

Approach Paper: **Vulnerabilities of Women Homebased Workers`**

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Introduction

Despite over three decades of struggle for recognition, visibility, and greater conceptual clarity in relation to women's economic activity, major gaps in understanding persist, and not only in the prevailing statistical systems. Gaps have also remained in our understanding of concrete processes of social and economic change and their effects on women. They have remained in relation to the changing forms of their labour, and regarding the nature of economic and social relations being shaped around such labour. We have still to fully comprehend the multilayered relationship between paid and unpaid work of women in production and social reproduction, and also the several new features of inequality and exploitation that women have to face. At a general and more long term level, such a situation contains the possibilities of movement towards retrogressive rather than progressive 'development' for women. At a more immediate level, it can lead to a failure to comprehend and therefore act against the increased and multiple forms of vulnerability that are already adversely affecting women in production. Perhaps nowhere is this vulnerability more marked than in the sphere of non-farm homebased production, in which vast, uncounted, and expanding numbers of women are being increasingly concentrated, and whose share of the female workforce in India is second only to agriculture.

In this paper, which focuses on homebased women workers, we discuss the specific issues of their vulnerability as women and as workers, in the framework of their basic citizenship right to economic and social justice and equality. We have not included the class of more privileged educated professionals who might be working from their homes in our ambit, and the focus of our attention is on the poorer and more vulnerable class of homebased women workers. The first part of the paper presents an outline of empirical trends and estimates of homebased workers accompanied by a discussion on the changing role of women's unpaid labour in homebased production. This is followed by a quick tour of contemporary experiences in some of the important sectors with large concentrations of homebased workers (Beedi, miscellaneous urban home work, and Handloom) for the purposes of concrete identification of newly emerging areas of their vulnerability.

The second part tries to identify the underlying causes of such vulnerabilities, and of evolving patterns of labour and employment relations in homebased production. It begins with a brief background review of perspectives on women, work, and the processes of development in India, that emerged from the 1970s. It then directs specific attention to the vulnerabilities of piece rated homeworkers, and discusses the evolution of policy approaches to women in homebased production in terms of attitudes to labour, to patriarchy, and anti-poverty measures. Questions are raised regarding the shifting terms of policy discourse in favour of reliance on only market forces, and the tendency to abandon the idea of progressive intervention by the state towards social redistribution as well as in providing for protections to labour. Its effects on enhancing vulnerability of homebased workers at multiple levels are discussed in the context of

the growing volatility of markets in a globalising world. A more detailed analysis of the ongoing process of preparing of a National Policy for Home based Workers and legislative protection for piece rate workers is presented in the context of current debates on labour law reforms and the promotion of 'self employed' homebased work for women. In the case of the self employed segment of homebased workers, we outline some of the critical areas of vulnerability and debate the outcomes and potential of hitherto established forms of social intervention, viz. cooperatives, micro-credit, and provision for skill development and technology upgradation. This is followed by a perspective evaluation of some of the current proposals for social security legislation covering both piece rated and selfemployed homebased workers. Finally, moving from economic to other social aspects, we briefly discuss the social context, identify some of the evolving patterns of inequality between men and women, and the force of patriarchal confinement in the spread of homebased work.

The third part of the paper presents a view of the institutions of the government and some existing processes and programmes that directly apply to homebased workers. This is followed by identification of the range and types of organizations that have been working among homebased workers, and the forms of their engagement with the government and society. The conclusion focuses on issues for immediate intervention towards limiting the scale of vulnerability of this confined but unprotected segment of women workers. It reflects the consensus across a wide spectrum of organizers and representatives of women home workers, that the key and central measure required to address their current and growing vulnerability is enactment of legislation regulating the employment, wages, and working conditions of home workers, ensuring the payment of a minimum wage or equivalent income, and providing for some basic level of social and economic security. It posits the need for integration of the several new concerns in the ongoing process of preparation of National Policy for Homebased workers.

