertilisers and spraying pesticides. Every plantation should have trained personnel to carry out these operations, and such workers should be provided with gloves, masks and other safety equipment. Every plantation is required to provide medical facilities and housing. Other facilities like education, canteen and crèches, depend upon the number of workers employed.

7.62 Workers, engaged on jobs other than harvesting of crops, are paid wages on time rate basis i.e. daily rates, while those engaged in harvesting are paid wages on the piece-rate system. For workers on the piece-rate system, there are incentive schemes too, if their output exceeds fixed norms. In plantations in Southern India, wages, including payments of incentives, are decided by mutual negotiations, while in Assam wages are paid as notified by the State Government under the Minimum Wages Act. Trade Unions have told us, during our visits to Thiruvananthapuram and Guwahati that proper wages are not paid to contract workers as the middlemen keep their margin out of the wages given by the management. We, therefore, recommend that the State Governments, and the employers ensure that workers are paid proper wages as decided by settlements or notified under the Minimum Wages Act, and middlemen do not siphon away part of the wages that legitimately belong to the workers. Almost all plantations have trade unions. While these are quite strong in plantations in the South, they are weaker in Assam because of the difficult terrain and the current law and order problems.

7.63 The representatives of the plantation industry told the Commission that globalisation has badly affected the viability of plantations. The costs at which competing countries are able to sell their produce in India, are far lower than the prices at which indigenous produce sells. The case of tea, coffee, cashew and other products was cited. Sale prices are below the cost of production in our plantations. When we wanted to know why our cost of production was higher than that in other countries, we were told that the reasons related to higher wages, absence of mechanisation, rules that make it obligatory for plantations to run schools and hospitals, provide accommodation, etc. They also said that our plantations make better use of pesticides and our seeds or leaves are of higher quality. According to the planters, the additional burden of all these raised the cost of production of our products. When we urged that wages could not be reduced, and facilities could not be taken away, they answered that they may be relieved of the responsibility to run schools and hospitals. We however, feel that these facilities should be continued, and made more satisfactory in plantations, which are located far away, at inaccessible places. We agree with the

suggestion of the United Plantation Association of Southern Indian (UPASI) that wherever possible, these facilities may be provided by a group of plantations on a cost-sharing basis. This will require necessary amendments in the Act and Rules. It will also involve efforts on the part of the respective State Governments to persuade employers to agree to set up joint hospitals, schools, crèches, etc taking the necessary initiative and persuading small plantations to work on a joint or cooperative basis. Where schools and hospitals are available close to the plantation, workers may make use of these schools and hospitals.

7.64 Another suggestion planters made was that, to lighten the burden on the industry, taxes, particularly agricultural income tax, should be reduced. At present, the rate of the tax is as high as 65% in some states like Tamil Nadu. We are of the opinion that the industries should be helped to be competitive, by reducing the tax burden and the cost of production.

7.65 We had opportunities to visit the living quarters provided to workers in some plantations. We feel, that in most cases, they are far below the

standards that one would want to be made available, in terms of ventilation, lighting, neighbourhood facilities etc. and need to be improved.

#### 7.66 MINES AND QUARRY WORKERS:

According to the Mines Act any person who works in a mine as Manager, or who works under appointment by an owner, agent or manager of a mine with or without knowledge of such person whether for wages or not, is treated as 'employed in a mine.' The Act, therefore, covers persons employed in mining operations including in transporting minerals to the point of dispatch, or within the mining area, or in any operations relating to the development of the mine or in any operation of servicing, maintenance, or repair of any machinery used in the mine, or in any office in the mine or in any welfare health or conservancy service required to be provided under the Mines Act, or any watch and ward staff within the premises of the mine (excluding the residential area), or in any kind of work whatsoever which is preparatory or incidental to or connected with mining operations. But persons employed in any construction activity, which is not

connected with the mine, are not treated as persons employed in a mine.

7.67 The term 'mine' is also very widely defined in the Act. It not only covers all borings, bore holes, oil wells, shafts and inclines, and open cast working but also all adits, level planes, machinery, railways and tramways belonging to the mine; all workshops and stores situated within the mines; all transformers and sub stations in a mine meant for supplying electricity solely for the purpose of the mine; all premises used for depositing sand or other material for use in a mine, etc. However, Section 3 of the Act lays down that the provisions of the Act except Sections 7,8,9, 40,45,46, shall not apply where, in any mine or a part of the mine, excavation is being made for only prospecting minerals, and not for the purpose of obtaining minerals for use or sale; if not more than 20 persons are employed on any day in such excavations and the depth of the excavation from the highest to the lowest point does not exceed 6 metres for prospecting minerals other than coal, and 15 meters for prospecting coal. The mining activity for

excavation of minor minerals such as *kankars, murrum, laterite, boulder, gravel, building stones, road metal, earth, fullers' earth and limestone* is also similarly exempted if the working does not extend below superjacent ground; or in the case of an open cast working, if the depth of excavation measured from the highest to the lowest point does not exceed 6 metres; or if the number of persons employed on any day does not exceed 50, and if explosives are not used for excavations. The Central Government has, however, powers to apply any provisions of the Act to these exempted mines by issuing an appropriate notification.

7.68 According to the Annual Report of the Director General Mines Safety (DGMS) for the year 1999-2000, coalmines employed 5,50,000 workers, and non-coalmines employed about 1,95,000 workers (1998). But the actual number of persons employed in the mining industry will be much higher since many mines, particularly the smaller ones and stone quarries, do not submit annual returns.

7.69 Mines can be divided broadly into three categories:

- a) Public Sector mines whether worked independently or as captive mines of public sector enterprises such as Coal India Ltd. (CIL), Steel Authority of India Ltd. (SAIL), Hindustan Zinc Ltd., Hindustan Copper Ltd., National Aluminium Company (NALCO), Cement Corporation of India Ltd, Kudremukh Iron Ore Co. Ltd., Mines of National Mineral Development Corporation (NMDC), Uranium Corp. Ltd., The oil fields of the Oil and Natural Gas Commission (ONGC), Oil India Ltd. etc. The private sector captive mines of some of the larger steel and other smelting plants such as ferro manganese, ferro chrome, cement, etc. can also be included in this category.
- b) Larger private sector metalliferous and non-metalliferous mines.
- c) Small mines and quarries.

7.70 The workers in the first category of mines are mostly employed directly by the enterprises though, on some jobs, contract labour is also engaged.

In the second and third categories of mines, workers are mostly employed through contractors.

7.71 Workers' organisations are fairly strong in the first category of mines. They are sufficiently active in the second category of mines as well. Workers in the third category mines are mostly unorganised. The working conditions of workers working in underground mines are full of hazards. They run high risks of losing their limbs and lives, due to flooding, fire, the collapse of roofs, and the emission of gases, failure of ventilation or collapse of sides. As a result of the high content of carbon monoxide and lack of oxygen, these workers often develop breathing problems. The presence of coal particles and toxic dust inside the closed tunnels of underground mines or the presence of particles of minerals, dust etc. in the open cast mines and quarries result in lung diseases like pneumoconiosis and tuberculosis. Workers working above ground and those working in open cast mines have not only to work under the open skies in scorching heat and rain, but they are also exposed to the risks of being injured by the fall of sides, falling or flying

objects, moving dumpers and other vehicles, material handling equipments, and injuries during mine blasting. These injuries may result in death or loss of limbs. We have compared the rate of accidents in India, calculated in terms of the quantity of minerals produced, with

some of the figure for other countries. The rate of accidents in India in mining activity is very high as compared to other countries. The death rate per million tonnes of coal raised in India and other countries is given below: -

<b>Country</b>	<b>1995</b>	<b>1997</b>
India	0.77	0.52
Japan	0.32	0.47
Czechoslovakia	0.26	0.23
France	0.12	0.15
U.S.	0.05	0.03
Australia	0.02	0.02

The wages and other terms and conditions of service of workers in the first category of mines are generally decided by collective bargaining between the employers and the trade unions operating in these mines. Most of the mining industries such as coal, iron ore, copper, bauxite, zinc, the oil sector and the cement industry have evolved a system of national level

negotiations and settlements. By and large, in the second category of mines too, wages are settled by negotiations. However, in the third category of mines in which workers come under the category of unorganised labour, wages are paid on the basis of the minimum wages declared/fixed by the Central Government.

7.72 The mines falling in the first category provide welfare measures for workers, such as healthcare, education of children and housing or house rent allowance. They also provide social security benefits in accordance with the social security laws and schemes. The second category of mines normally provides social security benefits as per social security laws, but other benefits such as healthcare or housing needs are not taken care of by the employers. In the third category of mines, workers do not have the benefit of any welfare measures. Employers normally try to avoid implementing social security laws and schemes in these mines by circumventing laws in various ways. Since these mines are normally operated through contractors, they employ fewer workers than the threshold limits that social security laws prescribe for the applicability of these laws. The problem gets further aggravated because contractors are changed frequently and the workers, therefore, do not fulfil the requirements for entitlement of social security. For example, the payment of Gratuity Act requires five years of continuous

employment with an employer to make an employee eligible for gratuity. Similarly, because of the frequent changes of employers or contractors, the membership number under the Employees Provident Fund Act also changes because of changes in the code number of the employer. Consequently, contributions made by the employees towards the PF, do not get credited to their accounts. In case of accidents too, contractors in such mines avoid the payment of workmen's compensation by various means such as holding out threats of removing from employment, intimidating workers and discouraging them from reporting to the authorities, or making out of court settlements by paying lower amounts than what are payable in law. Though the Minimum Wages Act, the Equal Remuneration Act, The Contract Labour (R&A) Act and the Interstate Migrant Workmen's' (RE&CS) Act apply to the workers in these mines, we find that these laws are observed more in violation than in application. The incidence of child labour and bonded labour too is seen in quarries in gross violation of the Mines Act, The Child Labour (P&R) Act, and Bonded Labour System Abolition Act.

7.73 We would like to cite an example. Rajasthan<sup>4</sup> has about 2 million mineworkers working throughout the State. 15% of them are children, and about 22,000 of them are in the age group of 10-12 years (60% of these children are bonded labourers). 37% of the total mineworkers are women, and more than 80% of all the mineworkers are in the age group of 16-40 years, i.e., in the prime of their age. Only 7% of mine workers are in the age group of above 40 years. Most of them become unfit for heavy work after 40 years of age.

7.74 The working hours in the mines are irregular. There is no provision for holidays or a weekly off. Nor is there a system of medical/maternity leave or compensation for illnesses or injuries. The rule of the mines is 'no work, no wage.' Almost all workers work for 8 hours every day. About 25% of them work for 10 or more than 10 hours a day. 70% of the workers are on daily wage basis, and the rest of them work on piecework basis. The minimum wage is Rs. 20-30 per day for children,

Rs. 30-35 per day for women, and Rs. 50 for unskilled male labourers, Rs. 75 for semi-skilled male labourers, and Rs. 100 per day for skilled male labourers.

7.75 According to memoranda received by us, working conditions in the mines are pathetic. There is no shade or protection for the mineworkers at the work place. They have to brave the harsh weather, scorching heat or chilling cold. Work in the mines is done manually with heavy hammers, chisels and other tools.

7.76 Workers are exposed to serious health hazards, which affect their longevity. The most serious health hazards are silicosis, pneumoconiosis and tuberculosis, which the labourers acquire from mines due to lack of on site and off site care and protection. One factor, which largely contributes to the contraction and incidence of silicosis, is dry drilling. A procedure of dry drilling, with compressor fitted pneumatic machines, is in practice in the mines. This type of drilling releases a huge quantity of dry silica laden dust, which is inhaled by the operators of drill machines and persons assisting them. This kind of

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<sup>4</sup> Source: Asia- Pacific Newsletter on Occupational Health and Safety 2000

drilling work is done by the young and strong in the lot. There is an estimated 5 lakh (25%) cases of silicosis, TB and pneumoconiosis among the mineworkers in Rajasthan. About 72% of the mineworkers complain of one or the other respiratory tract problems.

7.77 SCAVENGERS<sup>5</sup> : There is a very large number of people engaged in manual scavenging in different parts of the country, in rural areas as well as urban areas. We are citing excerpts from a report compiled by the Human Rights Watch on the state of these workers in some parts of the country where special surveys were conducted. We are quoting extensively, because of the authenticity and detailed information that characterise the report.

7.78 Allocation of labour on the basis of caste is one of the fundamental tenets of the caste system. Within the caste system, Dalits have been assigned tasks and occupations that are deemed virtually polluting for other caste communities. Throughout this report, Human Rights

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<sup>5</sup> Source: Human Rights Watch Report 1999.

