

implementation. Women often find it difficult to obtain proof of 160 days of employment, or make optimal use of nutritional supplements.⁴ In some cases, the costs are too heavy for long-term sustainability of the scheme.

9.131 The numbers of child-births The population policy, particularly the two-child norm has an intimate relationship with the maternity benefits and entitlements issue. There are two schools of thought on this. One school argues that discrimination is practised once the issue of maternity entitlements is linked to the two-child norm. Examples of the States of Maharashtra and Rajasthan are cited, where women with more than two children are not even allowed to avail of the Public Distribution System. It has also been cited as one of the reasons for the failure of existing maternity entitlement schemes. One example that is cited is that of the Muthulakshmi Reddy Scheme which has benefited only 20 women in the whole State of Tamil Nadu.

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⁴ Swaminathan, The first five years, 1998, p-260.

9.132 In contrast to this view, the Population Commission and the Government – the proponents of the second school of thought argue that the two-child norm should be seen in the correct perspective. The norm was not binding at the national level, and should be only implemented if informed groups of people were supporting it at different levels. Representatives of the official view also state that the Population Commission was not imposing its will on the States, as its document was merely indicative and not prescriptive. Finally, they add that the word ‘control’ is now being replaced by other phrases to represent the socio-economic and demographic transition that was taking place.

9. 133 While this Commission agrees that it is important to limit explosive growth in population, it wishes to point out that reducing deaths during childbirth and reducing infant mortality are important for society. The high rates of maternal and child mortality need to be seen in the context of the dearth of the basic services that are necessary to ensure the survival of the child. Moreover, it has been seen that “better educated women also have smaller families.

Colombian women with the highest education had fewer children than women who had completed only their primary education. The continuing disparity in male and female education thus inflicts extremely high social and economic costs in the developing world" (Human Development Report 1990). The Commission recommends full baskets of maternity entitlements for the two live children, and a policy that discourages having more children.

STATUTORY SCHEME

9.134 The Study Group has proposed a statutory scheme for the implementation of maternity entitlements. The scheme is to cover all women, the only discriminating factor being the economic criteria, and that too for a brief period of time if funds are not available.

The Objectives of the Scheme are to:

- a) Provide financial support for childbirth and childcare and breast-feeding in the first few months of the child's life, as well as to promote the health of the mother and the child.

- b) Recognise the woman's reproductive role and compensate her for unavoidable absence from work. (To do this, the law should provide every woman with entitlement for four months' financial support. The norms may be fixed for such entitlement).

9.135 Cost of maternity entitlements and benefit: There were 18 million births per year as per the 1981 census. If we assume that even 60% of the mothers availed of maternity benefits, it would mean that 10.8m mothers availed of the benefit. If the daily wages of these mothers were to be protected for 120 days at the rate of Rs. 85 per day, the total amount required yearly for maternity entitlements would be Rs. 11016 crores. This figure would go up to Rs. 15973 crores if the calculation is made on the basis of the current figure of 26.1 m births per year as projected by the latest economic survey.

9.136 The access to this scheme should be through multiple channels and agencies like the *panchayat* office, post office, banks, health

centres, ICDS centres, Government departments and banks. The sources of funding would be employees and the state at the central, state, district (or municipal) and local (ward or *panchayat*) levels; employers and community contributions as followed in Thailand and China, where the community sponsors one worker for every 100 families to ensure the proper delivery of benefits.

9.137 The scheme may also provide for the setting up of a Monitoring and Grievance Committee with representatives from workers, employers and local authorities. We endorse the scheme.

WOMEN WORKERS : ENTERING THE MAINSTREAM THROUGH VOICE AND EMPOWERMENT

9.138 Organising is the key to the empowerment of women. It helps them to unite, become conscious of their rights and obligations, increase self-esteem, and forge channels through which they can avail of financial and credit services, and bring their influence to bear on issues

affecting them.

9.139 Organising ends isolation and alters a person's way of thinking, seeing and feeling. Producers with inadequate capital can pool resources and buy raw materials at wholesale prices. Farmers, who are unable to enter markets individually, can do so collectively. Poor women can build a SEWA Bank by pooling their savings. Landless labourers can become collective owners of land. A woman's group in a village can collectively run a school, an *anganvadi* or a health centre.

9.140 Organising increases bargaining power, and gives voice to the voiceless. Often even the poorest women who have got themselves organised say, "Now people listen to us." For daily labourers, home-based workers and contract labour, organisation can increase their daily earnings and make their working conditions more secure. For the self-employed, it can increase their bargaining power with respect to prices and working conditions. In the case of social sector services, only organising will help to enforce accountability.

WOMEN AND VULNERABILITY

9.141 As has been pointed out, women workers constitute the most vulnerable group in the economy. Over 95% of women workers are in the unorganised sector. These workers are vulnerable because their work is insecure, irregular and often unrecognised. Besides these, they have to balance the work they have to do with their responsibilities for children and home. Since their income is not commensurate with their work, they do not own any assets and so do not have access to social security. They often have to incur debts to meet expenses for illness or other shocks. They do not have access to institutional finance and have to borrow at high interest rates.

9.142 These women mostly belong to the economically backward sections of the society, and to the Scheduled Castes and Scheduled Tribes. Their status in society remains at the lower rungs. They generally live in kutcha or semi-pucca houses, and do not have easy access to water and sanitation. They are illiterate or semi-literate, and though they would like to educate their children, the facilities to do so are either unavailable to them, or are of

very poor quality. Within poor families, it is the woman who owns the least assets and gets the least nutrition, and the girl-child who gets the least opportunities for education and advancement in life. "In many African Countries, women account for more than 60% of the agricultural labour force and contribute up to 80% of total small-scale food production – yet receive less than 10% of the credit to small farmers and only 1% of total credit to agriculture. Although women make up 18% of the self-employed in developing countries, they are only 11% of the beneficiaries of formal credit programmes in Latin America and 10% in the Philippines. The bias is similar in loans from international sources. In 1990, multinational banks allocated about \$6 billion for rural credit to developing countries, but only 5% reached rural women" (World Development Report 1990).

9.143 Women are also physically vulnerable. Physical assault is not uncommon at home or sometimes at work sites. In some backward societies, social violence continues in the name of witch-hunting. The female child still remains less wanted in a number of communities. The

number of female infanticides is still high in many states of India.

9.144 These facts have to be taken into account when we recommend laws, policies and programmes for women workers. Can these laws and policies really reach them through the layers of vested interests and social institutions? Or are the progressive policies likely to be subverted, diluted or ignored? If we look at laws specifically aimed towards women, like the Dowry Act or the Equal Remuneration Act, we find that though these Acts have been drafted with the best of intentions, they are far from effective. In some cases, they have even been used against women rather than for them. The main reason for this is that while these laws and policies are formulated for vulnerable groups, these groups have no strength of their own to use or derive benefits from these policies. Often, they are not conscious of the rights that the law has conferred on them or the programmes of assistance that are available to them. As such, all recommendations for policies for women workers must be combined with an enhancement of their own strength, or what is called their 'empowerment.' Without awareness

and organisation, the laws will remain in the Statute book, and the facilities will remain unused. Organisation, therefore, becomes the instrument for expanding legal protection and facilities, and for transferring them from the Statute book to the lives of the individuals.

EMPOWERMENT:

9.145 Empowerment is the process by which powerless people can change their circumstances and begin to exercise control over their lives. Empowerment results in a change in the balance of power, in living conditions, and in relationships.

9.146 Experience has shown that the process of empowerment cannot be confined to individuals. The social group which is the victim of vulnerability has also to be empowered through aggregation.

9.147 The Study Group constituted by this Commission has pointed out that organising the poor, including women, generally has two aspects, both of which are crucial for success. The first is a struggle on a specific cause or issue, which vitally affects the interests of the people. This

may be a struggle to ensure water for the village; a struggle of agricultural labourers for higher wages, or of street vendors to secure licences. It creates an external atmosphere in favour of the issue, while at the same time creating dramatic internal changes in the participants and often throwing up new leaders. The second aspect of organising is programme-based. It ensures that the organising efforts continue in the future, for a longer period. It could include building and/or managing a water system, forming a co-operative or a savings and credit scheme, running a health or childcare centre or taking joint responsibility for forests and so on. Although less dramatic than the struggle-oriented aspect, it ensures a slow and steady building up of individuals, institutions and changes in relationships.

ORGANISING IN INDIA

9.148 In our country most of the organising so far has been centred around politics, i.e. organising has been undertaken to make one's voice heard in the political sphere, and through the power of votes. However, even in this sphere, much

more development-oriented organising is needed. For example, women have achieved 33% reservations at the panchayat, district and municipal levels. This has yet to extend to State and national levels.

9.149 We do have a tradition of organising at many levels. The first stirrings of the movement for reform in women's status can be seen in the nineteenth century. These included the socio-religious reform movements, notably the *Brahmo Samaj*, *Prarthna Samaj*, the *Arya Samaj*, the Muslim Reform Movement and the like. These reform movements, however, included neither the poor women nor women workers within their purview.

9. 150 Poor women first began to be drawn into a women's reform movement with the advent of Gandhiji and the movement for freedom. As the movement expanded to draw in the poor masses, issues concerning self-employed women began to be addressed for the first time. *Khadi* was perhaps the first issue which symbolised the needs of poor working women, especially women who were engaged in spinning and weaving.

They were further mobilised during the salt *satyagraha*, and were also very active in the anti-alcohol campaign. Gandhiji's struggle for prohibition reflected women's deep concern for the safety of their homes. The post-Independence period, however, saw a decline in the participation of working women in struggles for women's issues. *Mahila Samitis*, *Mahila Mandals* and *Mahila Samajams* had been formed all over the country during the hey-days of the National Movement for Independence. After Independence, these local women's groups continued as ongoing organisations, but the participation of poor women in them declined, as did the militancy of the groups.

9.151 Women had also been active in the growth of the labour movement. The struggles of the jute workers in Bengal, of textile workers in Bombay, Ahmedabad and Coimbatore, of the plantation workers in the North East and of the coir workers in Travancore (Kerala), all involved the active participation of women workers. However, as the labour movement became formalised into trade unions, and as it became part of the tripartite system, and

achieved many material gains and some security for workers, the active participation of women declined.