I

Homebased Work: The Empirical Context

A problem that has throughout dogged the discussion on homebased work has been the absence of reliable statistics. The Census of India does not recognize these workers as an independent category, and includes them in those working in household industries. Workers in household industries includes both main and marginal workers, with marginal workers defined as those working for a period of less than six months in the year preceding and main workers as having worked for the greater part of the year, i.e., more than six months. Household industries is defined as 'an industry conducted by one or more members of the household at home or within the village in rural areas, and only within the precincts of the house where the household lived in urban areas.' Household industries are 'related to production, processing servicing, repairing or making and selling (but not merely selling) of goods.' While broadly speaking,

most homebased workers should be covered within this category, there is a general practice of underreporting as far as women are concerned, and a failure to evaluate women's work as productive or economic in nature. There have been attempts to correct such biases in data collection as well as reporting, and in the 2001 census, several specific instructions were given in order to net aspects of women's work that earlier used to escape being recorded as economic activity, but problems of underreporting have persisted. For example, in Delhi the total number of women recorded as working in household industry in Census 2001, were given as a mere 26,319.¹ This is a ridiculously low figure, as anyone who is familiar with even a few of the working class areas in the city would know.

Census count and NSSO estimates of Homebased workers

Nevertheless, census figures do inform us of the far greater significance and weight of homebased work among women workers, than among men. Thus, according to the 2001 census, the number women working in household industries were over 8 million (8,083,679) constituting 6% of all women workers, and 23% of women working in non-agricultural occupations. In comparison, household industry accounted for just 3% of all male workers, and 6% of the men working in non-agricultural occupations. 75% of the women in household industry were located in rural areas, where they constituted 52% of the workers [in household industry], outnumbering male workers by over 42 lakhs. In urban non-agricultural employment, while household industry accounted for over 15% of women workers in comparison to 4% for men, the numbers of women were a little less than men, constituting around 43% of urban household industry workers. If one adds to such a picture the huge increase of 61 million marginal workers between 1991 and 2001, in comparison to a little over 27 million additions to main workers, with women accounting for 61% of all marginal workers, (69% of the women marginal workers being illiterate and 77% of the net accretion of women workers being in the marginal worker category), one can also gauge the conditions of their employment or rather underemployment. 43% of women workers are marginal workers in comparison to 13% among male workers.

The Employment – Unemployment Survey of 1999-2000 conducted by the National Sample Survey Organisation (NSSO), which brought out a special report on 'Non-agricultural workers in informal sector' provides a more refined and disaggregated database, from which what we call homebased workers can be extracted. For our purposes, the subset of the 'self employed' whose location of workplace are, either (1) no fixed place, or (2) own dwelling, or (3) own enterprise outside dwelling, would approximate what we call homebased workers. The features of the self employed are of course explained as those who "have autonomy i.e., how, where and when to produce) and economic independence (i.e., market, scale of operation and money) for carrying out their operation" and this might appear to be a somewhat limiting definition. But since the category includes "Persons working under the 'putting out' system, viz. where a part of the production which is 'put out' is performed in different household enterprises and not in

¹ Census of India 2001, Series 8, Paper 3, Table 3.

the employer's' establishment", we may assume that both piece rated or wage workers as well as own account workers would be covered.

Under such a definition, the estimates of the number of homebased workers from NSS data, at a total of more than 12 million (12,301,400) women, and close to 35 million men (34,830,400), appears as substantially larger than the Census figure for household industry. But the proportions of women appear as considerably lower than in the census, women being around 26% of all homebased workers, 31% of those in rural areas, and 26% of those in urban areas. Further, the proportion of homebased women workers in urban areas is shown as higher than in the census, with the urban component of women homebased workers appearing to be 37% in NSS data, in comparison to the 25% that appears in the census. Among male homebased workers the share of urban areas is even higher at just a little short of 50%. Finally, within this larger category of homebased workers, the proportions of those whose production is not under specifications, which would roughly approximate those workers who are genuinely own account self employed, (i.e., not dependent on merchant or manufacturer for their work) appears to be 52% among rural homebased women workers and 56% among urban. Among male workers the proportions of such own account or self employed workers are 72% and 73% for rural and urban areas respectively.² Thus, while the NSS data too shows that greater numbers and in fact the majority of women homebased workers are in rural areas, it also indicates that the proportions of piece rate or wage based homeworkers is substantially greater among women than men in both rural and urban areas.

If one narrows the definition of homebased workers to only those working in their own dwelling, (excluding those whose location of work is no fixed place or in own enterprise other than own dwelling), then the number of such women workers according to NSS data is close to 10 million (9,905,500), i.e., 81% of the larger category of homebased workers.³ Among this segment of women, who are the section of workers who are truly homebased, the proportions of those working under product specification are higher, i.e., close to 53% in both rural and urban areas.