Watch has documented the exploitation of agricultural labourers who work for a few kilograms of rice or Rs.15 to Rs.35 a day. A Sub-group of Dalits is condemned to even more exploitative labour. An estimated forty million people in India, among them fifteen million children, are bonded labourers. A majority of them are Dalits. According to Government statistics, an estimated one million Dalits are manual scavengers who clean public latrines and dispose off dead animals; unofficial estimates are much higher. In India's southern states, thousands of Dalit girls are forced into prostitution before reaching the age of puberty.

7.79 Bondage is passed on from one generation to another. Scavenging is the hereditary occupation of some 'untouchable' castes. Dalits face discrimination when seeking other forms of employment, and are largely unable to escape their designated occupation even when the practice itself has been abolished by law. In violation of their basic human rights, they are physically abused and threatened with economic and social ostracism from the community for refusing to carry out various caste-based tasks.

7.80 Manual scavenging has been a caste-based occupation. Dalit manual scavengers exist under different caste names throughout the country, such as the Bhangis in Gujarat, the Pakhis in Andhra Pradesh, and the Sikkaliars in Tamil Nadu. Members of these communities are invariably placed at the very bottom of the caste hierarchy, and even the hierarchy of Dalit Sub-castes. Using little more than a broom, a tin plate, and a basket, they are made to clear faeces from public and private latrines and carry them to dumping grounds and disposal sites. Though long outlawed, the practice of manual scavenging continues in most states.

7.81 Those working for urban municipalities are paid Rs. 30–40 a day, and those working privately are paid Rs. 5 a month for each house they clean. Even those working for municipalities rarely get paid, and are offered little health benefits for a job that entails many health hazards. In cities scavengers are actually lowered into filthy gutters in order to unclog them; they are fully immersed in human waste without any protective gear. In Mumbai, there are instances of children who were made to dive into manholes having died from carbon

monoxide poisoning. In many communities, in exchange for leftover food, scavengers are also expected to remove dead animal carcasses and deliver messages of death to the relatives of their upper-caste neighbours. Their refusal to do so can result in physical abuse and ostracism from the community.

7.82 A social worker in the Dhandhuka taluk of Ahmedabad district, Gujarat, explained the relevance of caste to this work. *Bhangis* are the section of *Dalits* that do this work. In villages, the cleaners and those they clean for are always divided by caste. At all levels, villages and municipalities, *Bhangis* are the workers, and they always work for upper castes.

7.83 In a 1997 report, the National Commission for *Safai Karamcharis* claimed that manual scavengers are 'totally cut off from the mainstream of progress' and are 'still subjected to the worst kind of oppression and indignities. What is more pathetic is the fact that manual scavenging is still largely a hereditary occupation. *Safai Karamcharis* are no doubt the most oppressed and disadvantaged section of the population.' The Commission

was a statutory body set up pursuant to the National Commission for *Safai Karamcharis Act, 1993*. *Safai Karamcharis* are defined as persons engaged in, or employed for, manually carrying human excreta or any sanitation work.

7.84 Martin Macwan is founder-director of Navsarjan, an NGO that has led the campaign to abolish manual scavenging in the western state of Gujarat. In an interview with Human Rights Watch, he claimed that when Navsarjan attempted to rehabilitate scavengers it was difficult to find alternative employment for them, and even more difficult to convince scavengers that they were able to take on, or were 'worthy of performing,' different occupations.

7.85 Members of the *Bhangi* community in Gujarat are paid by state municipalities to clean the gutters, streets, and community dry latrines. In an article in the 'Frontline,' a *safai karamchari* of Paliyad village, Ahmedabad district, complained that in the rainy season, the 'water mixes with the faeces that we carry in baskets on our heads, it drips onto our clothes, our faces. When I return home, I find it difficult to eat food.

The smell never leaves my clothes, my hair. But in the summer there is often no water to wash your hands before eating. It is difficult to say which (season) is worse.'

7.86 Human Rights Watch spoke to members of the Bhangi community in Gujarat's Ahmedabad district. The Bhangis lived in a residential area called Bhangivas separate from the Darbars, Rajputs, and Banniyas who constitute the caste Hindus in the area. The Bhangis were primarily employed as manual scavengers. They were also responsible for removing dead cats and dogs, and were given Rs.5 or small amounts of food for doing so.

7.87 Forty year old Manju, a manual scavenger employed by the urban municipality, described her daily routine and wages:

7.88 'In the morning I work from 6.00 a.m. to 11.00 a.m. cleaning the dry latrines. I collect the faeces and carry it on my head to the river half a kilometre away seven to ten times a day. In the afternoon I clean the gutters. Another Bhangi collects the rubbish from the gutters and places it outside. Then I come and pick it up

and take it one kilometre away. My husband died ten years ago. Since then, I have been doing this. Today, I earn Rs.30 a day. Nine years ago, I earned Rs.16, then Rs.22, and for the last two years, it has been Rs.30. But the payments are uncertain. For the last two months, we have not received anything. Every two months, they pay, but there is no certainty. We are paid by the Nagar Palika municipality chief officer.'

7.89 A permanent worker, i.e; a worker who has an appointment letter earns Rs.2000 per month, a retirement pension, and some medical benefits. But the State Government has to give grants to the municipalities depending on the number of permanent workers that are employed, so the municipalities try to keep them as casual labourers instead. But the number of hours they work is usually the same. Despite the similarity in work and hours spent, casual labourers are paid only Rs.34 a day while permanent labourers are paid Rs.80. Most casual labourers never achieve permanent status, even after years of employment.

7.90 The situation of private workers, mostly women working in

upper-caste households, is even bleaker. In the Bhangivas residential area, in July 1998, there were a total of thirty private workers; the municipality employed the rest. Many private workers were paid only Rs.3 a day.

7.91 An activist in the southern state of Andhra Pradesh, who has been working for the rehabilitation of 'cleaning' workers for the past fourteen years, described a similar pay scale in his State: 'Private cleaners receive Rs.5 to 10 a month for each house they clean. They clean up to ten to fifteen houses a day, many of which have six or more family members. Those employed by urban municipalities are paid Rs.2,000 to Rs. 2,500 a month, but are only paid once every four to six months. Some are permanent, and some are casual. There are no health benefits, no gloves, no masks, no utensils. The majority are women.'

7.92 A survey conducted by Safai Karamchari Andolan, an NGO movement for the elimination of manual scavenging, found over 1,650 scavengers in ten districts in Andhra Pradesh. Many were also engaged in

underground sewage work. The survey also revealed that 98 percent of manual scavengers in the state belonged to scheduled castes.

7.93 A third category of cleaning workers is responsible for cleaning the railway systems. In Andhra Pradesh they are paid Rs. 300 a month with very few benefits. In Gujarat, they are paid Rs.12 a day 'for unlimited hours of work. They are told they can stop working when the train comes, but in India you never know when the train will come.'

7.94 An activist working with the Sikkaliar (Dalit) community of Tamil Nadu described the community's economic exploitation and the tasks that its members are forced to perform. His village had 200 Thevar families. Seventy Sikkaliar families lived in a separate Government-built colony. Those who worked as scavengers and removed dead animals from the village received Rs.150 per month for their services.

7.95 Social discrimination against scavengers is rampant. Most scavengers live in segregated rural colonies and are unable to make use of common resources.

7.96 In one toilet, there can be as many as 400 users, and the toilets have to be manually cleaned. This is the lowest occupation in the world, and it is done by the community that occupies the lowest status in the caste system. Even other scheduled caste people will not touch the safai karamcharis (cleaning workers). It is 'untouchability' within the 'untouchables,' yet, nobody questions it.

7.97 Despite their appalling work conditions, manual scavengers are unable to demand higher wages or sanitary instruments for use in the collection of human excreta: 'When we ask for our rights from the Government, the municipality officials threaten to fire us. So we don't say anything. This is what happens to people who demand their rights.' According to Macwan, in Ranpur town, Ahmedabad district, women who arrived late for work were made to clean men's urinals as punishment, 'even if the men were still inside.'

7.98 An activist of Tamil Nadu referred to the Dalit women in his village as 'sexual slaves' and claimed that Thevar men frequently enter Dalit houses at night to rape the women:

'Dalit people have anger against Thevar people in mind. Thevars use their women, but Dalits cannot do anything.' (206) According to R. Balakrishnan, Director of the Tamil Nadu Chapter of the National Commission for Scheduled Castes and Scheduled Tribes, the raping of Dalit women exposes the hypocrisy of the caste system: 'No one practices untouchability when it comes to sex.'

7.99 They give one person too much work so they have to take their family members, even their children, at night to finish the work; otherwise they would get fired. It takes four people to do the work that they give one person. None of the children are really studying. Girls sometimes study upto fifth standard, boys upto seventh.

7.100 Given the insignificant amount of remuneration and the need to engage several family members in work assigned to one, it comes as little surprise that many families borrow money from their upper-caste neighbours and consequently, go into bondage. Their poverty is so acute that Macwan has even documented Bhangi practice of separating non-digested wheat from buffalo dung to make *chappatis* (flat bread). One scavenger

commented, 'There is no healthcare, no benefits from the Government. We cannot live on what we get paid, but we have to. We also have to take loans from the upper caste. They charge 10% in interest per month. We have no clothes, no soap, no wages, and no payments on time.'

7.101 The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 punishes the employment of scavengers or the construction of dry (non-flush) latrines with imprisonment for up to one year and/or a fine as high as Rs.2,000. (212) Offenders are also liable to prosecution under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In 1992 the Government launched a National Scheme that called for the identification, training, and rehabilitation of safai karamcharis throughout the country.

7.102 According to the National Commission for Safai Karamcharis, the progress 'has not been altogether satisfactory.' As a result, it has benefited only 'a handful of safai karamcharis and their dependents. One of the reasons for unsatisfactory progress of the Scheme appears to be

inadequate attention paid to it by the State Governments and concerned agencies.'

7.103 WORKERS IN SHIP-BREAKING INDUSTRY: The Alang–Sosiya Ship-breaking Yard is Asia's biggest yard and is located 60 kms from Bhavnagar town and 260 kms from Ahmedabad on the Gulf of Cambay coast. Natural tide conditions of the seashore at Alang-Sosiya are reputed to be most favourable for beaching of ships. As a result, the ship-breaking industry has developed at this site from 1982-83.

7.104 The industry produces about 3.5 million tonnes of steel equivalent, which averages the production of a major steel plant like TISCO. The industry presently dismantles around 300 odd ships per year, and employs about 17,000 workers (1999-2000). The entrepreneurs told us that there has been a sharp decline in the workforce employed in the yard, from 17,000 to about 7,000 during 2000-01. The number of ships dismantled however shows an increase from 276 to 350 between 1999-2000 and 2000-01. We were told that the reason for the decline was competition from other Asian countries. But it has also been brought to our notice that there has been no sharp increase in the degree of mechanisation of the operations during the period.

7.105 We, therefore, find it difficult to believe that the only cause for the decline in employment is competition from elsewhere.

7.106 The industry is located over an 11 km long strip of coast which is divided into plots of different sizes that are made available to entrepreneurs. There are 91 plots registered at Alang under the Factories Act, and 80 at Sosiya. All ship-breaking units at the yard come under the purview of the Factories Act dealing with health, safety and welfare of workers in those units. The rules regarding welding/cutting operations with LPG/acetylene/argon gas, rules regarding construction, repairing and breaking up of ships and vessels, rules regarding protection against fire and the Gujarat Government Notification of the 4<sup>th</sup> December, 1997 making it obligatory for each unit to appoint qualified safety officers for its area are the most relevant provisions for ensuring health and safety of the workers. Certificates of compliance are ensured by two factory inspectors specifically stationed at the yard. We were told during the visit that before cutting a ship/vessel it is invariably checked whether there is any inflammable gas

or accumulation of CO<sub>2</sub> gas which requires to be released and that all fire fighting equipments are kept readily available and in good condition. Any traces of oil are completely removed. The cutting of ships is allowed only after all the statutory permissions under the Factories Act are issued. These include the man entry certificate, naked light certificate etc. We were also told that supervisors/Mukadams were given one month's training invariably at ITI Bhavnagar, on the safety precautions that had to be observed in the ship-breaking industry, all equipment like gas cutting equipment, cranes/winches etc., were regularly tested by competent persons and workers were given protective equipments like helmets, goggles, hand-gloves etc. A look at the accident statistics revealed that in the years 1993-94 till 1999-2000, excepting the year 1996-97 when 51 deaths took place, the average number of deaths had been 28 and the number of ships broken up ranged from 183 in 1995-96 to 348 in 1996-97. In 2001 (till 9.9.2001) there were only three deaths. Almost a fourth (77) of the total 322 deaths from 1983-84 till 2000-01 were on account of fire, and about 10% each (32) were on account of gassing and strike against objects.