9.152 A new phase of the women's movement started in the 1970s. In 1974, the Report of the Committee on the Status of Women in India was released. This report gave a lot of prominence to the position of 'unorganised workers' as well as to the status of poor women with regard to education, politics and the law. This report, followed by the celebration of the International Women's Year in 1975, saw a sudden growth and a new turn in the women's movement in India. As the women's movement has grown since then, its members have begun to realise that a genuine movement must project and concentrate on issues that concern, and entail the involvement of large masses of women. Consequently, there has been an attempt to organise poor working women to project the issues that affect them most, such as unequal wages, indebtedness and deforestation.

9.153 To a large extent, the initiatives in organising workers in the informal sector in general, and

women workers in particular, share the same genesis and evolutionary path as the leftist and labour movements.

9.154 The second wave of organising women workers in the informal sector was precipitated by the recognition of the success gained by SEWA and World Wide Fund (WWF) in the 1980s. Besides heralding a movement of women workers in the informal sector, these organisations helped to establish a strong link between the lack of organisation and poverty in the informal sector. The recognition of this by the state resulted in many direct and indirect programmes for women workers. The state continued these efforts with the new empowerment approach that it adopted during the same period. The important programmes in this regard were the central and state sponsored schemes and programmes. *Mahila Samakhya*, a programme for rural women's empowerment, implemented in four states since 1987, Watershed Development Project in Rajasthan and special programmes such as Development of Women and Children in Rural Area (DWCRA) being implemented since 1983.

9.155 One of the significant lessons of the earlier experiences of organising

women workers has been that an intervention to provide women with access to credit can have a multiplier effect, and can, by itself, be a strategy for organising women. The state has responded to this by initiating several favourable policies and institutions to facilitate access to credit programmes. This is the backdrop against which we are looking at the organisations of women workers, especially in the unorganised sector.

9.156 Today there are many different types of organisations that work with or for women workers.

9.157 Trade Unions: Firstly, there are the trade unions. In India, the trade union movement has developed through the struggles of the workers mainly in the industrial sector. Although there are about 50,000 registered trade unions in the country, only eight federations have been recognised as Central Trade Unions. These are National Federation of Indian Trade Unions (NFITU), All India Trade Union Congress (AITUC), Centre of Indian Trade Unions (CITU), Indian National Trade Union Congress (INTUC), Bhartiya Mazdoor Sangh (BMS), Hind Mazdoor Sabha (HMS),

United Trade Union Congress (Lenin Sarani) [UTUC(LS)] and United Trade Union Congress (UTUC). These eight cover a total of 1,29,61,182 number of workers, of which only marginal numbers are women. In other words, the established trade union movement has not been able to cover large numbers of women workers in the unorganised sector. At the same time, there are a large number of trade unions that may not be affiliated to central trade unions but are working exclusively in the unorganised sector. These include SEWA, the National Alliance of Construction Workers, the National Fish-workers Federation, the National Alliance of Street Vendors and many unions working with agricultural workers, forest workers, rag pickers and rickshaw pullers, among others.

9.158 Co-operatives: There are also a large number of co-operatives in the country. Co-operatives are people's organisations that promote and generate women's employment for those who do not have bargaining power in the labour market, and are at a lower level in the economic hierarchy. Co-operatives are an efficient form of organising where the poor can gain control of their

resources and manage their own organisations. The Co-operative helps its members to enter markets from which they are usually excluded as individual participants. It, therefore, helps them bargain for better economic conditions. Organising poor women workers into co-operatives has been shown to be a viable alternative, but there are very few women's co-operatives. In 1998, there were only 8714 women's co-operatives, constituting only 1.8% of the total number of co-operatives in the country.

9.159 The disbursement of micro-finance has spread considerably in the last fifteen years in India. Many different types of organisations are engaged in this field. All of them have a host of other 'developmental' activities, besides providing access to housing/income generation loans. These include, education, health awareness, building, watershed management, environmental concerns etc.

9.160 In the last two decades, there has been a considerable proliferation of Non-Governmental Organisations (NGOs) or voluntary organisations. There are different types of such

organisations, many of which work with women.

9.161 There are also many small organisations which work at the local level. These may be unregistered *mandals* or local associations or DWCRA groups.

9.162 Mahila Mandals And Self Help Groups: Due to the intervention of various Government schemes for women over the years, there has been a growth of local women's groups especially in the rural areas. These groups are the result of considerable mobilisation at the village level, which may have occurred spontaneously, or through the interventions of NGOs, or Governmental efforts. In many cases, the presence of women *panchayat* members and *sarpanches* has also helped the growth of these organisations. These organisations are of different types. Earlier there was an emphasis on *mahila mandals* which undertook a variety of activities. In recent years, the emphasis has shifted to self-help groups.

9.163 People's Organisations: Although, many different types of organisations are in existence, the Study Group has recommended that

efforts should be made to promote membership-based organisations or 'people's' organisations. A people's organisation is one that is controlled by the people whom it serves. This control can be of different forms. In the case of small organisations, they could be run, managed and controlled by the people. Bigger organisations, on the other hand, would have to employ skilled persons, maybe professionals, but the guiding force of the organisation must be the people themselves. The form of the organisation often determines the degree of control that members exercise. A people's organisation should be democratic.

9.164 Membership - Based Organisations (MBOs) and Non-Governmental Organisations (NGOs): It is important to point out the difference between MBOs or people's organisations, and NGOs. Although voluntary action is a part of both, a people's organisation is composed, controlled and run by the people for whom it is intended. An NGO, on the other hand, is set up to provide a service to society or a section of society. It is a purely voluntary organisation without any intended benefit to those who control and

manage it.

9.165 NGOs have played a very important role in our society. In recent years, they have moved from welfare-oriented services to development-oriented perspectives and actions. NGOs have often been set up by middle class people who are driven by a strong desire to contribute to society and to development, and who are willing to give up a career-based life for a service-oriented one. However, there is a danger that the very enthusiasm that drives the NGOs, inhibits the growth of the people's organisation, as it often takes over the functions of the latter, decreases or dilutes self-reliance, and is unable to build up the people's capacity to run their own organisations. For these reasons, even though many NGOs are playing an important and beneficial role, they cannot provide a substitute for people's organisations.

9.166 Recognition Of Organisations: The first step towards the effectiveness of an organisation is recognition. When an organisation and its office-bearers are recognised by the existing structures, they are

able to represent its members. For instance, an agricultural workers' trade union has to be recognised by the local farmers and by the District Officer, before it can bargain for higher wages, while a bamboo workers' co-operative has to be recognised by the forest department before it can obtain bamboos at wholesale prices.

9.167 However, one-time recognition is not enough. These organisations have to deal again and again with the same structures and institutions; the same employers, farmers, contractors etc, and the same product and financial markets. Often, after great effort and struggle, an organisation does get recognised, and its demands get addressed. But then, circumstances change, people change, and the organisation has to go through the same process again to get recognition. For example, a sympathetic municipal commissioner may recognise a vendors' union, but he gets transferred, and the new one may not be ready to listen to them. A local bank manager may be positive, and may give loans to women workers, but the next manager, or the manager in another branch may not. For poor women, already over-

burdened by too much work and too many obligations, it may not be possible to go through this process of securing recognition again and again. Consequently, the organisation collapses or becomes ineffective. So, recognition has to be formalised, preferably through written agreements or registration.

9.168 Experience has, however, shown that the process of acquiring and maintaining recognition for an organisation in the unorganised sector is long and tedious, and full of struggle. This is because there are no systems or recognised legal processes, whereby organisations can be formed, sustained and recognised, or, whereby they can enter into dialogue and bargaining on an ongoing basis. What is required is a system by which an organisation of unorganised women workers can be recognised by the existing structures. Once granted recognition, they automatically acquire certain rights. We need to take it further than the trite commitment to grass-roots consultation to which everybody pays lip service, and give it practical meaning and teeth to be able to function effectively. Workers in the formal sector do have this kind of voice representation because of the

vast array of local, regional, national, statutory, tripartite and international negotiating fora which they make use of to be heard by different powers. A similar framework has to be identified to enable workers in the unorganised sector, particularly women workers, to acquire recognition, access and power.

STUDY ON MEMBERSHIP BASED ORGANISATIONS

9.169 With the assistance of the International Labour Organisation (ILO), the Study Group commissioned a study to evolve appropriate strategies and policy recommendations for the empowerment of women workers on the basis of the experiences of selected case studies of organisational forms that have been employed by women workers. The study covered ten cases of organising women. Of these, two are registered societies, three are co-operatives, three trade unions, one is a trust, and another an ILO experiment to empower women workers in the informal sector through existing unions. The organisations

thus selected were:

- a) Bangalore *Gruha Karmikara* Sanga, Bangalore, Karnataka;
- b) Kagad Kacha Patra Kakshakari Panchayat, Pune, Maharashtra;
- c) SEWA- Madhya Pradesh;
- d) Sramjibi Mahila Sanghattan, West Bengal;
- e) Ama Sanghattan, Orissa;
- f) Wahingdoh Women's Industrial Co-operative Society and Nontuh Women's Multi-purpose Co-operative Society, Shillong, Meghalaya;
- g) Ankuram, Sangamam, Porum, Mutually Aided Co-operative Society, Andhra Pradesh;
- h) Shakti Mahila Vikas Swavlambi Sahayog Samiti, Patna;
- i) Annapurna Mahila Mandal, Mumbai, Maharashtra; and
- j) Trade Union Collective, Tamil Nadu.

In addition, the Self Employed Women's Association (SEWA), Gujarat, was studied to examine the structure of various types of MBOs.

9.170 The study found that organising women workers in the informal economy has been in practice in several parts of the country with varying degrees of success. The purpose, origin, size, structure and *modus operandi* of these practices vary. There are state - sponsored worker's co-operatives, NGO - initiated organisations, government - NGO collaborations and political party-based unions. These are formed mainly for the purposes of poverty alleviation *per se*; for providing employment, security and social security as an integrated approach to development, exclusively for the empowerment of women; and as a mechanism of class consolidation. According to the specific purpose, co-operatives, trade unions, associations, and self-help groups for credit and savings, among others, are formed and promoted. A general trend of change is observed among these organisations. Over the years, most of them have drifted away from income generation and employment security, or solely organising women for the purpose of advocacy towards more comprehensive development-focused approaches that aim at organising women for their

overall economic and political empowerment.⁵ Various factors have contributed to this trend, significant among them being the realisation that an improvement in economic status through income generation and increased work participation of women does not necessarily lead to economic and political empowerment, and the recognition of certain limitations of the models of organising women, which are not backed by specific strategies and mechanisms of empowerment.⁶

9.171 Although many different types of organisations are in existence, the study concentrated on Membership Based Organisations (MBOs), or what we have been calling people's organisations, and went into depth to discover what makes an MBO succeed, and what measures are needed to promote a large number of women workers' MBOs all over the country. There is a major difference between NGOs and MBOs. We have already pointed it out. Trade unions are

MBOs, but due to their current limited focus, they have not yet been able to organise women in the unorganised sector. As most of the initiatives in organising women workers are being undertaken by the NGOs, and as traditionally, organisations of workers are understood to function within the framework of trade unions, it is imperative to define the specifics implied by the term MBOs. The latter are better understood in relation to NGOs and trade unions. MBOs, in a sense, can possess the strength of both.