Unpaid Labour in Homebased Production

A longstanding feature of self employment in household manufacture has been the extremely high proportion of women's unpaid labour involved. Although this has long been known, recorded and commented on, there has been little in the way of a concrete approach to the issue. At best the general programmes for providing employment and support to women for independent income generating activities might be seen as an indirect intervention to bring them forward from unpaid into paid forms of labour. But no programmatic approach has emerged on the issue of unpaid labour in the specific sectors where it is a significant economic activity of women. An important recent development is the fact that the unpaid labour by

² Calculated from NSSO, Report No. 460(55/10/3), Non-agricultural workers in informal sector based on Employment – Unemployment survey, 1999-2000, Table 14.

³ Of them 65% are in rural areas

women in several segments of homebased manufacturing appears to have declined substantially in the nineties, and concomitantly the proportions of women undertaking paid forms of work has risen.

NSS data for the Unorganised Manufacturing Sector shows that the proportion of unpaid women workers in Own Account Manufacturing Enterprises (OAME), (which can be taken as a rough indicator of homebased work),⁴ has declined sharply from 71% in 1994-95 to 43% in 2000-2001, reflecting an absolute drop in their numbers by around 17 lakhs. On the other hand, the proportion of own account paid women workers (i.e., owner worker or paid worker) has increased from 29% to 57%, reflecting an increase of close to 36 lakhs.⁵ On the face of it, this would appear to be progress in the sense that hitherto unpaid women workers as well as a large number of new additions to homebased work, are obviously deriving some kind of income for their individual labour by being drawn more directly into the labour or product market. And yet, it also appears that the range of such own account work by women is increasingly getting concentrated in specific sectors that are more or less defined as the conventional or traditional sectors and, as we shall see, where incomes are abysmally low.

As per the 2000-2001 data on the unorganized manufacturing sector, 21% of women workers in OAME are in tobacco products (essentially beedi), 21% in textiles, 21% in wood, straw products, (mostly making baskets or mats of reed, rattan, bamboo etc), 15% in food products, 12% in wearing apparel (garments), 6% in non-metallic mineral products (mostly pottery, brick making etc.), and 2% in chemical products (almost completely agarbatti), together constituting 98 %. In comparison in 1994-95 these segments accounted for 87% of women workers in OAME. The reduction of the share of other miscellaneous segments from 13% to 2% actually reflects an absolute drop of close to 4 lakh women workers in other segments, which is perhaps indicative of the fact that diversification is being curtailed.

From the data on unorganized manufacturing, it is still not clear as to what is the proportion or numbers who would be actually self employed since the 21 percent of these workers involved in manufacture of tobacco products, i.e., in beedi work, cannot really be included in the category of own account self employment at all. Except for the insignificant number of those in co-operatives of whom perhaps some might be genuinely independent manufacturing co-operatives, the overwhelming majority of beedi workers are piece rate workers in a putting out

⁴ The number of women working in OAME in the 2000-2001 survey stood at close to 11 million (10,754,900), which is close enough to the number of women homebased workers (by location of work in own dwelling definition) in the NSSO Employment – Unemployment based survey of the informal sector in the preceding year to be roughly equivalent.

⁵ The data shows that in rural India, the proportion of unpaid women workers in OAME came down from 72% in 1994-95 to 44% in 1999-2000, and in urban areas from 63% to 38% across the same period. A detailed table compiled from Report No. 433, of the NSS fifty-first round (1994-95), and Report No. 479 of the 56th round (1999-2000) on Unorganised Manufacturing Sector in India, are given in the annexure. The actual numbers of workers appear to be clearly underestimates, but the table has been provided to highlight the trends.

system, with the workers being dependent on contractors, manufacturers, and traders for their employment and wages. In the chemical products category, which is dominated by agarbatti, again it is not self employment, but put out piece rated work. It may be that there would be a greater degree of actual self employment in the food products category, although here too if one considers the expansion of an increasingly organized form of the dairy industry (which would probably account for a substantial chunk of the increase in food products), it would be difficult to call it completely self employment. What is most likely is that in segments like beedi, agarbatti, and even a substantial proportion of textiles, there is a process of putting out by traders, manufacturers, and their agents, while in the food products category, there has been a growth of commercialized collection by technologised organized sector companies. The characteristic features of both such processes, is appropriation of a large share of the value generated by workers by the principal employers, low levels of individual productivity in terms of output for labour time, and below subsistence incomes for workers. Almost the only way in which workers can increase their incomes would be to work for longer hours, which is sometimes called self exploitation, or through increasing the amount of labour time by adding the labour of their children to their own labour. It therefore appears that the decline in proportions of unpaid women workers and their conversion to paid workers, provides little cause for celebration, for it has only enhanced the vulnerabilities of homebased workers to excessive exploitation.