The next largest factor contributing to deaths over the 18-year period appears to be fall from heights and strike by falling objects (61 and 57 or roughly 19-18% of the total each). It also came to our notice that though the State Government notification made it obligatory for each unit to appoint a safety officer, none of the listed units had actually appointed one, and only about half of the units had even appointed a safety supervisor. It is, therefore, obvious that the safety standard is not what it should be. It does not even conform to the rules laid down by the State Government, and there has been no satisfactory effort to enforce what is necessary in such an inherently risk-prone activity to ensure greater safety at the workplace.

7.107 The health aspect of the workers is looked after both by voluntary actions of the industry and also by Government initiative through the Gujarat Maritime Board (GMB), which exercises control over the area. We visited some of the dormitories of the workers and found that they were congested, ill-lit and ill-ventilated, and devoid of adequate amenities. The sanitation services are generally catered to by the two complexes at

Alang and Sosiya which are maintained by the GMB. However, considering the number of workers, which was around 17,000 till 1999-2000, the available facilities are far from adequate or satisfactory. Presently, the number of baths, latrines etc. work out to roughly one per 400 plus workers. The Maritime Board is expected to undertake expansion in the services Works are in progress, including work on a housing complex for the workers.

7.108 The workforce is largely migrant, comprising about 30% each from U.P., Bihar and Orissa with the workers from the first two states being in more skilled work like cutting, staking etc. compared to higher degrees of manual work in which workers from Orissa are engaged. The rest of the workforce comes from Maharashtra, Gujarat and some other states. We were told that the wages that most of the workers receive are higher than the minimum wage. We were also told that there have been violations, and legal action has been initiated in such cases. The statistics furnished by the State Authorities revealed some action in respect of the Minimum Wages Act and the Bonus Act, having been

initiated though there is hardly any violation detected in respect of the Payment of Gratuity Act. We were also told that though the workers are mostly migrant workers they are all direct appointees by the units and there has been no contractor engaged. Our interactions with the workers largely corroborated this picture.

7.109 We were also told by the representatives of the entrepreneurs that they were in favour of enhancing the safety profile of the workers including imparting training etc. and they were also sponsoring a Red Cross hospital and contributing to the establishment of a charitable hospital besides providing a mobile medical van for the use of the workers. The association of entrepreneurs informed us that they were collaborating with the Maritime Board to construct a housing colony for the workers. But the industry needed further support from the Government as in the provision of a water hydrant system at each plot for fire fighting, piped potable water, LPG/Oxygen pipeline, landfill site for waste management, setting up a safety training institute, improved road connections, stable power supply etc. However, they

urged the importance of higher productivity to enable the industry to meet the competition from countries like China, Bangladesh, and Pakistan where, the implementation of safety norms etc. was reportedly below the standards prevalent in India. The attention of the Commission was also drawn to the address delivered by the president of the global organisation of ship-breakers during the world summit conference in June 2001, testifying to the beneficial impact that the steps taken by the ship-breakers in India and the Gujarat Maritime Board have had in improving working conditions. The industry urged that all statutory provisions should be such that help in the survival and orderly functioning of the industry; they should not be such as obstruct its growth in the era of global competition. The Commission is of the view that the statutes and regulations that relate to the safety and health of the workers were meant, not merely to ensure the safety and welfare of the workers, but also to ensure the health of the industry itself. The countries which allegedly overlook or circumvent safety requirements are bound to face the consequences of pursuing injudicious short-term policies. We would urge that the facilities for ensuring the safety and

welfare of workers and promoting their physical and social security should be more strictly implemented by all concerned. The overall condition of the industry affects, apart from those directly employed at Alang numbering around 17,000, the units in and around Bhavnagar town engaged in re-rolling, scrap processing and industrial gas manufacturing. These together are estimated to be employing around another 17,000. Besides, the industry also creates employment through trade and transportation of the processed/raw material throughout Gujarat and many parts of Western India. Considering all this, there is need to encourage the industry and protect the health and security of the workers and the provision of legitimate necessities through agencies of the state and other sources engaged in the industry.

**7.110 CONSTRUCTION LABOUR:** Construction workers may be broadly classified as skilled and unskilled. Usually, couples are found to be working on the same worksite. Though child labour is prohibited, children are engaged for unskilled jobs. Most of the workers in this sector are employed on a casual basis. Unstable employment/earnings and

shifting of workplaces are the basic characteristics of work for construction workers. Employment in construction is usually interspersed with periods of unemployment of varying duration, mainly due to fluctuating requirements of labour force on each worksite. The nature of work is such that there are no holidays. Surveys reveal that female workers do not in general get minimum wages. Though skilled workers secure jobs directly from employers, unskilled workers by and large, are engaged through intermediaries who introduce the workers to contractors on a commission basis. The payment of wages is routed through the intermediaries who usually enrol workers by offering loans. These loans are then recovered by manipulating the wages of the workers, with the result that the worker hardly gets out of the clutches of the intermediaries.

7.111 Since workers are generally recruited on contract basis, failing to achieve the required quantum of work results in either deductions or uncompensated overtime work. In return for providing jobs, the intermediaries often collect commission from each worker at a

fixed rate for each working day. 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, education and ration cards. In most cases, safety norms are violated. In fact, safety provisions hardly find place in building construction activity. Surveys on construction workers disclose the scepticism of workers about the effectiveness of the first aid assistance provided at sites. What is worse, the contractors remove sick and injured workers from sites and pay rolls without giving them adequate compensation.

7.112 The temporary residential sheds put up by contractors lack even minimum facilities such as separate cooking space, drinking water, lavatories, bathing and washing places. Crèche facilities are also not available at worksites. Social security benefits are virtually non-existent because of various constraints, such as lack of stable nexus between employer and employees, instability of employment, poor and uncertain earnings of workers, unreliable duration of work etc.

7.113 Unorganised construction workers can truly be described as sweat labour, and violation of laws on minimum wages, equal wages, child labour, contract labour, inter-state migrant workers, etc. is rampant in construction as in agriculture and home-based occupations. Unionisation is not allowed or encouraged, and construction workers like many others in the unorganised sector remain invisible and vulnerable, voiceless and un-unionised.

7.114 We have already pointed out that most construction workers are out of employment during the monsoons. In quarries and brick kilns as well as big construction sites, a system of bondage exists and gets extended from one generation to the next through child labour.

7.115 The existing labour laws applicable to construction workers are based on inspection, prosecution, fines etc. However, legal processes are so time consuming that the aggrieved worker may be out of employment or employed elsewhere by the time redressal materializes. He/she cannot leave his/her worksite, forgoing his/her daily wages to go elsewhere to pursue complaints against violation of

laws. His/her lot, therefore, is one of near helplessness in the face of injustice and exploitation. The existing laws do not give adequate protection to workers against victimisation.

7.116 In the post-liberalisation period, Indian construction industry is witnessing many structural changes which are going to radically transform the industry as well as the construction labour market. Since the industry has so far been based on labour intensive technologies, it has been a source of ready employment to a large mass of urban and rural poor. In fact, one major factor, which has been discouraging the modernisation of the construction industry, was the abundance of cheap labour. The present trend towards induction of modern technology in construction industry is likely to transform the traditional labour market, and indicates that there would be increased mechanisation, and manual and women workers would, therefore, be increasingly eliminated from large construction projects.

7.117 A study conducted on building workers by the National Institute of Construction Management and Research (NICMAR) in Delhi shows

that working hours are not being regulated according to the law. The writ of the *mistri* runs on the site. At the time of casting slabs, the entire crew works round the clock, and takes rest only after the casting is over. Unskilled and semi-skilled workers have no option in regard to their working hours. They have to do what the *mistri* asks them to do. In excavation, earthwork, stone breaking and stone and marble dressing, the work unit is generally, the family or the gang, and they normally work 12 hours a day, all seven days of the week.

7.118 Health and welfare amenities stipulated in the labour laws are conspicuous by their absence. Members who conducted the study did not come across rest rooms, urinals, latrines, first-aid stations or washrooms at any site. Men and women relieved themselves wherever they found suitable places, and sat down for rest or meals at their workstations. The only water available to drink was the water supplied for construction work. Members of the study team were told that the first aid boxes were kept at the site office, not at the spot where work is carried on.

7.119 All building sites had the statutory obligation to provide crèches for young children of women workers. But the study did not find them anywhere. Mothers brought their children to sites and put them up near the work places. There they lay often covered with dust and the chips of materials used, with flies settling on their faces. Older children looked after the younger ones; the mother kept an eye on them and visited them on and off. Although the standards for safety are prescribed, the sites in general, did not display warning signs of any kind, nor was there fencing of dangerous places, trap holes, heights, etc.

7.120 Only 8 out of 999 workers interviewed, stated that they were members of any trade union. Delhi has at least 3 registered trade unions of building workers, and many social activists who claimed to be leaders of building workers. The report says none of them had visited building sites or labour colonies of building workers. This may be an exaggeration. But it indicates the scant attention these workers receive from organised Trade Unions.

7.121 The social safety network of building workers is built around kinship and tradition, and trade unions have not yet found a place in this system. Contractors are paternalistic; their style of management may be authoritarian. A contractor may be tight-fisted in fixing rates of payment and may not spend on latrines, urinals and other facilities at worksites. But he would be generous when a worker sought help from him for celebrating his daughter's marriage, attending to illness in the family, etc. If a worker gets into trouble with the police, as it happens not infrequently, it is the contractor who bails him out.

7.122 One of the statutory obligations of a contractor is that he should provide workers, at his own cost, with living accommodation of given specifications. In so far as the quantitative compliance of the statutes was concerned, contractors had met their obligation of providing residential accommodation to workers. Of 999 respondents, 825 had been provided accommodation by contractors. All respondents who lived at worksites used community toilet facilities, drew water from site sources and depended upon site lamp-posts for lighting.

7.123 The quality of living accommodation, however, was another matter. The study team reviewed it and submitted reports. The labour colonies on worksites were a series of huts called jhuggis. The jhuggis were arranged in straight lines, barracks style facing one another, and separated by kachcha lanes with gutters running in the centre. A jhuggi was made of mud walls or broken bricks having sarkis or tin sheets for the roof (Sarki is a type of long staple grass used for the purpose in North India). Generally, on getting hired and arriving at the site, a worker was issued bricks, sarkis or tin sheets, bamboos and a door panel and asked to make a hut for himself and his family. Living, sleeping, cooking etc. were done in this hut. These small hovels were made somewhat liveable by women who plastered the floor and walls with mud and drew on them motifs of gods and goddesses. If a worker left employment, the hut was left behind intact to be occupied by the newcomer. When the site was closed, huts were demolished.

7.124 Women Building Workers – We will now refer to a study that was conducted in Mumbai as an illustration

of the condition of women workers employed in the construction industry. Building workers are employed mostly on daily wages, and occasionally according to measurement of the work completed. However, the names of women do not often appear on the wage register because their output gets added to that of their men folk except in the case of single women workers. Wages are paid every ten days only to men, and these include the wages due to other members of the family. Often maternity leave is not extended to women building workers, although it is a statutory obligation. This results in frequent miscarriages.

7.125 In general, women building workers are deeply concerned about conditions of work. Pay inequalities, invisibility as producers and earners, blocked opportunities of advancement for want of skill, frequent relocation, lack of freedom to plan their work, hard and long working hours and coping with multiple roles result in a high level of stress. It generates attitudes of passive acceptance of helplessness and misery and conformity, rather than reaction.

7.126 Building workers live at

construction sites in makeshift shelters provided by the contractors. Typically, shelters measure about 2.5 meters and are erected elbow to elbow like barracks. These hutments are made of flimsy material, are poorly ventilated, and unhygienic to live in. Water supply is generally provided. Under these circumstances, one would assume that women building workers would be unable to protect themselves, to keep their privacy, to avoid falling into the clutches of undesirable elements or to perform their multiple roles.

7.127 RAG PICKERS: Rag picking and other scrap collection are not a new phenomenon especially in industrial towns and metropolitan cities. They have a bearing on the urban economy. Many production enterprises depend upon the recycling of these wastes. Scrap collection is mostly done by women and children in a working environment that is most unhygienic. During the visit of our Commission to various State capitals, a number of Non-Governmental Organisations brought up the plight of these workers before us.

7.128 According to available estimates, there are about 50 lakh

scrap collectors in the country. The number is far greater if labourers in scrap establishments and re-processing units are included. Waste picking ranks lowest in the hierarchy of urban informal occupations. Illiterates, unskilled persons, illegal aliens and the poorest of the poor are pushed into this occupation, as they are unable to find any other kind of employment. Generally, there is no employer-employee relationship in this trade even though it is possible that some of the scrap picking activity is organised by contractors. Waste collectors are generally categorised as self-employed. Scrap collectors are not covered under the Shops and Establishments Act, as scrap traders do not provide any kind of receipts to them for the material they collect. No social security benefits are available to workers in this sector.