9.172 Many NGOs have created membership-based satellite organisations or have adapted a more flattened organisational structure. Organisations, which are member-based, have the advantages of autonomous functioning and a focused action plan, besides the quality of being democratic. Since membership needs a commonality, it is necessary to build a social or an economic identity amongst the individuals for constituting a member - based organisation. Membership in organisations also ensures the participation of stakeholders as well as equity in the distribution of tangible and intangible benefits.

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⁵ Carr M. et al, (ed) 1996: Speaking Out: Women's Economic Empowerment in South Asia, Vistaar Publication, New Delhi.

⁶ Farrington, J. et al (ed) 1993: Non-Governmental Organisation and the State in Asia, Routledge (London).

9.173 Issues Of Membership-Based Organisations (MBOs): The two main forms of membership - based organisations that exist today are trade unions, and self-help groups or co-operatives. However, the more effective organisations tend to cover many different activities of both struggle and development. Further, these organisations tend to work not as solitary bodies, but as a 'cluster' of organisations which include trade unions and self-help groups and co-operatives. In general, many of these organisations have been sponsored by NGOs, as a result of which the NGO-women's organisation relationship has acquired importance, and needs to be looked at more closely. In some cases, the existing trade unions have encouraged the growth of women's sections within their own ranks, but the success of these sections or departments is yet to be assessed by internal evaluation or external evaluation.

9.174 Trade unions have also been trying to bring in women into their fold but there is a feeling that women workers are marginalized in Trade Unions. One woman TU leader asked us whether we would recommend 33% reservation for women leaders in

the elected bodies of TUs. There have been efforts to address this issue. Despite these efforts, however, the trend largely remains the same as in the larger political sphere. However, the few successful steps taken by trade unions to incorporate the interests of women workers in the informal economy are worth mentioning. The *Hind Mazdoor Kisan Panchayat* has formed co-operative societies for women mat weavers in Kodungallur and for potter women of Aruvacode in Kerala. Similarly, the *Beedi Workers Union* in Belgaum district and the *Chikodi Taluka Kamgar Mahasangh* in Karnataka have organised 7000 women workers in Nipani with extension activities like *SAVALI*, a trust for *devadasi* women and a consumer co-operative society for members. However, it has been found that the leadership of these societies continues to remain in the hands of men who often oversee policy making, and a second level leadership does not develop. It will be interesting to recall the origins of the WWF and SEWA, in this context. Both the initiatives were begun by women trade union activists in the model of a trade union, but for the informal sector, and addressing the inadequate representation of women

workers in the traditional trade unions. During the course of the study, it was found that a number of trade unions in Tamil Nadu, mainly in the agricultural and plantation sectors, are attempting to get together to form a collective. However, as compared to the widespread efforts of NGOs, these efforts are few and far between.

9.175 While examining the activities of these MBOs, one notices that the more successful ones are intensely involved in the core issues affecting unorganised workers, i.e. employment and earnings. At the same time, they take up other social and economic issues as well. They tend to be multi-faceted, dealing with many issues and intervening at various levels in the economy as also in social and political processes. Furthermore, all of them employ methods of struggle as well as of development. For example:

- a) The KKPKP (*Kagad Kacha Patsa Kabshabari Panchayat*, Pune (Wastepickers Association) demands higher rates and access to scrap, and wants to be covered by the Unprotected Manual Workers (Regulation of Employment and Welfare) Act. At the same time, the Association has opened a co-operative shop for trade in scrap. It encourages savings and credit among its members, and has been trying to stop the practice of child marriages.
- b) SEWA-MP agitates for higher wages, provident fund, etc. for *beedi* workers and tendu leaf collectors, and at the same time, sponsors societies for savings and credit and co-operatives for alternative employment. It also sets up *balwadis* and health centres.
- c) The Trade Union Collective at Chennai runs income-generating projects.
- d) The *Shramjibi Mahila Samiti* (West Bengal) organises programmes for employment guarantees [Employment Assurance Scheme (EAS) and Jawahar Rozgar Yojana (JRY)] for women, and at the same time runs a *Khula Manch* (Open Forum), to arbitrate in social issues.
- e) The *Ama Sanghatan*, Orissa is a co-operative for minor forest

produce gatherers, but at the same time runs a grain bank and mobilises for minimum wages among its members.

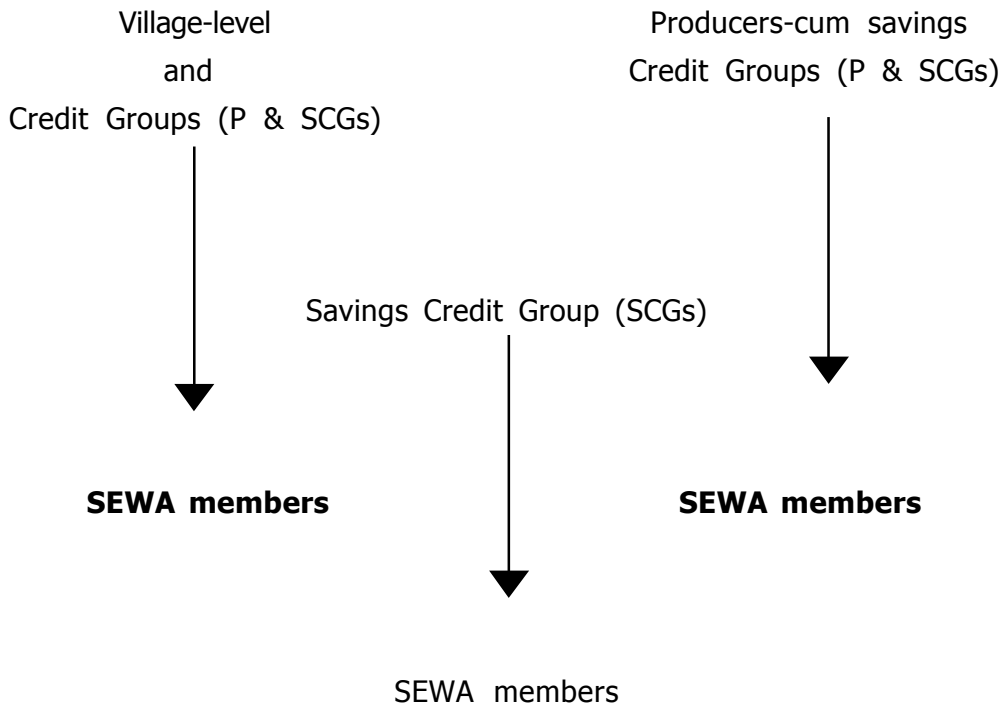
- f) The ASP (*Ankuram Sangamam Porum* - mutually aided co-operative society, Andhra Pradesh) promotes self-help groups (SHGs) and micro-enterprises for women, but also, works on redistribution of land

to the landless, and struggles for equal wages and dalit rights through Trade Unions.

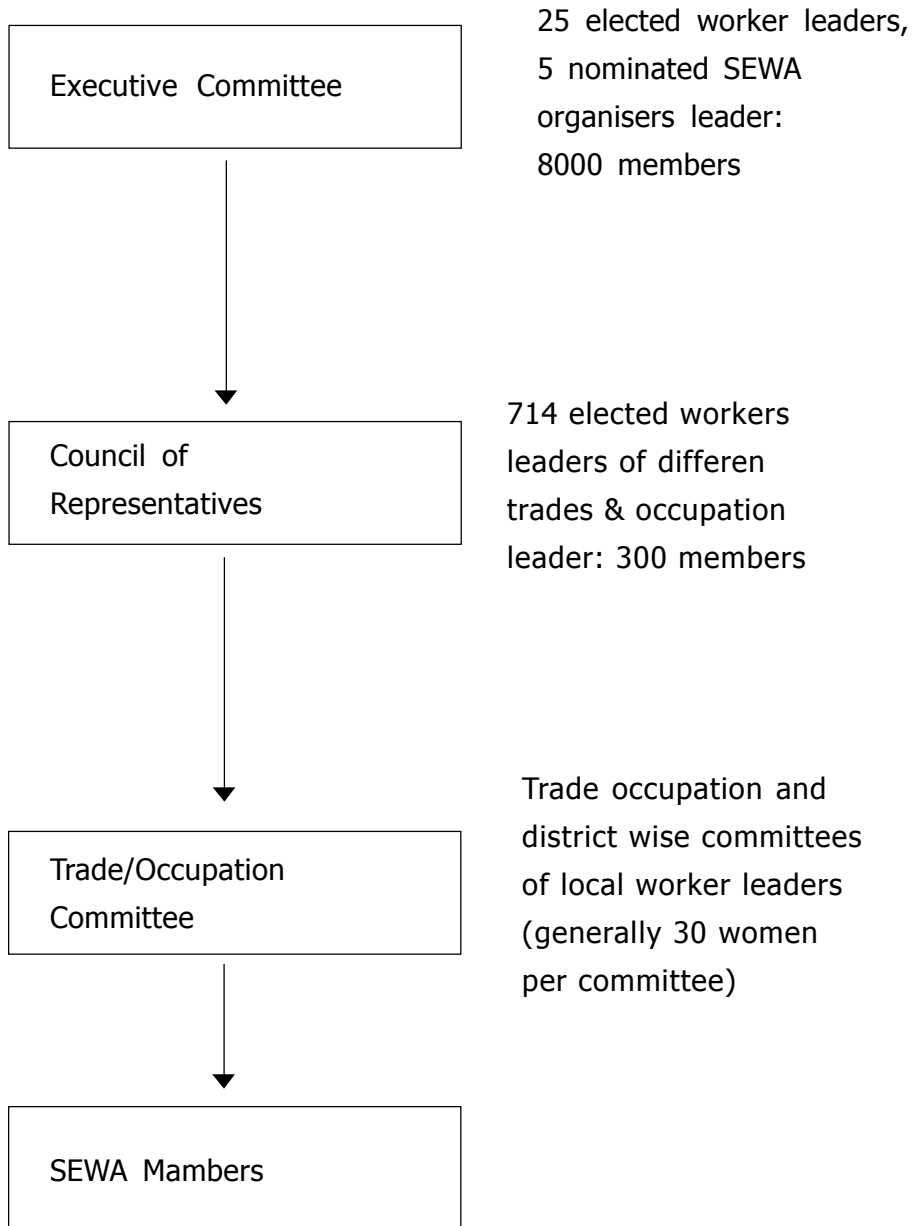
9.176 The largest co-operative is the SEWA Bank with 1,50,000 members. Members of one co-operative are also members of the SEWA Bank and they are also members of the SEWA union. It may be useful for us to look at the

structure of the SEWA organisation.