A caveat should perhaps be entered here before we close our macro-data based section while under reporting is a more characteristic feature of census data, the NSS estimates are generally not reliable in terms of absolute number. However, they are useful for the purpose of understanding proportional distribution among workers and trends over time.

Sectoral issues and micro-surveys

Beedi Workers

Since the largest segment of women homebased workers are in beedi manufacture which is spread across fourteen states, in which 92% of the women are homeworkers working on piece rates, it would be useful to begin our discussion on sectoral issues with beedi workers.⁶ Beedi has emerged as the single largest sector of employment of women within manufacturing, overtaking even textiles in the 1990s in terms of share of women's employment. Although generally referred to as a traditional industry, beedi manufacture was not an inheritance from the mediaeval jajmani system of manufacture and exchange. It developed towards the end of the nineteenth century as a low capital investment manufactory system requiring only nature grown tendu leaves, a little tobacco, human labour, and an expanding home market, all of which suited the nationalist ideas of swadeshi. Low priced from inception, beedi has become a

⁶ Data Source, Statement furnished in reply to Parliament Question No. 445 (Lok Sabha Starred), dtd May 1997, and Labour Bureau, 1995, both quoted in ILO, Working Paper, Making ends meet: *Bidi workers in India today*, Sectoral Activities Programme, ILO, Geneva, 2003.

part of local culture in India since then (as the 'poor man's smoke'), and there are today about 300 major manufacturers of branded beedies, and thousands of small-scale manufacturers cum contractors.⁷ Estimates of employers and unions in the beedi industry put the number of beedi workers at 10 million (in comparison to the NSS figure of 2.2 million) of which around 4 million are registered workers,⁸ i.e. in the records of the Ministry of Labour.

Since the beedi industry came under the influence of trade unions as early as the 1920s-30s, it was incorporated into systems of labour law administration at independence. It was in order to curtail the growth of workers' organizations as well as to evade laws regarding minimum wages and other protections for workers that manufacturers turned to putting out work into homes, and to employing women in increasing numbers. The changeover to homework was possible since the main manufacturing function is beedi rolling, which is all done by hand.⁹ Atomised homework, and the use of contractors spread through the 1960s and seventies to become the principal mode of beedi manufacture. Under such conditions, congregation and organization of workers became increasingly difficult. Nevertheless, under trade union pressure, the first labour law that included specific protections to designated homeworkers was enacted for beedi workers in 1966.¹⁰ This was followed by two other laws for beedi workers providing for a levy of cess by way of excise duty on manufactured beedies (currently @ Rs 2/- per 1000 beedies), and the constitution of a Welfare Fund to provide for welfare schemes relating to health, education, maternity benefits, group insurance, recreation, housing assistance, etc.

There can be little doubt that these laws have helped a section of homeworkers in beedi to become organized. Where there have been struggles by beedi workers organized into unions, minimum wage rates fixed per 1,000 beedies do get revised, registered workers are issued identity cards and logbooks by manufacturers so that they have proof of their employment relationship and the amount of work done. However, the majority of workers are still working outside the net of these laws. Further, despite the advances made, the conditions of beedi workers have remained appalling, their wages often one third of the statutory minimum, which in the case of beedi manufacture, is an actual maximum rather than a minimum, and they have remained vulnerable to the most base forms of exploitation.

⁷ Arun Kumar Daur, *Work, Livelihood & Employment in the Beedi Sector*, quoting S.K. Das, DGLW, Ministry of Labour, *A Better Deal for Beedi Workers*,

⁸ Official estimates from the Ministry of Labour put the total number of beedi workers at 4.5 Million.

⁹ The labour process involves cutting tendu leaves into rectangular pieces, softening the leaves by soaking, filling approximately 0.2 gms of tobacco and folding into cone shaped beedies of similar size, and then tying the beedies in bundles of specified numbers, now ready for packing.