7.129 During our visit to Pune, the *Kagad Kanch Patra Kashtkari Panchayat*, which is a trade union of scrap collectors, told us about the issues and problems that affect scrap collectors. There are about 5,000 waste pickers and waste collectors in Pune who are registered with this trade union. There are over one lakh persons engaged in waste picking and

other forms of scrap collection in the urban areas of the State of Maharashtra. The demands put before us by the union were:

- a) It must be mandatory for all municipalities to register waste-pickers and other scrap collectors, and to issue a photo-identity card to each such worker as has been done by the Pune and Pimpri Chinchwad Municipal Corporations. The card authorizes the bearer to collect scrap.
- b) Every scrap collector should be issued receipts for every transaction by the scrap traders for the scrap material supplied to them by the scrap collectors.
- c) Scrap collectors should be registered as unprotected manual workers under the Mathadi Board constituted under the Maharashtra Hamal Mathadi and Other Unprotected Manual Workers (Regulation of Employment and Welfare) Act 1969. Similarly, it should be mandatory for all scrap traders and/or recycling enterprises to be registered under the same Act. It should be mandatory for

- the scrap traders and/or recycling enterprises to contribute the applicable levy towards the contributory provident fund, gratuity, paid leave, insurance and other statutory benefits as provided for under the Act.
- d) In view of their contribution to the removal and reduction of solid waste, it should be mandatory for the municipalities to provide medical and life insurance cover to all authorised waste-pickers through the levy of a welfare cess from citizens.
- e) It should be mandatory for the municipalities to protect the livelihood of waster-pickers and to consult with organisations of waste-pickers before initiating any scheme for the collection and disposal of urban solid waste.
- f) It should be mandatory for all municipalities to earmark green zones in each ward where waste-pickers can sit and sort their scrap.
- g) It should be mandatory for the municipalities to provide a rest room, drinking water, toilet and crèche facilities at garbage dumping grounds/landfill sites.
- h) All registered scrap collectors should be listed as falling Below the Urban Poverty Line by the municipalities for the purposes of State social security schemes for the weaker sections.
- i) Scrap collectors should be entitled to the allotment of land reserved for housing Economically Weaker Sections (EWS).
- j) The import of plastic scrap should not be permitted, and there should be heavy anti-dumping duties in the case of other scrap commodities. Industries using local scrap, as raw material should be given excise and other tax concessions.
- k) Child labour should not be permitted in waste picking. Waste picking should be included in the schedule of prohibited hazardous occupations under the Child Labour (Prohibition and Regulation) Act, 1986.
- 7.130 A study of scrap collectors/ scrap traders and recycling

enterprises in Pune has been conducted by the United Nations Development Programme and International Labour Organisation. The main objectives of the study were to assess the socio-economic conditions of these workers, to identify the variables to improve their living and working conditions, and explore the possibilities of extending available legislations for their protection, etc.

7.131 The preliminary findings of the study say 'the recycling sector is structured in the form of a pyramid with the scrap collectors at the base and the processors at the apex. At the bottom of it are the waste pickers who are engaged in the free collection of scrap from municipal corporation bins. Marginally above them are those who purchase small quantities of scrap from households. Between the scrap collectors and the re-processors and various levels of traders including retailers, stockists and wholesalers, the activity level of this pyramid differs in terms of the factors mediating in their socio-economic background, working conditions, market environment and levels of income.

7.132 The study shows that about 92% of scrap collectors are women in

the age group of 19 to 50. The mean age of entry of those who entered this occupation is 9-10 years. Girls outnumber boys. Most of them are first generation migrants. Ten per cent of scrap collectors reside in slum areas where civic amenities are not available. The mean monthly per capita income of a scrap collector's family ranges between Rs. 126 to Rs. 2, 233. One in four of these households falls below the poverty line. They normally work all the seven days of the week, with almost 10% leaving their homes at 6 in the morning and returning late in the evening. They are also victims of harassment from police or municipal officials.

7.133 The study made the following recommendations:

- a) Scrap collectors should be recognised as 'unprotected manual workers' who contribute to the economy and the environment in significant ways. All municipal corporations are assisted in their conservancy tasks by this large workforce. It is, therefore, essential that they enjoy the requisite status.

- b) There is also a direct economic gain to municipalities, in terms of reduction in their expenditure. This should translate into monetary compensation to the waste pickers. This could take one of the following forms.
- Creating a corpus for a fund that could be used for the welfare of scrap collectors.
  - Offering them life and health Insurance cover
  - Recognising the municipality as a part employer of scrap collectors and making necessary financial contribution to the Mathadi Board.
- c) It should be made compulsory to issue receipts to scrap collectors for each transaction. The large margins in the trade increase at each higher level. Scrap collectors do not have any share in this margin despite the significant contribution that their labour makes to it. This should be recognised by regulating the scrap trade. All traders should be made to pay a percentage of their surplus, based on the value of transactions, to scrap collectors. This could be regulated by appropriate legislation.
- d) The conditions of work of scrap collectors, particularly waste pickers are 'abominable.' Widespread and intensive campaigning should be undertaken to educate citizens about the advantages in segregation of garbage, and direct access to waste pickers should be mandated by the local self-Government.
- e) Child labour in scrap collection is hazardous, and should be included in the schedule of Hazardous Occupations as listed in the Child Labour (Prohibition and Regulation) Act. The withdrawal of children from this sector should be encouraged by offering parents incentives to educate their children. This could take the form of sponsorships, scholarships or special hostels for them.
- f) In the absence of credit facilities, scrap collectors borrow money at usurious rates of interest from moneylenders. Formal, institutional channels of credit should open their doors to poor groups by promoting self-help groups and offering them loans at low rates of interest.

7.134 We have dealt elaborately with scrap picking in Pune because of the availability of information and the presence of a Union that has presented issues clearly before us, and also because we feel that the issues and problems in other big cities are similar.

7.135 The Commission recognises the useful role played by the scrap collectors both in helping recycling activities as well as in maintaining civic hygiene. It is, therefore, essential that they should be protected from insecurity of various forms. The measures that could be thought of in this regard are providing identity cards, receipts for transactions, minimum wages when they are employed by contractors or other employers, health facilities, creation of welfare funds, prohibition of child labour from the activity and the like. The Commission fully endorses the suggestions made by the UNDP and the ILO, and the Kagad Kanch Patra Kashtkari Panchayat of Pune. We recommend that, besides the general recommendations we are making for protection and social security, municipal bodies should give thought to the questions we have raised, and make appropriate regulations and arrangements.

7.136 FISHERY: With its long coastline and extensive system of inland rivers and lakes, India is one of the major fishing countries, with about 5.4 million tonnes of fish production (both from marine and inland water sources). India ranges first among Commonwealth countries and 7<sup>th</sup> in the world. 55% of the production of fish in India is from marine sources, with coastal fishing constituting the bulk, while only 2% comes from deep-sea resources. India is one of the biggest exporters of seafood in the world. Processing of marine products into canned and frozen forms is carried out generally for the export market. There are 407 freezing units, 13 canning units, 154 ice plants, 11 fishmeals units and about 489 cold storage units in the marine product industries. From an export of Rs.3 crores in the late 60s, the exports progressively rose to Rs.800 crores in 1990. It sharply increased to Rs. 4600 crores during 1998-99, and is projected to increase to about Rs. 12,000 crores in another 5 years. The industry contributes about 4.3% of the total export earnings of the country. The fish catch per year rapidly increased from 4.16 million tonnes in 1991-92, to 5.38 million tonnes in 1997-98. It resulted

in a mushrooming of fish processing units along the Indian coastline. Many unregistered small units have also tied up with the registered units. There are more than 1 lakh migrant women workers employed in the seafood processing industry, directly or indirectly. They are mostly in the age group of 16 to 25 years and come from Kerala, Karnataka and Tamilnadu. These women are employed on contract or on piece-rate basis. Though it is a seasonal industry, many employers are giving employment to these workers through contractors.

7.137 During the visit of the Chairman, NCL to Tuticorin in July, 2000 and subsequent visits of the Chairman and the Member Secretary to Cochin in August, 2000 and Veraval in September, 2001 and the evidence received at various State capitals, the pathetic working conditions of fish processing workers, in particular, were brought to the Commission's notice by various interest groups. We were told that they work on an 8 A.M. to 8 P.M. work schedule, and much longer during the peak season. Ten to twelve migrant women workers are housed in a 15' X 12' room to ensure their instant availability at any time of the

day or night. We also found cases in which one set of women workers use the room where another set is on shift duty, and make room for those who return from shift duty, when their shift commences. Many of these women are not even paid minimum wages. Although the workers in fishing and fish curing are covered under a number of laws, the employers and the contractors find excuses for not implementing these laws. It has been pointed out to us that no social security is available to these workers, particularly those employed in smaller units, and most often they have to work in inhuman working conditions.

7.138 The information made available to the Commission by the Ministry of Labour reveals that the workers engaged in the relatively bigger fish processing units, and particularly those which are mainly export-oriented get somewhat better working conditions, as far as hygiene and equipment are concerned. This was also found to be largely true when the Chairman and the Member Secretary visited some of the export-oriented units in Cochin and Veraval. Partly, this is due to the fact that foreign buyers of these export-

oriented units insist on appropriate hygienic conditions in the plant. Generally, and in particular, in the smaller units, workers suffer from several occupational diseases such as backache, joint pains, bacterial and viral infections, bronchitis and other respiratory diseases, numbness in fingers, etc., due to the absence of safety measures.

7.139 The Hon'ble High Court of Kerala called for a report on the working conditions of the workers in the peeling units of fish processing enterprises during 1998. The report submitted to the Hon'ble Court gives a distressing picture of the working conditions of the workers in the fish processing industry. It indicates that there is overcrowding in the peeling sheds. Women workers have to sit on their feet or on wooden planks without sufficient space between two workers to enable them to move their hands. The posture of sitting is very uncomfortable, and creates health problems in the long run. The floors of the peeling sheds are wet and slippery, and workers sometimes get injured due to falls. Wage slips, etc., as per the Minimum Wages Act are not issued in many establishments. Medical facilities are also not available. Due to

the handling of frozen, cold and wet fish, workers get affected by various diseases including decay of skin, bacterial and viral infection, etc.

7.140 A study team of the Ministry of Labour was sent to study the working and living conditions of fish processing workers in Kerala, and other States, during 1999 and 2000. Their observations are also similar. They found that in some units workers were compelled to work beyond 10.00 P.M., even on holidays. Even where the people work for 2-3 years continuously, no provident fund contribution is made either by the employer or contractor. In the majority of units, no regular medical facilities are available. It has also been found that in many cases employment contracts are not written, and no employment letters are issued. This denies the workers any kind of protection and social security. The situation in other States is not different from that in Kerala. In an investigation in West Bengal during February 2000, it was recommended that general standards of hygiene, safety and protective measures, etc., should be ensured.

7.141 During the Tripartite Meeting

on Safety and Health in the Fishing Industry held in Geneva in 1999, it was recommended, inter alia, that priority should be given to ensuring occupational safety and health in the fishing industry by providing safety and health training to workers, enhancing social dialogues at all levels, extending social protection to cover fishermen, promoting appropriate international standards, etc. Conditions may not improve merely by legislation, and, therefore, a 'safety culture' has to be promoted. Safety culture can begin only when existing safety laws are enforced strictly.

7.142 One of the points raised by the owners of fish processing units was that registration/permits to engage migrant workers are not issued by the Kerala Labour Department to factory owners of other States. It was pointed out that factory owners would like to engage workers directly rather than through contractors, but the practice followed by the State Labour Department encouraged the contract system. The Commission feels that there should not be any prejudice against the direct engagement of migrant workers by the fish processing units of other States on

**terms and conditions that the State authorities may like to lay down to ensure compliance by the employers.**

7.143 The Commission was informed that the Ministry of Labour was also seized of the fact that there have been lapses in the implementation of the provisions of the Inter State Migrant Workers (ISMW) Act and the Provident Fund and Employees State Insurance (ESI) benefits, for workers in this sector. On the whole, the Commission finds that there is an urgent need to ensure that fish processing units acknowledge their legal obligations on wages, overtime, maximum working hours and amenities, etc., and undertake to provide them to the fullest extent. We also recommend that contracts of work with contract workers are reduced to writing and signed with the free and informed consent of all the parties and the workers are provided with a copy of the contract enumerating the rights and obligations of the parties in the language that the workers can understand; that the employers should maintain proper records of the wages, overtime, etc., paid to the workers; and that the workers are

provided with the protective equipment necessary like gloves, aprons and gum-boots and for those working in cold environment, proper woollen overalls. Workers should also be provided with clean and hygienic quarters/dormitories and facilities of drinking water, canteen, toilet, etc. In particular, there is special need to ensure that the movement of workers is not restricted after working hours and they are not coerced to restrict their movement to the precincts of the factory complex. Workers should also be able to form their own associations and associate with people outside without any fear or intimidation.