Structure of District-level Associations



Structure of SEWA Union



Note: Since it is a union, the number of leaders in the Council of Representatives and eventually in the Executive Committee depends on the membership (i.e. actual numbers) in each trade or occupation group.

9.177 ISSUES OF SIZE AND ACCESS TO LARGE NUMBERS:

Organisations can be effective only if they can reach large numbers of workers, and build solidarity among them. One of the reasons for the success of the trade union movement in the past, has been its size and hence its capacity to represent a large number of workers.

9.178 As regards size, membership based organisations are quite large in absolute numbers, given the difficulties involved in organising these workers. SEWA in Gujarat has a yearly paid membership of 2.27 lakhs, while SEWA, MP has 80,000 members. The ASP (AP) has 1.5 lakh members in its SHGs. However, in relation to the number of workers, the coverage is low. The main question that arises is: What are the ways in which these small but successful organisations can be up scaled?

9.179 RECOGNITION AND REGISTRATION :

These organisations continually face problems of recognition, both of the organisation, and of the women workers who are their members. Each of the organisations that were studied has

been demanding identity cards for its members from one official source or another, since they see the cards as a token of recognition for their members as workers. Recognition as workers is the first step towards bargaining for better wages and working conditions. For example, forest workers' unions demand identity cards from the forest department, domestic workers from their employers or from the labour department, rag pickers from the municipality, and agricultural labourers from the District Officer.

9.180 But organisations often face resistance against recognition when they apply for registration. Those that want to register under the Trade Union Act, generally run into problems with the Labour Department. Many organisations are unable to get registered at all. In fact, the Trade Union Act is very liberal in that any seven workers can get together and form a trade union. Furthermore, there is no particular definition of worker. It states, "all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises." Thus, the term workman has not been independently

defined, it has been explained vis-à-vis the term 'trade dispute.' Since the power for registration of trade unions lies with the State Labour Departments, the interpretation of the Act is done by the Labour Commissioner in each State. Most Labour Commissioners associate trade unions with the formal sector and they, therefore, tend to question whether these organisations can be recognised as trade unions. Some of the questions they raise, as reported, are

- a) There is no employer, so with whom will you bargain?
- b) How can you have a union which will include many different types of workers?
- c) How can you have a union of self-employed workers when they are not 'workers'?
- d) How can workers who have no fixed place of work be organised in a union?
- e) How can you have a union confined to women since that may be discriminatory?

9.181 Some States seem to have taken policy decisions not to register

new trade unions. This decision seems to have been taken in the context of the multiplicity of trade unions in the formal sector enterprises, where too many unions inhibit both the bargaining process and the functioning of the enterprise. However, there is no such multiplicity in the unorganised sector. On the contrary, trade unions hardly exist in this sector, but policy decisions taken in the context of the formal sector seem to be automatically extended to the unorganised sector too, without the necessary application of mind.

9.182 Co-operatives too face multiple problems while seeking registration. Non-recognition of the woman worker herself leads to non-recognition of the co-operative. The power of registration of co-operatives lies with the Registrar of Co-operatives, and, as in the case of trade unions, many registrars find it difficult to understand these types of workers, or what they can do collectively. The registration of co-operatives of forest workers or of rag pickers is also hampered by similar problems. The registration of a co-operative which provides services such as cleaning or catering, on the other hand, is impeded by the fact

that most States do not have 'service' co-operatives in these categories.

9.183 However, the major problem that co-operatives face in registration is the amount of paper work and procedures involved. Firstly, the model by-laws prepared by the department do not usually suit the needs of the workers concerned, and have to be modified. This, in itself, is tantamount to a major confrontation with the department. Secondly, the procedures of registration (such as the number of documents required, rules and regulation, etc.) are usually very complicated, and beyond the means of even an ordinary educated person, let alone illiterate women. Thirdly, most departments dealing with co-operatives delay the process of registration or make it quite expensive. There are also complaints of corruption.

9.184 These problems may now be overcome with the passing of the new Mutually Aided Co-operatives Act, which has come into force, first in Andhra Pradesh, and then, in other States. Registration under the

Societies Act is considerably easier than under the other Acts, as NGOs have been well recognised by the State. However, it is more difficult to be a genuine member-based organisation as the Societies Act is basically designed for voluntary and charitable societies. Moreover, technically the Societies are not to be involved in 'business,' and so the goal of economic empowerment becomes more difficult. The Self Help Groups (SHGs) too are easy to form, and this is because they have been recognised by the National Bank for Agriculture and Rural Development (NABARD) and other formal financial agencies. However, these are unregistered, and thus, have no legal standing. In order to sustain themselves, they eventually have to come together to form a co-operative or a society.

9.185 SUSTAINABILITY: The sustainability of the organisations has to be viewed both financially and institutionally. The financial difficulties are obvious. Since the workers belong to the poorest categories with very low and very unstable earnings, any membership fee or earnings collected from them would also be very meagre. Their organisations cannot be more

sustainable than their lives. On the other hand, experience has shown that these workers are willing to pay even out of their small and insecure incomes to sustain their own organisations. Most organisations collect a membership fee of some type, and though this is not usually enough to sustain the organisation, it does bring in some revenue, while also being a major source of commitment and involvement for the members of the organisation.

9.186 The main success of most organisations lies in their capacity to mobilise workers, to raise awareness and to run campaigns. Organisations have used many innovative methods of mobilisation and campaigning to sustain and strengthen themselves.

9.187 Another aspect of sustainability is the capacity of an organisation to manage itself in a democratic way, particularly in a manner that fosters the growth of local leadership and management.

9.188 Forming an organisation requires a great deal of effort, sacrifice and costs. The question is: What are the returns from this effort?

The study found substantial returns in terms of material gains, more employment, higher wages, access to credit at lower rates, access to healthcare, childcare, and so on.

However, the members of the organisation generally rate 'non-material' gains as the main advantage of the organisation.

9.189 MEN AND WOMEN ORGANISING SEPARATELY AND TOGETHER: One of the issues that are often discussed is whether women workers should be organised as part of a general workers' organisation or whether they should have separate organisations. In this context, the experience in our country indicates that both types of organisations do exist, and have their respective advantages and disadvantages, and roles to play.

VOICE REPRESENTATION

9.190 One of the main tasks before an organisation is to adequately represent its workers. The ILO defines Voice Representation at Work as 'effective representation leading to basic levels of security.' In

that context, Voice Representation itself constitutes a form of security for the members of the organisation. We have seen that an organisation has to go through three stages to be able to successfully represent its members. The first is the stage of recognition of the organisation and the workers who are its members. This comes during registration as also during the process of bargaining, or trying to enter the market.

9.191 The second stage of representation is the stage of formalising the recognition of the organisation. This happens with the signing of agreements and with the organisation being invited to serve as a member of existing boards, committees, etc. The third and final stage is, when the representation takes the shape of a system.

9.192 The Study Group has pointed out that as far as informal sector organisations are concerned, Voice Representation has reached only the second stage so far, and that too, only for some organisations. Most organisations have not even reached the first stage, and very few have arrived at the second. The study reports that a few organisations are being represented on the Minimum

Wages Committees, Municipal Committees and the boards of various Government agencies.

9.193 In order to ensure proper representation for women workers' organisations, it is necessary to set up decentralised systems of regulation and representation, both at the sectoral and the overall levels. We will return to this question later.

RECOMMENDATIONS

9.194 The Rules and Regulations of the Government can encourage or discourage these efforts. Existing, established organisations such as trade unions and NGOs can also serve as an impetus to 'organising.' At the same time, membership based organisations themselves need to learn from the experiences of others. The recommendations that follow are therefore directed to Governments, organisations of civil society and Membership Based Organisations themselves.

9.195 Governments : We recommend that the Governments should:

a) Allow widespread registration of

- MBOs of women workers under the Trade Unions Act and issue special explanatory guidelines to all Labour Departments to facilitate this;
- b) Promote Mutually Aided Co-operative Acts in each State and issue special guidelines for the registration of such co-operatives of women workers;
 - c) Frame and enact a special Law for micro-finance organisations;
 - d) Ensure that the economic demands and struggles of women workers' organisations are not in routine fashion treated as 'law-and-order' problems;
 - e) Issue identity cards to all women workers;
 - f) Wherever possible, recognise MBOs as implementing agencies for Government schemes;
 - g) Recognise MBOs in Economic Promotion Zones (EPZs) to protect women workers in this zone;
 - h) Set-up Voice Representation Systems for MBOs of women workers by;
 - Setting up recognised councils of women workers' MBOs, which include Government representatives from different Ministries as well as representatives of industry and agriculture, and
 - Setting up for each sector, councils that are empowered to bargain on specific issues. For instance, in the forestry sector, this council can bargain for rates of minor forest products as well as criteria for issuing licences.
- i) Invest in training and research organisations for building up capacity for MBOs.
 - j) Sensitise State, district, block and panchayat functionaries on issues relating to women, so that village level women's organisations may seek their help.
- 9.196 NGOs, Trade Unions and Other Organisations: Apart from MBOs, other agencies including NGOs, trade unions and various organisations can:
- a) Play a 'promotive' and 'supportive' role for MBOs;
 - b) Support mobilising efforts of

MBOs, especially to increase awareness and membership;

- c) Support the setting up of capacity building systems including many types of training programmes;
- d) Support the attempts of MBOs to enter markets;
- e) Advocate and assist in the setting up of various forms of Voice Representation for MBOs;

9.197 MBOs: The MBOs themselves should:

- a) Try to aim at financial and managerial sustainability.
- b) Recognise that growth and up scaling are important.
- c) Try to develop second- and third levels leadership.
- d) Take the support of Government and NGOs including TUs to build strength.
- e) Work for Systems of Voice Representation.