¹⁰ An often forgotten history behind the enactment of the beedi workers' law in 1966, was the role played by trade unions and their leaders, in particular A.K. Gopalan who as member of parliament brought the need for protection of beedi workers on the legislative agenda.

For example, according to a survey of beedi workers in district Sagar, Madhya Pradesh, which is the state with the largest concentration of beedi workers, “everywhere the contractor insists that a worker must make 1,200 bidis out of material intended for 1,000. So the worker has to assume the cost of the extra raw material even if he/she is only paid for 1,000 bidis. Thus, he/she not only rolls 200 bidis free of charge but also has to pay for the raw materials out of his/ her own earnings! No one is being paid minimum wages in the whole district.” Further, “a few are paying 32 rupees per 1,000 bidis [the statutory minimum wage there at the time of survey]. However, the actual earnings are much lower because of rejection, insufficient supply of raw materials, and forcing the worker to make 1,200 bidis but only paying him/her for 1,000. In practice, we observed that workers earn a maximum of 24 rupees per 1,000 bidis, and often even as little as 10 rupees per 1,000 bidis.”¹¹ The same study reports that in Gujarat, when the minimum wage was 68.50 rupees, beedi rollers, were being paid 34 rupees per 1,000 beedies either on the pretext of rejection or due to just plain exploitation. In Andhra Pradesh, when the minimum wages were around 45 rupees, workers were receiving around 35 rupees, and in unbranded beedies between 23 and 27 rupees.

In Mangalore, one of the important and relatively more organized centres of beedi production and the base area of the most well known brand (Ganesh Beedies), the monthly income of registered workers is Rs 500 per month which may increase to a maximum of Rs 600 if they also undertake unregistered work (which is uncovered by legal provisions such as minimum wage, provident fund, etc.). At present, registered workers in Mangalore are given a maximum of 2000 beedis to roll per week @ Rs.55.75 per thousand beedis (the current minimum wage there after PF deductions). According to workers there, even the contractors who supply the major brand names, keep the majority of the workers that they employ without logbooks or identity cards.¹² Among the methods used by manufacturers and contractors to evade giving workers statutory benefits, is camouflaging the employer employee relationship by making it appear that the workers are purchasing the raw materials, rolling the beedies at their homes as self employment, and then selling their beedies to contractor or manufacturer. It should be noted that this is the condition of workers in a place where many have become organized, a place where the number of beedi workers is estimated to be about 10 lakhs, of which 4 lakhs are registered workers.

In Mangalore, homebased beedi work by women had at one time become the mainstay of the lives of several thousands of households (when they used to roll some 6000 beedies a week), at a time when workers were losing jobs due to the decline and closure of Mangalore’s once flourishing tile factories. Beedi work was at that time expanding in Mangalore also partly due to shifting by beedi manufacturers from neighbouring Kerala, where beedi workers had become organized before. Now, even though Mangalore’s beedi workers have managed to get higher minimum wage rates, their income from beedi work no longer provides them with even the

¹¹ ILO Working Paper, *Making ends meet: Bidi workers in India today*, Sectoral Activities Programme, ILO, Geneva, 2003. The survey referred to was conducted by SEWA.

¹²A contractor with 90 workers, keeps at least 50 of them unregistered. Source: reports from a quick survey of 25 workers in three areas of Mangalore in April, 2005.

low-level subsistence they had in the past, even as unregistered beedi rolling has spread further into the rural interiors of Karnataka.¹³

Further, the benefits that those who are registered get from the Welfare Fund are meager, with Rs 250 as maternity benefit for a maximum of two pregnancies, children's scholarships of Rs 250 per child per year, and a patently inadequate outreach of the few healthcare centers that have been established, all of which of course can only be availed by workers with identity cards, and still leaves out the majority.¹⁴ The story of expansion of homework in beedi is thus one of expanding numbers of homeworkers and expanding scale of exploitation, and over the last decade or so it has been a story of reduced workdays, declining real wages and incomes among homeworkers, and a movement of outsourcing to more backward and employment constricted areas in order to push down wages even further.