7.144 The provisions of Inter-state Migrant Workmen Act, and the Contract Labour Act should be strictly implemented in this sector. Strict monitoring and implementation of the Minimum Wages Act should be ensured and Welfare Boards should be set up to look after the needs of social security and health security in this sector.

7.145 India has a tremendous potential for the development of fish processing. The capacity utilisation of existing units is very low, but the industry has to be equipped with basic

facilities, which are required for hygienic processing. The Commission feels that while creating conditions for the growth and health of the industry, the interests of the workers engaged in it should also receive equal attention.

7.146 India has a coastline of 8041 Kilometres with an estimated marine resources potential of 3.9 million tonnes.

7.147 In 1998, the marine fish catch was about 2.6 million tonnes. 70% of this came from the West Coast.

7. 148 The population of fishermen in India was approximately 6 million. Of these, 2394574 were full-time fish workers; 1403223 were part-time, and 2121347 were occasional workers. The total number of crafts employed in fishing in 1999 was 280491. Of these 181284 were traditional crafts, 44578 were modernised traditional crafts, and 53684 were mechanised boats.

7.149 Indian fishermen use a wide range of fishing gear including seines, stake nets lines, bag nets, encircling nets and lift nets.

7.150 Before leaving the subject of fish workers and fish resources, we should also point out the tremendous potential that our fish resources hold for employment, and increased availability of fish for consumption and export earnings.

7.151 According to rough estimates made by the Fisheries University in Mumbai, fishing and allied occupations can generate a large number of jobs, which may well be second only to employment in the agricultural sector.

7.152 Employment can be generated in the marine sector, fresh water sector, captive fisheries sector, inland captive fisheries sector, coastal aquaculture sector and the post harvest sector. Employment in the marine sector includes: net making, processing industry, marketing of fish products, boat building in yards, fishing in sea water, related mechanical workshops, etc.

7.153 The fresh water sector includes: net making, pearl culture, fish seed production, marketing of fish products, boat building yards, fishing

in inland water, mechanical workshops, hatchery management, refrigeration plant, aquaculture, fish food industry, processing of fresh water prawn and fish, etc.

7.154 The captive fisheries sector includes: net making, marketing of fish products, boat building yards, fishing in marine waters, mechanical workshops, refrigeration plant, rearing of seed for stocking in reservoirs, processing of marine fish, etc.

7.155 The inland captive fisheries sector includes: net making, marketing of fish products, boat building yards, fishing in inland water, mechanical workshop, refrigeration plant, rearing of seed for stocking in reservoirs, processing of fresh water fish, etc.

7.156 The coastal aquaculture sector includes: net making, marketing, boat building, harvesting of fish/prawn, aquaculture, fish food industry, mechanical workshop, refrigeration plant, rearing of seed for stocking in reservoirs, sea weed culture, pearl culture, marine prawn culture, shrimp

industry, sea food products industry, etc.

7.157 The post harvest sector includes: marketing of fish products, value addition industry, processing industry, refrigeration plant, seafood products industry and processed seafood export industry.

7.158 It is obvious, therefore, that a scientific plan for exploiting the potential of these sectors and sectoral employment can generate millions of jobs for the fisher folk or for people living on the coastline.

7.159 We were also told about the problems of migrant workers in this industry. We have already made reference to the fishermen's cooperatives that have come up in some of the coastal states and the achievements that stand to their credit. We have also referred to the problems of migrant workers in the fish processing industry. We were told that in some of these areas along the West Coast migrant workers and their families arrive to help in fishing operations. Most of them have no residential facilities. They put up makeshift tents or stretch tarpaulin or thick clothing on poles and live in

these covered enclosures. They have no facilities for drinking water, no sanitation. There are no crèches for children when parents go to work. Many of them take to begging from local fisher folk. They have no schools. Thus, they grow up without roots and without the benefits of family life or schooling. Some of them get drawn into smuggling and the underworld.

7.160 During 1987-97, there was a gradual increase in fish production, growing by 44.1% in a ten-year period, of which pelagic species contributed 51.6%, the rest being demersal species.

7.161 Among the species caught, Indian Oil Sardine (*Sardinella Longiceps*), Indian Mackerel (*Rastrelliger Kanagurta*) and *Sciaenidae* are dominant. Bombay duck, anchovies, cephalopods, perches and *carangidae* are also abundantly seen. Fish harvesting often fluctuates, and depends largely on the vagaries of the monsoons.

7.162 Establishments connected with marine products export [as registered with Marine Products Export Development Authority

(MPEDA), 1996], include 625 exporters (380 manufacturer-exporters and 245 merchant-exporters), 358 freezing plants, 13 canning plants, 4 in the agar-agar industry, 149 ice plants, 15 fish meal plants, 903 shrimp peeling plants, 451 cold storage units, and 3 chitosan/chitin plants, with 95% of the seafood processing units concentrated in 20 major clusters in 9 states.

7.163 The total installed freezing capacity is 8945 tonnes per day, but the total current production is only 1000 tonnes (approximately) per day (378 000 tonnes per year).

7.164 Commercial production is mostly export-oriented. The industry employs about 35,000 workers including registered and unregistered workers (about 60% registered and 40% unregistered). The largest number of freezing plants (109) is located in Kerala and the largest installed freezing capacity is in Gujarat (2554 tonnes per day). The fish processing activity in Kerala is more labour intensive than in Gujarat (Gujarat exports are mainly whole fish, which are not processing-intensive unlike Cochin exports which consist mainly of processed shrimp).

Including all ancillary activities, about 200,000 workers are estimated to be dependent on marine products exports in the country.

7.165 On an average, a woman handles 40 to 50 kgs. shrimp and cephalopods; and 150 kg. of fresh fish per day (from industry sources). On an average, they work 200 days in a year in Gujarat.

7.166 The term fish worker is being used to cover all men, women and children who earn their livelihood by harvesting, handling and processing or marketing of fish and fish products.

7.167 In a sense, this definition may be regarded as broad and inclusive. But, it seems most apt when we seek to make a study of labour in the fish economy of the country. More often than not, discussion about workers in the fisheries sector revolves only around 'fishermen', neglecting in this process, a large labour force involved in activities other than harvesting of fish. Therefore, by using the term 'fishworker,' we also include in the purview of this definition all persons who are involved in sorting fish at landing centres; curing fish in the villages; peeling prawns in the peeling

sheds and carrying fish to the markets – to name a few. We may also add that the term 'fishworker' is not restricted to persons from traditional fishing/communities, but covers all who depend on fish for their livelihood. One must hasten to add that the term 'fishworker,' therefore, excludes all persons involved in the fish economy solely in the pursuit of profits – by mere renting; by virtue of ownership of capital alone; or by

involvement in arbitrage and / or speculation.

7.168 Engaged in these three activities of (i) harvesting, (ii) handling and processing and (iii) marketing of fish and fish products and within these, we can find a working population that can be divided into eight distinct groups. They are enumerated below:

<b>Activity</b>	<b>Group</b>
I HARVESTING (1-3)	1. Artisanal Fishermen working on non-mechanised and motorised crafts in coastal waters.
	2. Fishermen working on mechanized boats in coastal waters.
	3. Artisanal fishermen working on non-mechanized crafts in inland waters (rivers, backwaters)
II HANDLING and PROCESING (4-7)	4. Workers at fish landing centres involved in unloading, sorting and icing, etc.
	5. Workers involved in traditional methods of fish curing and drying, etc.
	6. Workers involved in prawn peeling sheds.
	7. Workers in fish processing firms.
III MARKETING	8. Workers involved in the marketing of fish inside the state.

7.169 The total working population in the fisheries sector in India (marine and inland) is estimated to be around six million. The largest proportion is involved in harvesting activity (66% approximately) and is composed mainly of men. Women are sometimes involved in inland fishing. Women dominate the handling and processing activity accounting for about seven percent of the workforce. It is only in the harder manual jobs involved in the activity – like unloading of fish – that men have a monopoly. Though, the activity of marketing which involves a quarter of the workforce, is largely carried on by men, there are notable regional differences. In some areas women predominate, whereas in others they are in the minority and in some other areas, they hardly matter.

7.170 The quantum of employment in the fisheries sector as a whole is determined primarily by the number of working days available for harvesting activity. This, in turn, is affected by seasonality due primarily to natural factors, like rains, storms or strong winds, etc. These varying factors, therefore, get reflected in the other two activities as well, in sorting, handling, peeling, etc. and in marketing.

7.171 As we have said earlier, harvesting is conditioned by the weather, and the availability of fish in the aquatic terrain. In the marine sector, there is the paradox that the season of rough weather (making it difficult for fishermen to set out to fish) is also the time when fish is available in plenty. The converse is also true, thus highlighting the extent to which the quantum of employment is conditioned by largely uncontrollable natural factors. This also tangentially, reflects the state of technology that is being used in the sector which is largely dependent on human skills. Recently, motorisation has to a great degree reduced the fishermen's need to 'wait for the fish to come his way': he can now go after it. Taking all this into account, we can say that a fisherman gets between 150 – 200 days of work in the year.

7.172 Seasonality in employment in the other sectors is also related to weather at sea. Since that determines the availability of fish to handle/process/market. It can be said to be high in handling and processing, and moderate in the marketing sector. In these sectors, the range of days of employment may be from 100 – 250 in the year.

7.173 Employment Status: Four types of employment status have been enumerated in the fisheries sector – self-employment, wage labour, family labour and income sharers. The last category – income sharers – is somewhat equivalent to share tenancy in agriculture. However, it must be noted that in the harvesting activity even those who, for all practical purposes, are merely daily labourers, are in effect income sharers. Their income share may be considered as a form of 'variable wage.'

7.174 The self-employed are found in all three activities of the sector. It is the dominant employment status in at least 5 of the 8 groups of workers we have referred to. Wage labour predominates when we take the handling and processing activity as a whole.

7.175 Emoluments are paid by piece-rate, salary, and as a share of net income. The last form is the most common in the harvesting activity. It provides incentive to workers to reduce on costs and enhance their productivity even without the presence of supervisors. Daily wages and a piece-rate system are used in the handling and processing activity.

7.176 The earnings of workers in the fisheries sector as a whole are rather low and marked by very wide day-to-day fluctuations – a fact most noticeable in the harvesting activity. Equally wide, are the inter-person fluctuations in this activity: two persons fishing with the same type of craft, for the same amount of time and at the same place can end up with two totally different quantities of fish, yielding very disparate earnings. The 'average' earning in the harvesting activity is, therefore, an extremely theoretical or elastic concept.

7.177 To the extent that the employment in the other two post-harvest activities are dependent on the supply of fish, the workers in these activities who are paid a piece-rate or daily wage are also affected by a widely fluctuating level of earnings – although it is much less than that of those involved in harvesting.

7.178 Earnings in the harvesting activity, range from Rs. 750 to Rs. 6,000 per workers per annum – those involved in inland fishing being at the lower end; workers on the mechanised boats at the upper, and the coastal marine fishermen in the

middle. The range on a working day could be between earning nothing and Rs. 20.

7.179 Earnings in the handling and processing activity vary from Rs. 1,000 to Rs. 2,000 per worker per annum. The variations here are largely a function of days of employment, which are in turn dependent on the supply of fish. It must also be mentioned that the workers in this activity are not necessarily always restricted to a particular group: those involved in fish sorting may also at times work in the peeling sheds and vice-versa. Daily earnings have wide variations.

7.180 In the marketing activity, earnings are less variable as the workers, mostly self-employed, and hence really itinerant fish sellers, have a greater degree of freedom to be 'price-setters' for the fish they sell to earn a living. Annual earnings are almost a certainty for a regular full-time fish distributor. Daily earnings may, however, fluctuate between Rs. 5 and Rs. 70 depending on the interplay between the supply and demand for fish and the extent to which they can adopt a differential price for distinct segments of their clientele.

7.181 As most of the workforce is in what is conventionally considered the 'unorganised sector of the economy,' questions of minimum wages/ earnings and security of tenure of employment are virtually absent. In the case of the workers in the processing factories, an attempt was made in Kerala to formulate minimum wages by constituting a committee to look into the question.

7.182 It may also be appropriate to mention that over the decade of the 1970s, there has been a systematic cutting-back of workers on the official pay roll of processing factories and the consequent encouragement of a decentralised 'putting out' system that largely operates in the informal sector. The rise in the number of workers in 'peeling sheds' is a consequence of this cut-back.

7.183 Minimum wages and security of tenure are further jeopardised by the use of child labour and migrant workers to which we refer in the succeeding paragraphs.