WHAT CONSTITUTES CHILD LABOUR?

9.198 A child chasing goats or cows, cutting grass or a very young

girl washing utensils, carrying a pot of water, precariously balancing it on her head or cleaning her house while minding her younger brother in a cradle, are not uncommon images in rural India. This is the face of working children in the agricultural sector. Not so visible are the thousands of children rolling *beedis*, working in glass factories or engaged in sericulture, carpet weaving, match making, etc. Similarly, the shoeshine boy or the little child serving a cup of tea or sweeping the floor with a soggy dark piece of cloth in a 'hotel' or a *dhaba*, and the rising number of street children may be the visible forms of working children in urban townships or along highways. But there are innumerable invisible young girls and boys performing domestic chores, helping their parents employed in an urban or rural home. Some of these children attend regular school, some of them struggle to keep pace and go to school whenever possible, while some others drop out. Some of these children manage to attend night schools or non-formal education classes. Others do not even have the opportunity to visit a classroom. These are the multiple images of childhood amongst the less privileged in India.

9.199 The last two decades have seen a significant increase in data and literature on the life and worlds of working children, especially children in highly exploitative occupations such as lock making, gem polishing, carpet weaving and so on. Children in India also experience other forms of oppression and traumatic estrangement. Some are victims of sexual abuse and compelled into prostitution and pornographic performances. The number of children who are victims of trafficking in drugs is also increasing. The report of our Study Group on Child Labour in India highlights the dimensions and complex nature of the problems in the area of Child Labour. It briefly reviews efforts made by both governmental and non-governmental agencies to address the problem, the potential and advantages of various approaches and the inherent difficulties in tackling the problem.

9.200 It is universally accepted that children should not be made to work. But there are no universally accepted or comprehensive answers as to why the problem of child labour persists, and how it can be tackled. The approach one takes determines the

policies and programmes that one adopts to tackle the problem.

9.201 In the main, there are two perceptions of what constitutes child labour. The first identifies child labour as work done by children from poor households outside their home/family for a minimal wage. Firstly, children who have not become adults should be at school, and not at a place of work. Secondly, the work done by these children is not suited to their young age, and thirdly the conditions in which they work are detrimental to their well-being and safety. According to this perception, child labour is synonymous with the exploitation of poor, young children working outside their homes, by greedy and exploitative employers. It is apparent that this definition does not consider work done by children within their home/family as being exploitative, and therefore, meriting description as child labour.

9.202 The conventional definition/concept thus distinguishes between child work and child labour. Child labour is perceived to be an economic necessity for poor households, and the exploitative aspect in children's

work is associated with the profit maximising motive of commercial enterprises, or individual entrepreneurs who entice or employ children to work long hours, at low wages, denuded of opportunities for education.

9.203 This traditional concept of child labour is also endorsed by organisations like the International Labour Organisation (ILO). The ILO says, it is "not concerned with children helping in family farms or doing household chores." It defines child labour to "...include children leading permanently adult lives, working long hours for low wages under conditions damaging to their health and physical and mental development, sometimes separated from their families, frequently devoid of meaningful educational and training opportunities that could open up to them a better future" (ILO 1983). The World Bank, in a similar vein, argues that child work that does not involve an exploitative relationship should be distinguished from child labour. It further argues that in some instances, work done by children within the family may even contribute to the development of the child. "Not all child labour is harmful. Many

working children who are within a stable and nurturing environment with their parents or under protection of a guardian can benefit in terms of socialisation and from informal education and training" (World Bank 1998). Some of the witnesses who appeared before our Commission also argued that in some cases, child labour is a means of transmitting skills from one generation to another, particularly in the case of traditional crafts and skills.

9.204 The other definition of child labour put forward by groups critical of the conventional definition argues that the issue of child labour is not merely a question of whether work done by a child is exploitative and remunerative or not. According to them, all forms of work are bad for children. Any distinction is tenuous and arbitrary. It is particularly so as there is nothing to prevent the child from transiting from one category to another. For instance, in recent years much of the paid work that used to be done outside the home has been transformed to home-based work. Many activities like carpet weaving, match making and glass works which used to be done in factories and sheds, are now being done by

children within their homes. Thus, the distinction between work done by children within the home and outside the home has become blurred.

9.205 Further, the concept of segregating work done by a child into exploitative 'labour' and non-exploitative 'work' suffers from basic flaws. It is difficult to determine the circumstances in which work can be considered exploitative. Often, it is the working conditions, and not the work itself, that reflect levels of exploitation.

9.206 The advocates of this point of view argue that all children who are out of school should be considered actual or potential child labourers. An out-of-school child is often drawn into supplementing family labour, either on a full time basis, to help in the family occupation or to manage family assets or simply engage in different 'adult-releasing' activities. Hence, every out-of-school child is a potential child worker.

9.207 Supporters of this argument point out that restricting the concept of child labour to wage employment is particularly detrimental to the interests

of the girl child. First, it takes little or no cognisance of the work done by the girl child (for it is normally, the girl children who work at home assisting their mothers with household tasks such as cooking, washing and cleaning and looking after younger siblings), and hence, her contribution to the economy. It is further argued that such a narrow interpretation of the concept to cover only children actually working for remuneration may also result in fewer efforts by all concerned to get girls out of work and into school. Thus, it seems legitimate to treat all out of school children as potential working children (boys and girls) and as such potential child labour.

9.208 A definition of child labour, which equates all children not going to school with child labourers, emanates from the rights-based approach towards development which considers being-out-of school as a denial of the child's right to education. "The rights' based approach when applied to the problem of out-of-school children, dictates an inclusion of all children into the schooling system, irrespective of whether they work in agriculture, in industry or at

home” [United Nations Development Programmes (UNDP, 2001)].

TYPES AND DIMENSIONS OF CHILD LABOUR IN INDIA

9.209 In India, estimates of the number of child labourers vary, owing to differences in the methodology used for enumeration of their numbers as well as conceptual differences in defining child labour. While statistics from the census conducted by the Government of India indicate a progressive decline in the number of child labourers over the decades, results from other surveys suggest the contrary. However, in spite of these differences in estimates, it is undisputed that over 11.28 million children in India are working as child labourers, 2 million of whom are doing jobs that are detrimental to their health and safety. These include children who work in the more visible and well-documented industrial sector as well as the not so visible children who work in the agriculture sector or in crafts or in rural settings.⁷

9.210 There are children who

actually work in factories and workshops of different industries. These children work in both the organised as well as the unorganised sector, and can be found in urban and semi-urban areas. While some of them work for wages, a sizeable section of these children who work in industries and factories work as bonded labourers. The carpet industry in the Mirzapur–Badohi belt of Uttar Pradesh (UP) and the *beedi* industry in Andhra Pradesh, Madhya Pradesh and Tamil Nadu are particularly notorious for employing child bonded labour and the plight of these children is well documented. Many of these children, who belong to the Scheduled Castes and Scheduled Tribes, are pledged by their parents either to the factory owners, or their agents or middlemen in exchange for small loans. The children work for long hours, and are paid wages that are much below the prescribed minimum wage. As the parent of a child working in the *beedi* industry observed:

.....
⁷ Source: 1991 Census, Annual Report of Ministry of Labour, 1999

"I have mortgaged my seven-year-old girl, and eight-year-old boy to a Sheth (money lender) three years ago for a loan of Rs. 200 (Rs. 100 on each child). They work all the time for the master. Their total wage should be at least Rs. 20 a day. However, the Sheth has been paying them each Rs. 2. 50 a day, out of which he deducts half every day."

9.211 Most of the children are very young when mortgaged. In the carpet industry, middlemen even encourage families to mortgage children less than 12 years of age. Many of the mortgaged children become bonded over very small sums of money, and many of them continue to be in bondage even after both principal and interest have been paid back in full. This is because loan repayments are manipulated by creditors against the interests of the illiterate parents of these children.

9.212 Besides working in the factory/industry, children are also forced to do other work for their employers such as grazing cattle, working in agricultural operations, fetching water from far off wells and other odd jobs. They are never paid for these jobs. Children who try to escape are often

severely tortured.

9.213 Besides employing children who are mortgaged by poor parents, other methods are also used to recruit children to work in industries. A very common practice in the brass industry is to use the services of middlemen or contractors, who are paid a commission for bringing child workers. Contractors and workshop owners prefer children because they are easy to control. Their parents are offered an advance of Rs. 100 or the equivalent of a month's wage. If a parent takes an advance, the child has to work whether he likes it or not. If he plays truant, the wages of other children from the same village are cut. Instances of children being kidnapped for the purpose of working in the carpet industry have also been reported. Again, children are often lured by false promises of education and good wages.

9.214 Bonded child labour is not confined to the carpet and *beedi* industries. A study conducted in the Sivakasi match factories in Tamil Nadu, reported one woman as saying: ...' the child in the 'womb' is pledged to the factory, and consumption and maternity loans are

obtained on the undertaking that the child born, girl or boy, would work for the factory!' A large number of children also work as bonded slaves in glass factories.

9.215 Depending on the nature of work, the industry in which they work and the circumstances of their coming to work, children are subjected to various forms of exploitation. Their working conditions are shocking. In extreme cases, they are often tortured and made to work for twenty hours a day without a break. It has been reported that in some units little children are made to crouch on their toes, from dawn to dusk everyday, severely stunting their growth during formative years. We were told of *dhabas* where children who are employed are woken up in the morning by splashing hot water on their faces.

9.216 Work in the carpet industry is often the cause of tuberculosis in a large proportion of workers, and it is considered one of the most hazardous of jobs. But this industry employs the largest number of children.

9.217 Apart from factories and workshops, children are also employed

to work in open cast mines in the private sector especially in small mines. Young children below the age of fourteen years, together with women, form a very sizeable proportion of the labour force in the open cast mining and quarrying industry. While in Rajasthan, they work mainly in marble mines, in Madhya Pradesh and Meghalaya they work in limestone quarries. They work mainly for private mining companies, in unorganised kilns, quarries and mines, and are engaged in backbreaking work, carving out chunks of stone from the earth, breaking them up and carrying them in baskets to the edge of the pit.