Apart from the intrinsically exploitative characteristics of employers in the beedi industry described above, the factors that have enabled the prevailing high levels of exploitation and vulnerabilities of beedi workers include:

- 1) The shift in 1979 from excise duty on tobacco released to beedi manufacturers from bonded warehouses (which compelled maintenance of records) to excise duties on manufactured beedies, and the simultaneous exemption from excise duty for those manufacturing upto 20 lakh beedies per annum (which amounts to some 5000 beedies per day). While the shift in excise structure led to large segments of beedi manufacturers escaping the net of official records and therefore of labour laws, the exemption has led to even greater use of contractors by large manufacturers and distribution of lesser days of work per worker, so that manufacturers can avail of excise exemption.
- 2) Differences in wage rates in different areas and the lack of a uniform national floor wage (which has made for a continuous movement towards low wage areas), poor enforcement and non-implementation of the beedi labour laws as well as the incomplete coverage of all areas by the 1966 law.¹⁵
- 3) The absence of other avenues of employment for millions of women, who are increasingly being pushed into this low paying sector, their lack of other options making it easy for employers to increase the scale of exploitation.

¹³ At a time when minimum wages were below Rs 20 (in 1993 it was 19.65), workers would have been earning the same amount as today, when cost of living has become much higher, and minimum wages have been almost tripled

¹⁴ For a review of the working of the Beedi Workers Welfare Fund, see Vijay Kumar and Smita Ghatale, *Designing a Model for Social Protection, Bidi Welfare Boards*, in Report of the Study Group on Women and Child Labour, MOL, National Commission on Labour, 2002.

¹⁵ Since the law itself gave no final date for coverage of the whole country, and left it to notifications by state governments over an indefinite period, 38 years after its enactment, many areas remain uncovered.

- 4) A brewing crisis in beedi manufacture due to competition from mini-cigarettes, closure of existing (albeit limited) avenues of export expansion due to restrictions in some importing countries on grounds of the use of child labour,¹⁶ and now a sense that the deathknell of the industry is not far following the law banning smoking in public places, that came into operation from May, 2004 and the spread of the anti smoking campaign.

Multi-sector urban homeworkers

From homeworkers in one single industry who are legally recognized as workers, whose conditions have perhaps been the most well documented (among the class of home workers), and who have been amongst the most organized (although still highly exploited), we now turn to the miscellaneous and multi-sector forms of homework that have grown in urban areas, about which we as yet have no national level data. These are the most unprotected and unrecognized segment of homebased workers, and about whom only a few micro-surveys provide the primary source of information.

A mid-nineties survey of piece rated homeworkers in 15 trades in Ahmedabad (where it was estimated that there were 40 such homebased trades), is indicative of the miscellaneous types of work in this segment. The range of homework included making of Bindis, card board boxes, fire crackers, flower garlands, and rings for mirror embroidery makers, sorting of paper strips, bean shelling, cement bag cleaning, apart from the more well known forms of work such as embroidering, making of readymade garments, rolling of incense sticks (agarbatti) and papad making. The study pointed out that the wide variety of work done by these homebased workers, were linked with the local demands of both industry and direct consumers. Some products and types of work were linked with bigger industries serving country-wide, or even export markets. Others were for sale in the local markets.

The study revealed that the average monthly earnings of these workers ranged between Rs 200 and 300. One of the things noted was that apart from low piece rates being central to the system of such outwork into homes, the workers faced deductions from the stated piece rate or received less income, through rejections or because they had to supply some ingredient at their own expense. The 'net piece rate' was thus found to be lower in seven of the fifteen trades surveyed, with the largest gaps between gross and net rate of as much as 50 percent being found among home workers in readymade garments, and 20 per cent among embroiderers. Further, as the study commented, "One of the most astonishing things that this survey found was the changes in the gross piece rate over time. Generally, with increasing inflation, wages tend to go up over time. Sometimes the wages are unable to keep up with inflation and the real wage rate decreases. In the case of many of the homebased workers it was found that the wage rates actually decreased... The reason that we were given for this was that earlier workers were not willing or skilled and so wages were higher. Over time, however, the number of workers

¹⁶ In 1999, the US banned beedi imports, which in the preceding year was estimated to be around 448 million pieces and would have approximately employed some 2000 workers.

doing the work increased and so the employers were able to reduce the wages. Even where the wages have increased over time, when adjusted against inflation the real rates have decreased.”¹⁷ In other words as the impersonal market came into operation, in conditions of labour surplus it logically led to reduction of wages of home workers due to the existence of substantial labour surplus.