7.184 Child Labour and Labour Migration: Child labour is employed in two forms in the fisheries – as family labour and as wage labour. Family

labour is sometimes inevitable: unless a boy practises going fishing on a catamaran from the age of 9 or 10 he will never be able to get on one at a later age. Among the artisanal fishermen involved in coastal fishing, child labour is generally seen only among the self-employed catamaran fishermen of some districts. This is also equally true in inland fishing.

7.185 Child labour as part of the family enterprise is also seen in handling and traditional processing activities.

7.186 Child labour as piece-rate workers is a fairly prevalent phenomenon in the peeling sheds. They are exclusively girls, some of whom may be involved in night work after regular school time.

7.187 The fisheries sector of Kerala is noted for the migration of workers within/into it as well as the migration of a skilled workforce out to the fisheries sectors of the other maritime states in India. The former process is immigration and the latter emigration. The immigrant labour (here we use the term to include all persons who work in a location which is not their habitual place of residence) are involved largely in harvesting and handling and

processing activities. Within the former it is largely a feature among workers on mechanised boats: as much as three quarters of the workforce can be considered immigrants (from Kerala and neighbouring states), and about a third of them are likely to be from non-fishing communities. This migrant labour force in any major mechanised boat-landing centre tends to be very closely knit, and identity conscious, and seek security by maintaining a group behaviour based on their language, village of origin or religious identity.

7.188 Immigrant workers are also a sizeable number among those who are involved in fish handling at mechanised boat centres and among women workers in processing firms. However, in the above cases the immigrants generally come from the immediate hinterlands of the centre of operation.

7.189 It is a fact that immigrant workers are always faced with disadvantageous working conditions/emoluments/security of tenure, etc. when compared to the 'natives.'

7.190 Closely linked to the dynamics of immigration of workers into an

activity in the fisheries sector is also the substantial out-migration or emigration of labour to the fisheries sectors of other states, particularly neighbouring states. It may be useful to distinguish two forms of emigration – the first where fish workers move in search of fish, and the other where skilled fish workers move in search of jobs.

7.191 The first type is very much evident among the artisanal fishermen and fishermen using mechanised boats, who move with craft and gear to locations other than their own villages/centres in search of fish. It is also a feature among the small fish distributors – particularly men using cycles, – and is reportedly becoming a new phenomenon also among women fish distributors in some districts of Kerala.

7.192 The second type – the more common one, where workers have only their labour to offer – is evident in a very substantial order, among workers who move to work on mechanised boats in other states, and young women from Kerala who are taken by labour contractors to places as far off as Veraval (Gujarat) and Puri (Orissa) to peel prawns and work in

the fish processing factories. (We have dealt with their conditions in some earlier paragraphs.) We must also add that those who go as labour in this manner are not necessarily involved in the same activities in Kerala's fisheries sector at any particular time of the year.

7.193 Accident Risk at Work: The risk of accidents is especially high among workers in the harvesting activity – particularly workers on mechanised boats, and the artisanal fishermen using non-mechanised craft in the coastal waters. It is highly risky for fishermen to put out to sea while it rains heavily and when cyclonic or windy weather prevails. It is a fact that often, after they put out and venture into the distant zones when it is sunny and calm, they suddenly encounter stormy weather and rough seas. Many of them do not have the equipment necessary to monitor the weather broadcasts, and warnings while at sea. They are then tossed about without any certainty of getting their crafts or catamarans back to the shores for many days. They ride the rough waves, sometimes without food and drinking water, while their wives and other members of the family, and

sometimes the whole fishing village, wait with bated breath, not knowing whether the breadwinner will return alive. It is only those, who have experienced or witnessed these traumatic scenes, who can realise the gravity of the risks. The scenes can only be compared to the silence in a mine workers' colony when a major accident takes place.

7.194 One may state with fair certainty that the proportion of fatal accidents among workers on mechanised boats is much higher than of other fishermen. Two reasons can be put forward for this: (a) many of the workers on mechanised boats are from non-fishing communities, and they do not know how to swim (b) the safety precautions on mechanised boats are generally very poor.

7.195 Social Security and Welfare Measures: Social security and welfare measures are of two distinct types: (a) those that have evolved from traditional community caring and sharing systems (b) those that are instituted as part of the organised obligations towards workers on the part of employers and the state.

7.196 The community measures are

restricted to persons who belong to traditional fisher folk communities. The first charge on fish, landed in a traditional fishing village, is claimed by the physically handicapped, widows, orphans and persons who perform common services for the community. There is evidence to show that this can amount to 3 to 5 % of the harvest. Another form of social security within the community is the prevalence of a system of interest-free consumption loans from those who have a good harvest on a particular day and those who don't. Given that good and bad harvests (both daily occurrences among fishermen in the same village) are fairly evenly distributed, this system of giving hand loans is a very well knit but informal reciprocal social insurance against hunger.

7.197 Of the organised forms of social security and welfare measures, it is the role of the State that is the most important. Here, the Government of Kerala has measures to cover accident, risk to life and equipment; provide educational scholarships for children of all fish workers; grants and subsidies for housing; relief measures during the monsoon season and so on. One may

say that most of the benefits conferred by the State accrue to the workers (and their dependents) who come from traditional fishing communities.

7.198 The level of social security and welfare measures provided by employers – owners of mechanised boats, peeling sheds, processing firms – leaves much to be desired. They keep these to the barest minimum and grant them only when it becomes inevitable.

7.199 Association with other Organisations: The fisheries sector in some states is unique in respect of its association with the cooperative movement, quasi - Governmental organisations and voluntary agencies. Maharashtra is one of the states where the traditional fishing communities on the coast line have benefited greatly by the establishment and effective functioning of co-operatives that play a role in all three sectors of activity – catching, chilling and processing and marketing. But in most other areas, the record of performance of the cooperative movement and quasi-Governmental organisations has been inadequate. Both have been unsatisfactory, and have led to complaints.

7.200 The involvement of voluntary agencies in the fisheries sector is also not a new phenomenon, contrary to popular understanding. Their approach to the sector has varied from one of providing relief measures to the fishing community to that of organising them to fight against the injustices and exploitation they face. Their association in some states has been mostly with the members of the traditional fishing communities involved in artisanal fishing and fish marketing.

7.201 Unionisation and Union Activity: In States like Kerala interestingly the small vocal and militant unions are not found among the wage workers (like those operating mechanised boats or working in processing plants), but among largely self-employed fish workers involved in fishing and marketing. These unions are also 'independent' in that they are not organisations associated with any particular political party. Their demands have been primarily addressed to the Government, and have concentrated on issues relating to the need to prevent destruction of fish resources.

7.202 BANGLE INDUSTRY OF FIROZABAD: The glass bangle industry of Firozabad in Uttar Pradesh is a technically backward industry, employing obsolete technology, involving primitive glass melting techniques. The working conditions in most of the units in the industry are inhuman.

7.203 There are 140 registered glass bangle factories and 35 bangle cutting units. Moreover, there are 112 blowing and 65 polishing units. The industry is employing 1,30,000 persons, and the annual turnover estimates are around Rs.450 million. We would like to mention here that there are a large number of unregistered glass bangle cutting units. This was brought to our notice during our visit to the State capital of Uttar Pradesh. The bangle industry mainly caters to domestic needs. Manufacturing operations are carried out in households as well as on a non-household level. In the year 1930, there were only 30 units in Firozabad. Their number increased to 342 in 1990. A few large units are also exporting their products to USA, Middle East countries, etc. Although the glass industry of Firozabad dates back to 1910, it has not changed its

production processes, and is still using vintage machinery that adds to the hazards in the processes.

7.204 A large number of children are working in this industry. Estimates vary from 5000 to over 1,00,000. A study by the Planning Commission in 1992 estimated the factory level child workers in the glass industry as 30,000 and those at the household level at two and half times this number, i.e., 75,000 or more. The 1991 Census enumerated 8639 children (below 14 years) as main and marginal workers in the Firozabad District. As in other industries with a concentration of child workers, the glass bangle industry in Firozabad also exploits the exemption of family labour from the provisions of the Child Labour Act (1986), and resorts increasingly to sub-contracting forms of production.

7.205 The bangle industry as it is operated now, poses serious health hazards to workers. Temperatures inside the factory are extremely high, and very often cause burn injuries. Coal is mostly used as fuel in the furnaces and therefore, work

environment in the factories is highly polluted with heat, chemical fumes and coal dust, leading to respiratory disorders of various forms including tuberculosis.

7.206 Generally, payment to the workers is done on a piece-rate system. The labour employed here is mainly on a daily wage basis. As a result, they do not get any kind of protection or Social Security. This results in mass exploitation. The payment for work at the households is extremely low. For this reason, children have to pool in their labour to maximise the household earnings. No security and safety measures are available to workers in this industry, especially in household and unregistered factories. In each household, the traditional furnaces may be seen with large number of children working on them. They are employed in large numbers in backbreaking processes, which involve colouring, joining the cut ends and levelling them with each other, and grooving the bangles. Children are also sometimes employed in *Pakai Bhattis*. It is shocking to learn that child labour can be seen carrying melted glass on 7 feet long rods from

the furnaces at temperatures as high as 1600° C.

7.207 The Child Labour (Prohibition and Regulation) Act 1986, does not apply to the units that employ family labour, and according to the estimates of the Planning Commission, normally 58% of the children work in the family run units. The sub-contracting of the work and mushrooming of home-based units have resulted in shifting child labour from the organised to the unorganised sector which, at present, does not attract legislative controls or supervision. It is only the compulsory enrolment of children in schools that can prevent the exploitation of children in sweatshops. It is also necessary to make workers aware of the need to observe safety provisions in these dangerous employments and processes. It is equally necessary to ensure that social security measures are extended to this industry.

7.208 A research study conducted by the Centre for Operations Research and Training in 1998 has recommended that to improve the existing unhealthy working conditions in the industry, it is necessary to improve its production technology and work environment and to train and

equip workers with the higher skills required. It also recommended that the U. N. Development Programme should enlarge its coverage to cover the informal sector enterprises as well. At present the UNDP's technical collaboration project in Firozabad covers only large factories.

7.209 BRASSWARE INDUSTRY: The main centre for brassware industry is Moradabad in the State of Uttar Pradesh. There are more than 1,50,000 workers directly employed in this metal ware industry. Many more workers are employed indirectly. About three-fourths of the city's population depends on this industry for its livelihood. Out of the total number of workers about 45% are children in the age range of 8-12 years. 50% of workers engaged in moulding, and finishing workshops are children below the age of 14 years. While the larger factories do not employ children on the ground that the technology and equipment do not suit the height and strength of the children, the increasing practice of sub-contracting of jobs of moulding, polishing, and electroplating gives scope for the free use of cheap child labour. Children are assigned hazardous jobs such as rotating the furnace wheel which fans the furnaces; heating the ingots on top of

the furnaces, and hammering them into small pieces in the moulding process. Children work at applying chemicals on the ware to be polished and keeping the ware in acid before polishing. They are employed to tighten the ware with wires before electroplating. They also carry the load of the finished goods, and work as helpers to the welders. Here, workers work for more than 10 hours a day.

7.210 According to the District Industries Centre there are about 3000 units registered as small-scale units. There are an equal number of units, which are unregistered. The units that are not registered do not come under the ambit of the Factories Act. Therefore, workers have no right for any entitlements like the ESI, Provident fund, leave, etc. Out of the 3000 units that are registered, only a few are registered as factories and, therefore, the Factories Act is not applicable to many of them.

7.211 Middlemen recruit children in this industry or they work as family labour. According to one estimate, women constitute about 50% of the total workforce in the brassware industry. The two hazardous processes in this industry are

moulding and polishing. Electroplating and welding are equally dangerous. Slight carelessness may result in severe injuries and even loss of limbs. Children are not provided with any protective gear. They remain bare foot on the floor of the furnaces where temperatures range about 1100<sup>o</sup> Centigrade. Inhalation of fumes and gases from furnaces lead to tuberculosis and other respiratory diseases. Workers, especially children also suffer from eye burns. Most of these children do not attend any school. Wages are too low for workers to have a nutritious diet. A study by Neera Burra has found that workers earn only Rs. 400–500 per month, which is far below the minimum wage.