9.218 Besides these children who actually work in factories and workshops, a number of working children are also found in home-based work, helping their parents. Their parents are normally piece-rate workers, who are paid according to the number of units of output they are able to produce. The children are drawn into this work to help their parents, owing to abysmally low wages that are paid to an adult. Such home-based work is quite typical to a number of industries such as the *agarbatti* (incense sticks) industry

spread out in Andhra Pradesh, Madhya Pradesh, Maharashtra and Gujarat, the garment industry in West Bengal, the coir industry in Kerala and the *beedi* industry in Tamil Nadu, Karnataka, Andhra Pradesh, Gujarat and Maharashtra.

9.219 Children work in the agricultural sector as well. In fact, a major proportion of the child labour force is found in this sector. Many of these children work as agricultural labourers, some of whom are bonded labour. Child bonded labour in rural areas / agriculture is an inter-generational phenomenon. Most of the child bonded labourers in the rural areas are sons or daughters of bonded labourers. Usually a grandfather or father has taken a loan in his youth. After working for several years when the man becomes too old to work, his master demands that the young son/s be sent to replace the father. Thus, around the age of ten the young child is introduced into the system of bondage.

9.220 The not so visible face of child labour in agriculture includes the young boys and girls who work as part of family labour. Coming from poor rural households, these children are forced to take on a number of "adult-

releasing" tasks so that their parents are free to engage in direct productive activity. This is especially true of the girl child, who has to take on the responsibility of fetching fuel-wood and fodder, looking after younger siblings, cooking, washing utensils, and grazing cattle. However, despite evidence to the contrary, the contribution of these children to the economy is not taken into account.

9.221 There is also evidence that children are employed in plantations. Studies show that the percentage of child labour in the tea plantations of Assam and West Bengal is quite high. An analysis of the Plantation Act reveals that the Act, in fact, allows children above the age of 12 to be employed as permanent workers. This is contrary to the provisions of Child Labour Act of 1986, which prohibits employment of children below the age of 14 in any occupation.

9.222 Urban metropolitan centres and semi-urban areas are home to another category of working children viz., street children. These children who work for survival, usually live in public places such as railway stations, bus stops and footpaths, and are without the atmosphere of protection

and support that they would have received in their families. While some of these children, such as shoeshine boys, newspaper vendors, rag-pickers, hawkers and vendors, are self-employed, others work in establishments like *dhabas* (small way-side eating places), or as domestic servants and coolies (porters), as casual labourers on construction sites, as helpers in shops, and so on. A factor that is generally common to all street children is the physical separation from their families. Fear of physical abuse, either at the hands of their parents, or a previous employer, is the main reason why children leave their home.

9.223 Working children are often found amongst migrant families as well. They work at construction sites, sugar factories, brick-kilns, mines and plantations where circumstances do not permit the parents to leave the children at home. Numerous studies have documented that children of migrants form a very large percentage of the non-domestic non-monetary child labour force. Another sub-group falling into this category comprises children, particularly girl children, who accompany their mothers working as part-time

domestic servants. This happens often because of the perceived vulnerability of the female child to sexual abuse in the setting of the urban slum, which pressurises the parents to see that she is never left alone. Domestic work, categorised as non-hazardous by the existing laws, can turn hazardous for a child. Being beaten for breakages, or for not being quick enough, being starved, are commonly mentioned as penalties imposed by the employer. Many researchers and activists who have painstakingly interviewed these child workers and even rescued some of them, report innumerable instances of this kind.

9.224 These examples reveal the travails of millions of children in India and the exploitative nature of child labour, and its sociological and economic dimensions. Children are also found among victims of disasters, natural as well as man made, drug abuse, physical neglect within the family, and being sold and trafficked in for prostitution, producing pornographic material and drug peddling. Besides, there are also children whose services are dedicated to a deity in early childhood (e.g. *Devadasis, Jogins*). These children

are not paid for their services, and often end up as prostitutes in adulthood.

9.225 It is also necessary to take note of the impact that work itself has on the health and education of children who work as child labourers. Working in unhygienic and crowded conditions, children suffer from many occupation related diseases. In the lock industry,* children work with potassium cyanide, tri-sodium phosphate, sodium silicate, hydrochloric acid and sulphuric acid. They inhale noxious fumes, are exposed to electric shocks, and suffer from tuberculosis, bronchitis, asthma and other diseases. As has been stated earlier, tuberculosis is a common occupational health hazard in the carpet industry too. In the brass industry, children work at high temperatures and inhale the dust produced in polishing. The glass industry is particularly hazardous since children carry molten glass and work around furnaces with intense heat. Children working in hazardous occupations, including agriculture-related work, often do so without safety equipment, and are, thus, prone to accidents.

9.226 As for education, it has been observed that child workers in India are largely illiterate. Most have never been to school. Since education is not compulsory, children begin work at very young ages. Even children of pre-primary-school age can be seen working in cottage industries. In fact, child labour is keeping children out of school and contributing to the growth of illiteracy especially among girls. Employers prefer to employ young girls since they are paid lower wages than boys.

9.227 Few children outside of agriculture and traditional crafts can be said to be apprentices, learning traditional family skills. Glass bangle-making and glass blowing are no longer hereditary occupations, and the children employed in them are not acquiring special skills. In the lock industry children work on buffing machines, electroplating, spray painting, filing components, making springs, assembling and packing locks. The urban working children described here are in relatively new occupations and few are following in the footsteps of their parents. The image of the child as an apprentice to a master craftsman is therefore illusory. In reality 'skills' acquired by

the children are of a low level: simple, routine, involving manual tasks or carting.*

GROUP'S APPROACH TO CHILD LABOUR

9.228 The approach of the Group on Women and Child Labour has been that the child, the child's welfare and the child's future should be central to our programmes, and to our laws. Children are the future of our society, and our economy. Every child should have the opportunity to develop his or her skills and potential, to participate both as a citizen and as a worker. In today's society, a certain level of schooling is necessary for each person to feel an equal. Moreover, with a rapidly changing economy, to deny schooling to any group of children is to forever deny them an

opportunity to acquire skills and earn a decent livelihood. A child-centred approach to child labour is, therefore, not merely to save the child from severe exploitation, but also to ensure that she or he has the chance to a future. The Commission endorses this approach.

9.229 In this context, we will like to quote from the UN Human Development Report of 1996. "Millions of children are put to work in ways that deny them their right to childhood. These children invariably work long hours every day in poor, unhealthy and hazardous conditions – knotting carpets, packing matches into boxes, picking garbage, carrying molten glass – without respite and recreation. Such work frequently leads to chronic illnesses, destroyed eyesight, physical and intellectual

* For details see 'Child Labour in Home Based Lock Industries of Aligarh – NLI Research Studies Services No 018/2000/

* The portrayal of the types and dimensions of child labour in this report has largely been drawn from the following sources.

- Bonded Labour in India : National Survey on the Incidence of Bonded Labour, Final Report (New Delhi : Biblia Impex Private Limited) 1981.
- Born to Work, Child Labour in India, Neera Burra, Oxford University Press, 1997
- Juyal, B.N. et al Child Labour: The Twice Exploited (Varanasi: Gandhian Institute of Studies) 1985.
- Marla, Sarma, " Bonded Labour in Medak district (A.P.)" in NLI Bulletin, vol. 3, no. 10, October 1977.
- Mehta, Prayag, " Mortgaged Child Labour of Vellore. Women Beedi Workers Tale of Woe" in Mainstream, vol. XXVII, no. 1, 3 September 1983.
- The Child and the State in India, Myron Weiner, Oxford University Press, 1992

stunting and, in many cases, even premature death. Most of these children belong to marginal communities and to socially and economically deprived groups. The worst consequence of all may be that child labour keeps children out of school, thereby preventing the development of their capabilities – a priority for a long-run solution to poverty and exploitation.

9.230 “The unjust employment of children, unlike unemployment and underemployment, has received little attention until very recently. Estimates of the number of employed children vary from 14 million to 100 million in India, 2 to 19 million in Pakistan, 5 to 15 million in Bangladesh, 2 to 7 million in Brazil, 1.3 to 13 million in Mexico, and some 12 million in Nigeria. In Africa, more than 20% of children are considered to be working, and in Latin America between 10% and 25%. Some of the most widespread forms of child labour – domestic help, agricultural and bonded workers, especially girls – are largely invisible.

9.231 “Child labour is not an economic compulsion of all poor families. It is the consequence of extreme social and economic

exploitation. The only way by which it can be eliminated is by prevention.

9.232 “The only way to prevent child labour is to recognise that the rightful place of children is in school, not in the workplace or in the house. So, the first step is to ensure compulsory primary education for all children. Historically and worldwide, wherever child labour has been abolished, this is how it has been done.

9.233 “At the same time, a set of complementary measures need to be put into place: income enhancement programmes for the poor, payment of minimum wages, the empowerment of women, and enactment and enforcement of appropriate laws, and social services for the families of child workers.

9.234 “More broadly, public action must be mobilised along all fronts (among non-governmental organisations, trade unions, the media, human rights activists, trade associations, employers’ organisations and even among children), to change attitudes towards child labour and to build public pressure against hiring children.

9.235 “Any programme seeking to

deal with the problem of child labour, has to address all the children out of school. It has to bring into its ambit all out-of-school working children irrespective of the nature of the work they do. A second, equally significant consideration is to see the link between eliminating child labour and universalising elementary education. They become almost synonymous. One cannot be achieved without achieving the other. The task of withdrawing children from work therefore, becomes the same as inducting children into school. The fundamental belief on which the programme has to be based is that parents, even poor parents, are not only capable of sending their children to formal day time schools but are also wanting or willing to do so. Viewing all out-of-school children as

potential child labour, irrespective of the nature of the work done by them, would treat the elimination of child labour and the universalisation of elementary education as inseparable processes, the obverse and reverse of the same coin, the success of one automatically leading to the success of the other.

9.236 "Briefly stated therefore, the entire strategy would have to be based on promoting the norm that no child should work, and all children should be in schools. It is only this strategy that can enable children engaged in agriculture comprising nearly 85% of the child workforce to come out of their present plight."

Some facts about child labour in India

Numbers

- a) India has the largest number of children engaged in child labour in the world in absolute numbers. While the 1991 census puts the number at 11.28 million, the 50th round of the National Sample Survey (NSS) conducted in 1993-94, estimated the child labour population at 13.5 million. The Operations Research Group in a study in 1980 estimated 44

million children below the age of 15 years to be working in economic, non-economic and household activities.