7.212 Carpet Workers: Mirzapur-Bhadohi area of UP state has been holding a very important position in manufacturing and exporting of hand-knotted woollen carpets and drug gets. 75% of the carpet looms may be found in this area, which is commonly known as Mirzapur-Bhadohi carpet belt. The tradition of carpet weaving in this belt is around 400 years old, having commenced in the 16<sup>th</sup> century AD. According to historical evidence, an artisan-turned-soldier from a Mughal Carvan from Agra, who was travelling along Grand Trunk Road,

found shelter in the nearby Ghosia village situated to the north of the river Ganges. The twin village settlement Madho Singh-Ghosia is said to be the birthplace of the woollen carpet industry in this region and this region has continued to enjoy reputation of excellence in carpet manufacturing. There is evidence that the carpet industry of this belt received much royal patronage from Benaras royalty since the time the craft started here. During the East India Company, some British traders were attracted to the carpet industry especially after revenues from indigo plantation and manufacture of salt petre dried up. Some foreign companies set up their shop in some prominent centres of carpet making in this region. They also established strong linkages with the western market.

7.213 Though the carpet industry of India is spread over in different states, in one sense, it is concentrated in the Mirzapur-Bhadohi belt, which generally accounts for over 75% of carpet looms. It is estimated that the carpet industry has over 3 lakhs looms, which provides employment to nearly 50 lakhs weavers. The hand-knotted woollen carpet has a share of more than 15% in handicraft export,

and also enjoys the position of being first in the total export of handicraft items. The Indian carpet industry has traditionally been dominated by traders without much regard to a balanced growth and development of production and export.

7.214 The carpet industry is full of potential for generating employment as well as foreign exchange for the country. Weaving areas are spread over in several villages and hamlets and hutments providing employment to the weaker section in rural and semi-urban areas and supplementary income for poor weavers and others engaged in carpet related industries.

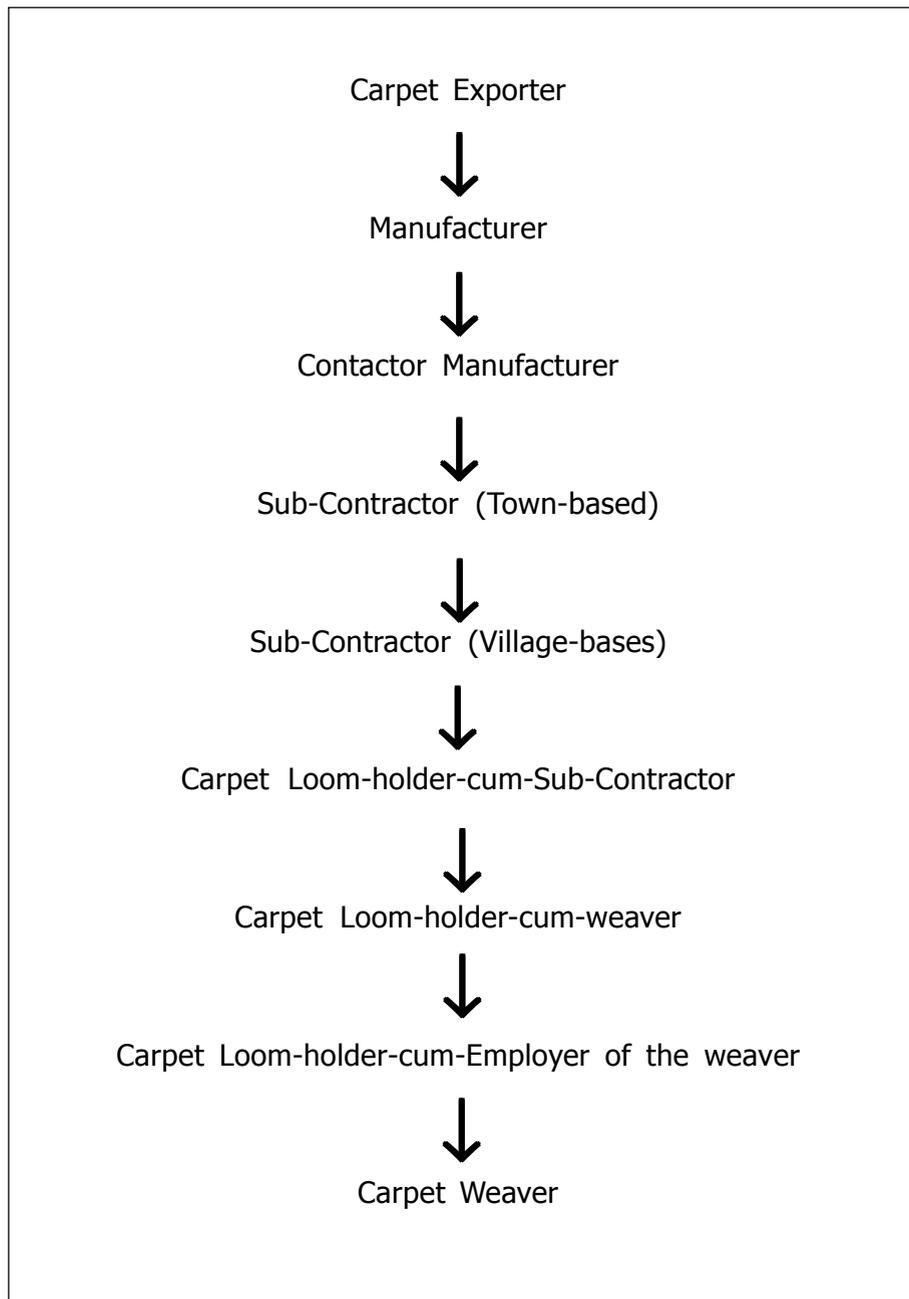
7.215 The production in the carpet industry is made against order from foreign importers and according to specifications, size, design, colour-scheme, etc given by buyers and at agreed prices quoted in advance. The carpet importers themselves or through their buying agents visit the exporters to order them for the requirements. Other designs are picked up as part of the bulk order by foreign exporters. In this type of market scenario, some exporting traders and buying agents for the leading foreign importers call the tune. It thus becomes top-down operation through a series of sub-contracting dealings.

7.216 After the order for the supply of carpets reaches the exporters, a series of contractors, sub-contractors and commission agents for every process in carpet manufacture get involved. Until 1960s it was observed that the carpet industry had two sectors, i.e, organized and un-organized, but in order to avert demands from organized labour, the sub-contracting system was introduced even for in-house activities, clipping, washing, binding, packaging, etc.

7.217 The carpet industry is therefore full of all kind of middlemen and these middlemen make fortunes from cuts from wage components. The intermediaries are in one way exploiting the weavers. It has also been observed that since the weaving areas are stretched or distanced from nucleus areas, the share of middlemen/commission agents increases and the wage decreases. Most of the middlemen or agents are selected by carpet exporters/manufacturers on the basis of their power or ability to control loom-holders/weavers. These loom-holders/weavers are normally paid advances so that they are under the clutches of exporters/manufacturers and do not slip away from exporters/manufacturers. These powerful intermediaries control loom-holders/weavers and use different methods

(even un-lawful) to recover advances and materials, if not supplied in time. There are reported instances of un-lawful behaviour met out to the poor loom-holders and weavers by

elements who command power in the community and are associated with the carpet industry. The series of intermediaries in carpet manufacture are:



7.218 With the growth of the carpet industry, there are significant changes in the agrarian and rural power structure. The majority of carpet exporters and manufacturers belongs to higher castes with higher position in the industry, the middle castes are generally the loom-holders and the Scheduled Castes/Tribes are the supply point for child and adult labour. The rapid growth of the industry brought quantitative changes. Until the beginning of 1960s normally 31 knots per square inch was considered a difficult job to handle, but today 125 knots quality is commonly woven in this region but higher knots quality is also woven according to the requirements.

7.219 The payment of wages to the weavers is based on the knottage that the weavers are able to weave. The carpet weaving is not a full-time employment for everyone who is involved in weaving. There are categories of weavers right from full-time weavers to part-time weavers and casual weavers. Mostly the landless weavers have no any other means of production system and income, are involved as full-time weavers. They even work up to late night depending on the situation of

orders to be supplied to the exporter. The second category, i.e, part-time weavers, are mainly those who normally own their own loom (normally one) and at the leisure or the time not required for the main activities is put in as carpet weaving. This category of the weavers is found to be mainly those who own some land and thus the carpet weaving becomes a secondary activity. The casual weavers are those who work as wage labourers else on other sector of activity and at the morning or evening utilize some of their time in the weaving of carpet for additional income. The carpet weavers are mostly indebted to the middleman because of the advances taken by them and in this situation of indebtedness, they do not have freedom to cross to other middlemen. The labour force required for the carpet industry is not only local one, but large numbers of labour required for different activities in the manufacturing of the carpet is the migrated labour, which come from nearby states and region, particularly Orissa, Bihar, Madhya Pradesh. These labours either come single or with their families. It has been seen that the living condition of the labourers is so deplorable that it may be called

inhuman living conditions. The carpet industry require labours for the different activities such living conditions. The carpet industry requires labours for the different activities such as weaving, embossing, washing, clipping, dying, and other manual works.

7.220 Dyes and chemicals are extensively used in the carpet industry. Synthetic chrome dyes are used exclusively for dying the wools. The chemicals agents used for colour tastening, are suspected to be highly health hazardous. The environmental pollution caused by industry is becoming increasingly higher in and around the carpet industry. There are several examples that carpet-washing plants are causing effluent problems, as the chemicals used are not biodegradable.

7.221 Child labour in carpet industry once was rampant. The situation of child labour and bonded child labour has been widely discussed as this industry activity/sector has a considerable child labour and bonded child labour. Although estimates vary, it still remains a fact that carpet industry remained the most child-labour endemic. The child labour/

bonded child labour in the carpet industry are of two categories, first those children who are brought by recruiting and supplying agents from other region and states and supplied to the carpet industry and second those who are locally employed and can be termed as wage child labour. The first category was often drawn into the situation of the bondage and the rescue was difficult unless the situation was known to concerned government departments and NGOs.

7.222 In the carpet belt, NGOs campaign and movements was although termed as misguided propaganda by some vested interest and the reports on the issue of child labour in carpet industry, appearing in the media both within and outside India have also been termed as grossly exaggerated, but fact remains that once the child and bonded child labour in the carpet industry was the sheer reality. Though the situation of the child employment has changed now but still lot has to be done to restore the right of childhood to lakhs of the children in the carpet belt

7.223 **STREET VENDORS:** Street vendors and hawkers are among the most visible and active category of the

workforce in the informal sector. Most of them come from impoverished rural families. Street vending absorbs millions of those who come to cities as economic refugees from the villages, because they can enter this occupation with small amounts of capital. They not only create employment for themselves through their entrepreneurial skills, but also generate upstream employment in agriculture as well as small-scale industry. They are the main distribution channel for a large variety of products of daily consumption – fruit, vegetables, readymade garments, stationery, newspapers, magazines and so on. Their elimination from urban markets would lead to a severe crisis for fruit and vegetable farmers, as well as small-scale industries which cannot afford to retail their products through expensive distribution networks in the formal sector. The ordinary consumers who do not travel to big towns or department stores will also find it difficult to get their basic necessities at their doorsteps. Hawkers provide a low cost, decentralized and highly efficient system of distribution covering an incredible variety of products, at prices far below those prevailing in established markets.

Middle class people buy a large proportion of their daily consumption needs from street vendors, whereas for the poor, hawkers are the only affordable source for items of daily consumption. Thus, they are a vital link between consumers and producers, and make a valuable contribution to the economy

7.224 The activities of hawkers and street vendors are comprehensive and ingenious. There are hawkers in Delhi who collect dal and spices which spill on the road during transportation, clean them and sell them to the poorer sections of the population. There are hawkers in Chennai who have set up a whole market for imported electronic consumer goods. In Mumbai's Fashion Street or on the pavements of Delhi's Sarojini Nagar, you can find the best of ready-made garments at prices which are incredibly low. A large section of population in all cities is dependent on vendors and hawkers for their meals and snacks. Traffic intersections have been virtually converted into departmental stores by the hawkers.

7.225 Hawkers and vendors of various cities have fought long drawn

battles, both in the streets as well as through the courts to assert their right to an honest and dignified livelihood. The Supreme Court itself has upheld this right through numerous judgments, but there has been little change at the ground level. In 1985, the Supreme Court, in the *Bombay Hawkers Unions vs. Bombay Municipal Corporation* case, directed that each city should formulate clear-cut schemes which earmark special Hawking Zones after which it could declare areas as No-Hawking Zones. This was followed by a landmark judgement in 1989 in the *Sodan Singh vs. NDMC* case. It held that 'Street trading is an age old vocation adopted by human beings to earn a living. (and) comes within the protection guaranteed under Article 19 (1) (g) of the Indian Constitution which guarantees the right to earn a living as a fundamental right.' Therefore, city administrations were directed to facilitate hawkers in acquiring a legal status.

7.226 Laws relating to street vending are varied. With the exception of Kolkata, most municipalities have provisions for providing licenses for hawking. Kolkata not only considers street vending an illegal activity,

but its law provides very stringent punishment for hawkers: hawking is a cognisable and non-bailable offence.