- b) An important source of data to make an estimate of the number of working children is the number of children out of school. As per the estimates for 1995-96, there were 173 million in the age group of 6-14. Of these, 110 million children were estimated to be out of school. Of these 110 million children, 60 million are girl children.⁸
- c) There are about 74 million children who are neither enrolled in schools nor accounted for in the labour force, who come under the category of "nowhere" children.

Sectors

- a) The incidence of child labour in India is more rural than urban. More than 90.87% of the working children are in the rural areas and are employed in agriculture and allied activities and in household chores. Cultivation, agricultural labour, livestock, forestry and fisheries account for 85% of child labour.
- b) In the urban informal sector, child labour is found in small-scale cottage industries, in tea stalls, restaurants, workshops, factories, and domestic service and on the streets.
- c) Children working in manu-facturing, servicing and repairs account for 8.7% of the urban child labour force. Out of this only 0.8% works in factories.

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⁸ GOI 1995-96 Estimates MHRD, NCERT, SAIES provisional Statistics

- d) In the non-agricultural sector, child labour is found in many activities such as:
- Carpet industry in Mirzapur-Bhadohi belt of Uttar Pradesh (UP)
 - Match and fireworks industry of Sivakasi, Tamil Nadu
 - Diamond cutting industry of Surat
 - Glass industry of Ferozabad
 - Pottery industry of Khurja
 - Brassware industry of Moradabad
 - Tea plantations of Assam and West Bengal
 - Silk weaving industry of Varanasi
 - Sports goods industry in Meerut and Jalandhar
- e) About two million children are engaged in employment that is characterised as “hazardous.” In certain communities where social and caste factors are important, bonded child labour is also present.
- f) Commercial and sexual exploitation of children in the form of prostitution is also present in urban areas.
- g) The unorganised and informal sectors, both in rural and urban areas, account for almost all the child labour force.

Distribution

- a) The incidence of child labour is high among Scheduled Castes and Scheduled Tribes and agricultural labourers.

- b) Among the States, child labour is predominant in the states of Uttar Pradesh, Bihar, Madhya Pradesh, Andhra Pradesh, Orissa, Karnataka and Tamil Nadu, and is mainly found in poor areas and among disadvantaged and marginalised groups in society.
- c) The distribution of child labour in various states appears to indicate certain correlations:
 - States having a larger population living below the poverty line have higher incidence of child labour.
 - High incidence of child labour is accompanied by high dropout rates in schools.

Male/Female ratio

- a) There is no appreciable predominance of male or female children in the child labour population. Male: 54.82%; Female: 45.18%
- b) The concentration of female workers in the agricultural sector is quite high (83%). Of this 52% are agricultural labourers.
- c) Among the male child workers, 78% are concentrated in the agricultural sector.
- d) More female children are engaged in low paid jobs as compared to males.

TOWARDS ELIMINATING CHILD LABOUR: EXISTING LEGAL FRAMEWORK

9.237 CONSTITUTIONAL PROVISIONS: The action that the state has directed towards children has been guided by certain fundamental legal norms. These, in India, are rooted in two important documents:

The Constitution of India and the UN Convention on the Rights of the Child, which India ratified in 1992. The Constitution of India, through various articles enshrined under the Directive Principles of state policy, lays down that child labour in factories, mines and other hazardous occupations should be prohibited (Article 24); that free and compulsory education should be given to children below the age of 14 years (Article 45) and that children should not be forced by economic necessity to enter avocations unsuited to their age and strength (Article 39-e). The Constitution also states that children should receive opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that children should be protected against moral and material abandonment (Article 39-f).

9.238 The UN Convention on the Rights of the Child (CRC) is the first and most comprehensive instrument on children's rights that is legally binding on all the States which ratify it. It was unanimously adopted on 20th November 1989, and was ratified by India in 1992. This implies that India has accepted the legal obligations of bringing its existing laws, policies and programmes in line with the international standards laid down by the Convention. The CRC recognises the indivisibility and inalienability of child rights. It provides the following guidelines for examining the implementation of the convention:

- a) The principle of non-discrimination (Article 2);
- b) The Best interests of the Child (Article 3);
- c) The right to life, survival and development (Article 6); and
- d) Respect for the views of the Child (Article 12).

Further details can be seen in the Annexure of this Chapter.

9.239 Some of the witnesses who appeared before our Commission

raised the question of the Conventions of the ILO that related to Child Labour. Some among them complained that delegations from India, including the representatives of the delegation were very active at the ILO's Annual Conferences, creating opinion in favour of these Conventions, but India was found wanting when it came to the question of ratifying the very Conventions for which the Government had canvassed at the stage of formulation. The ILO has 30 Conventions and recommendations that relate to Child Labour. Of these, we have ratified 8 Conventions. They are: the Minimum Age (Industry) Convention, 1919; Minimum Age (Trimmers & Stockers) Convention, 1921; Minimum Age (Underground Work) Convention, 1965; White Lead (Painting) Convention, 1921; Prohibition in work involving ionising, Radiation Protection Convention, 1960; Night Work of Young Persons (Industry) Convention, 1919; Night Work of Young Persons (Industry) Convention (Revised) 1948; and Medical Examination of Young Persons (Sea) Convention, 1921.

9.240 Our attention has been drawn particularly to Convention No. 182 and

Recommendation No. 190 which deal with the "Prohibition and Immediate Action for The Elimination of the Worst Forms of Child Labour." The Convention was adopted in 1999, but the Government has not yet ratified it. The Government has stated "it is the endeavour of the Government in the long run to eliminate all forms of Labour." Yet, it has not found its way to ratify the Convention, partly because it feels that more tripartite consultations are necessary to identify occupations or processes that can be characterised as among the worst forms of Child Labour, and partly because the necessary machinery to enforce the legislation has yet to be put in place.

9.241 It has been said that: 'The Crucial Article that needs consideration is Article - 3 of the Convention. "For the purposes of this Convention, the term – the worst forms of child labour comprises:

- A) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in

- armed conflict;
- B) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- C) The use, procurement or offer of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- D) Work that by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."
- to the relation between education and elimination of the worst forms of Child Labour. "Each Member shall, taking into account the importance of education in eliminating Child Labour, take effective and time bound measures to;
- a) prevent the engagement of children in the worst forms of child labour;
- b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;

9.242 Article 4 says that the types of work referred to under Article 3 "(D) should be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employees and workers concerned, taking into consideration relevant international standards."

- c) enhance access to free basic education, and wherever possible and appropriate, vocational training for all children removed from the worst forms of child labour;
- d) identify and reach out to children at special risk, and
- e) take account of the special situation of girls."

9.243 Article 6 says, "Each Member (state) shall design and implement programmes of action to eliminate as priority (emphasis ours) the worst forms of Child Labour." Article 7 points

9.244 We understand that the hesitation in the ratification of Article

3(A) to 3(D) is because of 3(D). The arguments advanced are twofold: (i) 3(D) is not specific and (ii) the machinery necessary for implementation needs to be set up, before the law is amended to provide for 3(D). Both these arguments seem very weak. Firstly, much of what 3(D) talks of is already stated specifically in 3(A), (B), and (C). The remainder is to be identified through consultation with organisations of employers and employees, and in the context of national conditions. The instrument of a Standing Tripartite Committee has been suggested for this purpose.

9.245 Secondly, there is an effective machinery for implementing 3(A) to 3(C) that can implement 3(D) as well. Thirdly, it cannot be said that no law is enacted unless the machinery for implementation has been already put in place; that one first sets up the machinery and then passes laws.

9.246 Moreover, the Convention is meant to eliminate the worst forms of child labour "as a priority," as has been mentioned in Article 6. It seems incongruous that one says one is for the elimination of all child labour, and yet hesitates to ratify a Convention for the elimination of the worst forms

of child labour as a priority. The prolongation of such a situation may invite the charge that we are not serious. We, therefore, strongly urge the ratification of Convention No. 182 on eliminating the worst forms of Child Labour. We are happy to see that all the main central organisations of Trade Unions have asked for the ratification of the Convention.

LEGISLATION ON CHILD LABOR IN INDIA

9.247 Legislation on Child Labour in India has sought to address three broad concerns:

- a) Prescribing a minimum age limit for employment of children, and regulation of working hours for children;
- b) Ensuring a compulsory minimum level of education for children; and
- c) Ensuring the health and safety of "child labour" by prohibiting the employment of children in hazardous work.

9.248 While the first two types of legislation are interventions that attempt to discourage/reduce/prevent

the incidence of child labour, the latter intervention may be termed as a 'direct' intervention in that it attempts to deal with issues that directly affect child labour, viz., health and safety.

9.249 The main legal instruments used for prescribing minimum age limits and regulating working conditions have been the Indian Factories Act (IFA), the Indian Mines Act (IMA) and their numerous amendments. The first IFA which was passed in the colonial period (1881) fixed the minimum age of employment at seven and maximum number of hours at nine per day. It also provided for four monthly holidays. The Act was applicable only to factories that employed more than 100 workers, with the result that children working in smaller establishments were excluded from its purview.

9.250 The IFA has since been amended almost every ten (10) years with each amendment providing for an upward revision of the minimum age of employment. Later amendments (e.g., 1891 & 1954) also prohibited the employment of children during night time.

9.251 Besides setting age limits and working hours, the IMA also prohibited the employment of children in activities that were dangerous to their health and safety, such as mining, excavation, explosives, etc. The first IMA was passed in 1907. It has been subsequently revised several times.

9.252 A number of Commissions and Committees, the Whitely Commission in 1929, the Rege Committee in 1944 and the Gurupadaswamy Committee of 1979 have recommended laws to regulate child labour. Based on these recommendations the Government of India passed the Child Labour (Prohibition and Regulation) Act, 1986. The salient features of this Act are that it:

- a) Defines "child" as a person who has not completed 14 years of age;
- b) Prohibits the employment of children below 14 years in specified occupations and processes;
- c) Lays down a procedure to make additions to the schedule of prohibited occupations or processes;

- d) Regulates the working conditions of children in occupations where they are not prohibited from working; and
- e) Lays down penalties for violation.

LEGISLATION ON CHILD LABOUR- A REVIEW

9.253 While the earlier laws were piecemeal efforts to regulate the employment of children in particular industries, the 1986 Act was conceived as a comprehensive piece of legislation to deal with the problem of child labour. However, as with the earlier acts, the 1986 Act also operated within a regulatory framework with the belief that child labour could not be abolished as long as poverty existed. As a consequence, the law has revealed several legal and procedural loopholes.

9.254 The law is limited in scope. It does not cover all occupations and processes where children are working. The Act covers only some hazardous occupations and processes. It excludes children working in family based enterprises. A large number of children are working in such firms generally at the cost of their education.

9.255 Premises: The law is based on the premise that the decision on whether children should work, especially within the family or household, is that of the parents. Another premise is that so long as the child is not forced to work in an exploitative environment, the State should not take any legal action. Thirdly, it pre-supposes an employer-employee relationship where child labour is engaged, and assumes that exploitation of children is not possible within the family premises, even though the processes or occupations are, otherwise, hazardous. We would like to point out that whether the child is employed in enterprises and industries outside the home, or at home, for wages or to help in domestic chores or family occupations, it does result in the forfeiture of opportunities for education and for "formation."

9.256 Definition of 'Hazardous' occupations: Although the Act prohibits the employment of children in certain hazardous industries and processes, it does not define what constitutes hazardous work. It only provides a list of hazardous occupations/processes (list in

Annexure 2). As a result, it leaves a loophole for employment of children in hitherto unidentified hazardous occupations and processes, and the use of hazardous materials.

9.257 Focus: The law does not recognise the child as an individual being who should be the focus of the Act. Instead, the focus is on the establishment, employer, administration and procedures on cleansing the establishments of child labour with no provisions for the child's rehabilitation. It does not say what should happen to the child labourer once the employer is prosecuted. It is only recently after the judgement of the Supreme Court in the M C Mehta vs. Tamil Nadu case that the government set up a Child Labour Rehabilitation and Welfare Fund.

9.258 Implementation and Enforcement: The implementation of the Act depends entirely on the State's bureaucratic machinery. It assumes that the bureaucracy, poorly staffed and ill-equipped as it is today, will be able to ensure that children do not work in hazardous processes and occupations, and conditions of work in non-hazardous settings will be upgraded. The bureaucracy is also

expected to determine whether a child is working in a non-hazardous process or a hazardous occupation. Again, under the law, the employer is supposed to notify the Labour Department whether any children are working in his establishment. This means that one expects those who may be guilty or proven to be guilty, to notify their improprieties or illegal acts to the authorities. Moreover, the onus of proving the age of the child lies with the prosecutor, and not the offender.

9.259 Legislation on Education: Education is referred to in three different types of Laws: The Compulsory Education Act, The Persons with Disabilities Act, and The Juvenile Justice Act. The State laws on Education operate on the premise that State intervention is necessary to send children to school. Instead of enabling and empowering parents to send children to school, the law empowers the State to take punitive action against parents who do not send their children to school. The laws on education are only enabling laws. The State is not obliged to provide facilities for schooling. It is only with recent Supreme Court judgements such as in the J P Unnikrishnan vs. State of Andhra Pradesh case that education up to

the age of 14 years has been made a fundamental right. The implementation of the laws is left to interested local bodies, thereby excluding children belonging to areas where local bodies do not implement the provisions of the Acts. Exemptions from compulsory school attendance are to be permitted if a school is not available or if the child's help is required in the vocation of the parents. Disabled children are given exemptions if no facilities are available for their schooling. Thus, the laws enable a large section of children to legitimately be outside the purview of the law and to continue to be out of school. The problem is further compounded by the absence of schools/infrastructure and the falling budgetary allocation for education. Even where schools are present, the poor quality of education provided in these institutions is a major problem.

9.260 Other Lacunae in Legislation: Thus, it is clear that the 1986 Act and the laws on education have many lacunae. These laws effectively cover only a small proportion of children, and leave little or no scope for the participation of people in the enforcement and monitoring of these laws and programmes. The laws have failed to take advantage of the 73rd and 74th Constitutional Amendments which provide significant

opportunities for local community involvement in the elimination of child labour and the universalisation of primary education.

9.261 The National Policy on Education talks of universal elementary education, but education has not become compulsory upto 14 years of age in terms of law. Pre-primary education is not legislated upon. Non-formal education, rehabilitation and general development programmes are talked about in the National Policy on Child Labour (NPCL) but are not made a part of law. Laws on education as well as laws on children ignore the 'nowhere' children.

9.262 The Commission feels that the close links between education and the prevalence of child labour demand a convergence of laws on education and child labour. Today, there are a number of fragmented laws on these issues. While laws on child labour speak about penalising employers who employ child labour, child labour laws do not speak of education, except in the M C Mehta vs. Tamil Nadu case.

9.263 Court Judgements: There are several judgements of the

Supreme Court on child labour. Among these, the judgement on the M C Mehta vs. the State of Tamil Nadu needs special mention. *Inter alia*, the Judgement says:

"By now (child labour) is an all India evil, though its acuteness differs from area to area. So, without a concerted effort, both, of the Central Government and various State Governments, this ignominy would not get wiped out. We have, therefore, thought it fit to travel beyond the confines of Sivakasi...." The court then observed:

- a) that providing an alternative source of income to the family is a pre-requisite for the eradication of child labour;
- b) that employers of children must pay a compensation of Rs. 20,000/- as per the provisions of the Child labour (Prohibition and Regulation) Act, 1986, for every child employed;
- c) that the fine should be deposited in a Child Labour Rehabilitation-cum-Welfare Fund;
- d) that employment should be provided to an adult in the family in lieu of the

- e) child working in a factory or mine or any other hazardous work;
- e) that in the absence of alternative employment, the parent/ guardian will be paid the income earned on the Corpus Fund, the suggested amount being fixed at Rs. 25,000/- for each child. The payment will cease if the child is not sent for education. That in cases of non-hazardous employment, the employer will bear the cost of education;
- f) that the States contribution/grant, fixed at Rs. 5,000/- for each child employed in a factory or mine or any other hazardous employment, should be deposited in the corpus fund and the district will be the unit for collection.

9.264 Judicial pronouncements such as these and the Unnikrishnan vs. State of Andhra Pradesh in 1993 (which stated that the right to education should be considered a fundamental right) have proved to be

important landmarks in dealing with the problem of child labour.

9.265 We welcome these pronouncements, and recommend that the Government incorporates these suggestions in relevant laws or guidelines.

9.266 National Policy On Child Labour And National Child Labour Projects: The Government of India formulated the National Policy on Child Labour in August 1987 with the aim of rehabilitating children withdrawn from employment and reducing the incidence of child labour in child labour endemic areas. The policy lays emphasis on:

- (a) Legal action to ensure the strict and effective enforcement of various legal provisions to combat child labour;
- (b) Centring general development programmes of different ministries to benefit children and create socio-economic conditions that will reduce the compulsions that make children work, and instead, encourage them to attend school; and

- (c) Project-based action plans for children in areas where there is a high concentration of child labour.

9.267 Though much headway has not been made in the first two components of the policy, certain concrete steps have been taken to implement project-based action plans through the implementation of National Child Labour Projects (NCLP).

9.268 National Child Labour Projects: The main thrust of the NCLP is to reduce the incidence of child labour in project areas, thereby encouraging the elimination of child labour progressively. Under these projects, attempts are to be made to integrate elements of various development programmes to benefit working children. Activities in project areas are to include:

- a) Stepping up the enforcement of child labour laws.
- b) Raising public awareness to educate people about the undesirable aspects of child labour.
- c) Setting up special schools/centres for working children with

provision for education, vocational training, supplementary nutrition, healthcare, etc.

- d) Strengthening the formal education structure.
- e) Including families of working children as beneficiaries in poverty alleviation and income-generating programmes.
- f) Monitoring and Evaluation.

9.269 Institutional Framework for Monitoring and Implementation: At the national level, the programme is carried out under the auspices of the Ministry of Labour (MOL). A central Monitoring Committee has been set up for the overall supervision and evaluation of various child labour projects under the National Child Labour Policy. Representatives of ministries/state governments and projects are included in the committee.

The projects are implemented through the District Child Labour Project Society, constituted at the district level under the chairpersonship of the District Collector/

Magistrate. The execution of the project is entrusted to a Project Director, who is normally an officer of the state government. The actual implementation of the project is done by local NGOs with the involvement of trade unions, employers and grassroots organisations.

9.270 The Necessity of Convergence: So far, our policies have approached the situation of the child in a fragmented way. We have tried to deal with the problem of universalising education on the one hand, and of approaching child labour as a hazard on the other. This fragmentation of approach has been matched by a lack of convergence of effort as reflected in our programmes/schemes of the various departments.

9.271 The number of Ministries and Departments (of both the States and the Centre) which handle schemes and budgets that deal with children, are numerous. These include:

- a) The Ministry of Labour
- b) The Ministry of Human Resources Development (which includes Education and the Women and Child Development)

- | | |
|---|---|
| c) The Ministry of Agriculture | h) Department of Finance |
| d) The Ministry of Health and Family Welfare | i) Department of Health and Family Welfare |
| e) The Ministry of Social Justice and Empowerment | j) Department of Rural Development and Panchayati Raj |

9.272 In addition, Ministries/ Departments such as Textiles, Mines, Food also have components in their schemes that relate to children. Certain schemes, since the Budget of 2000, are routed directly from the Central Government to the Districts/ Panchayats bypassing the States. At the level of the State Government, the following Departments have to co-ordinate their efforts if genuine convergence is to take place:

- a) Department of Education
- b) Department of Labour
- c) Department of Agriculture
- d) Department of Backward Castes and Minorities
- e) Department of Economics and Statistics
- f) Department of Employment and Training
- g) Department of Factories and Boilers

- k) Department of Social Welfare
- l) Department of Women and Child Development
- m) Department of Welfare of the Disabled

9.273 Besides these, there are other Departments too that are expected to look after specific categories of employment such as the Departments of Fisheries, Horticulture, Mines, Sericulture, etc. These occupations employ a large number of children and run special schemes only for the welfare of adults employed in these sectors. Similarly, the Department of Food and Civil Supplies implements schemes (such as midday meals in schools), and so does the Department of Revenue (rehabilitation of bonded labour).

9.274 What is evident is that a very large number of government agencies are currently offering welfare and other services which are meant

to reach children. The fragmented approach to childcare and child development is exemplified in this illustrative list. Unless we achieve convergence in operational terms, laws and schemes related to child labour and child development may prove ineffective and inadequate.

9.275 We are proposing an indicative law on child labour which would replace the existing Child Labour (Regulation and Prohibition) Act 1986 (Annexure IV).