7.227 Imphal is one city which has clearly laid down rules for street vending. The Manipur Town Planning and Country Planning Act 1975, provides that in residential areas there should be a provision for 4 to 6 shops and 10 hawkers per 1000 people. The Bhubaneswar Development Authority has reserved 3% of public space as a commercial zone. Shops are allotted space in this area through draw of lots. Space is also reserved on the pavement for street vendors.

7.228 When urban plans allot space for hospitals, parks, markets, bus and rail terminals etc., they can take into account the need that residents of localities feel for the services that vendors or hawkers can provide. It is clear that if urban development plans are to be effective and people oriented, they have to make provisions for the growth of such natural markets.

7.229 The fact that street vending is looked upon as a nuisance or frowned upon by law gives a lever to the municipal authorities and police to

extort money from the vendors. Municipalities should seriously think of alternative solutions. Legalizing vending by providing licenses may solve many of the problems that are being faced today. Bribery and corruption will decrease, municipalities will earn more through license fees, and street vending will get more orderly, disciplined and regulated.

7.230 Recognition of hawking as a profession will benefit not only hawkers but also municipalities. They would be able to officially enforce levies on hawkers. In Imphal, the municipality not only provides space for vendors, but also charges fees for garbage collection and sweeping, besides collecting a license fee.

7.231 We were told that instead of creating an enabling environment, Government policies are adversely affecting the livelihood of lakhs of people who are engaged in earning their livelihood through hawking. We were further told that street vendors were being treated as law-breakers, as a public nuisance, and routinely beaten and driven out of public spaces. All this is done legally in the name of cleaning up the city by clearing it of illegal encroachments.

Our municipal laws make it unlawful for anyone to vend on the streets without a valid *tehbazari*, which is a legal permit for stationary vending. Many witnesses told us that getting a *tehbazari* from the municipality without strong political patronage or bribes, was highly difficult.

7.232 Hawkers have no other means of livelihood, and they have no option but to carry on with their trade even if it means facing harassment by the police and the municipal staff. Vendors who resist paying bribes are beaten, and have their goods confiscated. Even otherwise, the police and municipal authorities carry out frequent raids in the informal natural markets created by these hawkers and vendors, and seize their goods and pushcarts and lock-up all confiscated properties in municipal yards. Sometimes, even those who have licensed stalls are not spared. Vendors have also to pay permit-money or protection-money to local *gundas*. In a public hearing conducted by 'MANUSHI', it was contended that the 5 lakh vendors of Delhi are paying bribes to the tune of Rs. 40.0 crores a month.

7.233 A study conducted in the city of Ahmedabad indicated that while the

legal fees paid by street traders in 1998 was Rs. 5.6 crores, illegal fees paid was Rs. 5.5 crores. We cannot overlook the fact that this happened in a place where an organisation of vendors and hawkers connected with SEWA has a strong presence.

7.234 A typical vendor starts his day early in the morning with the day's purchase. The market place, his residence and the place from where he buys his goods are invariably far apart. Bringing large sacks of vegetables and fruits and loading them in a cart is a tedious job. Arranging, cleaning, sorting, weighing them and dealing with customers is not easy.

7.235 As we have pointed out, vendors have to deal with many authorities – municipal authorities, police (*thana* as well as traffic), regional development authority, district administration etc. Policy makers seem oblivious of the positive impact of street vendors on the social life of a city. The availability of work options on the street provides a positive outlet for employment and earning and for honest livelihood to a large section of the population that is poor but has high entrepreneurial skills.

7.236 The organisations that tendered evidence before us, did not ask that street vendors should be permitted to sit wherever they liked, at any place anywhere in the city. Their demand was that they should be accommodated in city spaces where they would not obstruct other essential functions such as the flow of pedestrians or traffic. The reason that vendors now seem such a nuisance is that there is no place for them, and so any place they occupy belongs to an area or land which has some other function. It is, therefore, necessary to evolve national and state policies on street vendors, and these could be borne in view while determining urban plans and schemes.

7.237 We were also told that while most of the vendors/hawkers merely manage to earn their livelihood, there are cases where hawkers have set up industries on their own, and have become examples to others in their profession. Some vendors earn enough to pay Income Tax.

7.238 In fact, most countries in the developing world are facing problems in identifying the role of vendors and providing a framework that enables

them to make their contribution to the economy, employment generation, and the services sector. This is evident by the declaration that was adopted at the International Conference on vendors that was organised at the initiative of SEWA and other similar organisations at Bellagio in 1995.

7.239 The Bellagio International Declaration of Street Vendors adopted on November 23, 1995 says:

'Having Regard to the Fact

- a) That in the fast growing urban sector there is a proliferation of poor hawkers and vendors, including those who are children;
- b) That because of poverty, unemployment and forced migration and immigration, despite the useful service they render to society, they are looked upon as an hindrance to the planned development of cities both by the elite urbanites and the town planners alike;
- c) That hawkers and vendors are subjected to constant mental and physical torture by the local officials and are harassed in many other ways which at times

leads to riotous situation, loss of property rights, or monetary loss;

- d) That there is hardly any public policy consistent with the needs of street vendors throughout the world.

'We Urge upon Governments:

- a) To form a National Policy for hawkers and vendors by making them a part of the broader structural policies aimed at improving their standards of living, by having regard to the following:
  - b) Give vendors legal status by issuing licenses, enacting laws and providing appropriate hawking zones in urban plans.
  - c) Provide legal access to the use of appropriate and available space in urban areas.
  - d) Protect and expand vendors' existing livelihood.
  - e) Make street vendors a special component of the plans for urban development by treating them as an integral part of the urban distribution system.
  - f) Issue guidelines for supportive services at local levels.

- g) Enforce regulations and promote self-governance.
- h) Set up appropriate, participative, non-formal mechanisms with representation by street vendors and hawkers, NGOs, local authorities, the police and others.
- i) Provide street vendors with meaningful access to credit and financial services
- j) Provide street vendors with relief measures in situations of disasters and natural calamities
- k) Take measures for promoting a better future for child vendors and persons with disabilities.'

7.240 RICKSHAW PULLERS: Rickshaw pullers,- particularly in the North, are mostly migrants. They migrate from the States of Bihar, Orissa, Madhya Pradesh, Uttar Pradesh and Rajasthan to bigger towns and cities. Most of them are small peasants or landless workers who were forced to migrate to the cities due to feudal oppression, exploitation by land mafia, or natural calamities like recurring floods. In big towns they have no place to stay. They generally sleep on footpaths or in their rickshaws. All of them do not own

rickshaws. They take them on hire, and have to pay a large sum of money as rent, even if they do not earn enough. Often, they are harassed by the police. They do not have any social security cover.

7.241 Rickshaw pullers are engaged in the transportation of persons as well as goods. Rickshaws appeared on the Indian horizon in the early decades of the 20<sup>th</sup> century, or perhaps, even earlier. These rickshaws were hand-pulled. Over a period of time, these gave way to cycle rickshaws in most of the cities except Kolkata. In the late 1970s, motorized versions of rickshaws were tried but did not become popular. Today, Chennai has a large fleet of motorized rickshaws used for the transportation of goods. Cycle rickshaws have not undergone any major technological transformation over several decades. They continue to remain heavy and lacking in proper balance. Recently in Delhi, a newer, lighter and a more stable and comfortable version of the cycle rickshaw has been introduced, comfortable both for the puller and the passenger.

7.242 Rickshaws continue to provide livelihood to lakhs of people. Delhi

alone has about 5 lakh rickshaws. Large-scale displacement of people from their habitats, closure of industries and the consequent retrenchment of workers due to various reasons has added to the already growing number of rickshaw pullers. Traditionally, rickshaw pulling is one of the most preferred avenues of employment in the city for the unskilled and illiterate but able-bodied persons who migrate from rural areas. Rickshaw pulling is an instant source of employment, a job for which much know-how or investment is not required. It offers great flexibility to rural migrants when agricultural employment is not available in the village. It is common knowledge that even industrial workers have a tendency to go back to their villages during the peak agricultural season to help their families with seasonal operations. The rickshaw pullers who migrate to cities are no exception. Even for those who are living in the cities on a regular basis, rickshaw pulling offers a degree of flexibility which is not available to an industrial workman. In theory, a rickshaw puller is free to work during hours that are convenient to him, although in practice this is a luxury which few can enjoy.

7.243 Rickshaw pullers are among the least protected workers in the unorganised sector. Conditions are not regulated. Nor are their social security issues addressed. The vulnerability of the rickshaw pullers is further accentuated by the fact that the majority of those who pull rickshaws do not own the rickshaws themselves. In a city like Delhi, only 14.6% of rickshaws are licensed. The rules of the Municipal Corporation permit only one rickshaw for one person. They also stipulate that the owner himself has to be the puller. Widows and physically handicapped persons are allowed to own 5 rickshaws, and to give them on hire. Illegal ownership and unlicensed plying add to the complexity of the conditions in the sector.

7.244 The only investment which the rickshaw puller has to make is his relationship with a person who is known to the rickshaw owner. It is this acquaintance which enables a prospective rickshaw puller to hire a rickshaw and start his profession. While, in principle, in most of the cities only the rickshaw owner can be the rickshaw puller, in practice this happens only as an exception. There are individuals who own a fleet of

rickshaws which are hired out on a daily rental to the rickshaw pullers. At the end of the day, the rickshaw puller has to pay the rent.

7.245 The life of a rickshaw puller is not, however, easy. The nature of the work itself has a number of hardships built into it. It is hard work further aggravated by the badly maintained roads. The rickshaw puller has to work in the open and, therefore, is at the mercy of nature. During summer, he has to face the blistering heat and in the winter, the chill makes it difficult for him to go about his normal work. The monsoons are perhaps the worst from the point of view of his profession. In Kolkata, during the rains, it is a common sight to see the rickshaw puller wade through knee-deep water to ensure that his passenger reaches home safe and dry. It is a different matter that in the process, the rickshaw puller himself becomes vulnerable to diseases like influenza, and other diseases.

7.246 The rickshaw pullers have no schemes of social security to ensure that they are taken care of during sickness. Most of the municipal and Government agencies treat rickshaws as a hindrance rather than an agency

which is performing irreplaceable and useful work for society. The traffic police view rickshaws and other non-motorised vehicles as a traffic bottleneck. The municipal authorities share the same view. They, thus, do not feel the need to create sheds or parking space for rickshaws. There have been a few experiments to create separate lanes for cycles and rickshaws. But they have not succeeded. Since rickshaws, or at least the vast majority of them are not legally owned, the rickshaw pullers cannot even think in terms of getting institutional loans to buy rickshaws. In any case, the local authorities make it so difficult for individual rickshaw pullers to obtain licenses that very few of them attempt to do so.

7.247 Non-recognition of rickshaws as a 'mode of public transport' in the transport policy makes planners blind to the economic worth or utility of this sector. The opaqueness of the system breeds corruption aggravating the insecurity and exploitation of rickshaw pullers.

7.248 The 'non-recognition' of the 'economic worth' of rickshaws as a public utility has another consequence. Government and the

private sector have never bothered to invest in the production of cycle rickshaws and on research and development that could lead to improvement. Cycle rickshaws are assembled locally with little scientific application in design and fabrication, affecting the stability of rickshaws.

7.249 As we have stated earlier, most of the rickshaw pullers are migrants, and generally stay alone in the urban areas while their families live in the villages. The rickshaw puller has to save some money to send it home to take care of his family. However, his earnings are never very large. Most of the rickshaw pullers just manage to earn their livelihood. Their earnings range from Rs. 40/- per day to Rs. 150/- per day depending upon the city in which they operate and the season. Some of the rickshaw pullers are able to add to their income by having monthly arrangements with parents to pick-up and drop children to school or to bus stops.

7.250 Most of them cannot afford to rent a room even in the basties where workers usually live. Some of them live on footpaths, under hanging balconies. Sometimes 5 or 6 persons

from the same village hire a room. Huts in unauthorized colonies are the only option for a vast number of these rickshaw pullers. Quite a number of them live in open spaces or sheds in which the rickshaws are kept by the owners.

7.251 Most of them smoke *beedis*, chew tobacco and quite a number of them drink locally brewed alcohol. Some of them are also prone to the use of drugs. The cumulative effect of this life style is that a large number of rickshaw pullers, especially in the smaller cities, suffer from tuberculosis and other diseases. Since there is no medical scheme for these persons, diseases tend to aggravate.

7.252 Apart from providing direct employment to lakhs of persons, rickshaw pulling provides indirect employment to several others due to its multiplier effect. The rickshaw manufacturing activity and rickshaw repair activity perhaps give employment to a number of persons. If we take into account the fact that each such person looks after 5-6 members of his family, it would imply that the rickshaw pullers sustain a large section of the population - and this, at a time when the organised