It is significant is that the calculations of several studies across several towns and cities from the late nineties to the early years of this century, have all confirmed that the average monthly income from such forms of home work falls in the range of just 200 and 300 rupees. Thus, even one of the studies commissioned by the National Commission on Labour (which otherwise has the view that subcontracted home work has a positive potential for women’s employment) had to note that the estimated value of the effective average monthly earning of home workers in subcontracted work, was just 250 rupees.¹⁸ Integration into urban markets (which act as nodes for wider markets as well) through home work appears to have only enhanced vulnerability to exploitation.

A similar picture emerged from a survey of homebased workers in Delhi (2003), which showed that 90 per cent of women homebased workers were piece rated wage workers, and calculated that the average hourly wage rate worked out to just a little over two rupees (Rs 2.13), while the average monthly income for one woman’s labour was again around 300 rupees (Rs 306). The study found home workers to be engaged in the production of some 69 distinct products, with the largest concentrations in jhuggi bastis (shanty clusters). Textiles (mostly textile products including principally embroidery work, followed by tailoring, a little reeling and weaving, and forms of patchwork), employed a little over one third of homebased workers (35%), engineering and chemical industries (in the former the work consisting of simple fitting together of electrical or metal parts, the latter including agarbatti rolling, packing naphthalene balls, and deflashing of rubber products) employed somewhat less than one third (30%), a range of miscellaneous industries (bindi pasting, imitation jewellery and various forms of assembling) including some that might be called craft work (although not by traditional craft workers) employed less than a quarter (23%), paper products employed less than a tenth (8%), while leather products employed less than 5% of such homebased workers.

The reasons for low incomes was identified as being in part linked to increasing irregularity of available work, but as the study calculated, even if work was available for eight hours a day over 26 days every month, the wage earned by each worker “at the prevailing rates would still be less than one fifth (17%) of the minimum wage.” What is significant is that the income from such homebased work was the sole household earnings of around one third of the workers, and

¹⁷Renana Jhabvala, Rahima Shaikh, *Wage Fixation for Home Based Piece-Rate Workers –Technical Study Based on a Survey of Workers in Gujarat, India*, SEWA Academy

¹⁸ Ashok Raj and Rakesh Kapoor, *Productive Linkages of Indian Industry with Home-based and Other Women Workers through Subcontracting Systems in the Manufacturing Sector*, in Report of the Study Group on Women and Child Labour, MOL, National Commission on Labour, 2002.

upon adding the 6% among whom it provided at least half the household's income, it appears that for around 40% of the workers, homebased work constituted a primary earning of their families.

The Delhi study also pointed out that factories and wholesale trade centers in Delhi were the principal institutions linked with the spread of such homebased work, the former being the source and destination of the products of around 45 percent of the workers, and the latter of another 30 per cent. Only 13 per cent of the workers were linked to export industries despite Delhi being one of the principal centres of garment export manufacture, and in fact the study found that there had been a decline in the availability of home work for garment exports. Work earlier done in homes such as thread cutting, button stitching and even embroidery was now concentrated within factories and all processes were being brought in house. It also revealed that only in the case of 7 per cent of the workers was there any kinship relations mediating between the homemaker and her employer, with an overwhelming 70 per cent having no relationship with contractors other than commercial. Finally, like the Ahmedabad study, the Delhi study also showed that real wage rates had declined over a five year period (1998 – 2003) for over half the workers, and even nominal piece rates had fallen for 18 per cent, of which two thirds were doing embroidery work.

In relation to the important social question of domestic confinement (an aspect that is often ignored in discussions regarding the spread of homebased work among women), an interesting finding of the Delhi survey was that over half the women (53%) stated that they could work only in the home due to social and ideological considerations by family or community. As the study pointed out, while the needs of childcare in the home was obviously a real deterrent for workers in taking up employment outside the home (which brings in substantially higher incomes), "what is of note is that in their own perceptions, other factors restraining them from working outside were predominant, of which the single most important was social restriction."¹⁹

The picture that emerges from all these studies is a grim one. It is perhaps one of the great tragedies of the present era that these large numbers of women working in the crowded and unhealthy quarters of the working class bastis of India's big cities, in social and economic confinement, and at pittance wage rates, are now facing greater difficulties due to shrinking work availability, incomes, and in some important areas a decline in nominal piece rates. Their present declining status and deteriorating conditions is seemingly as invisible to policy makers today as their very existence was some years ago.

To such a picture must be added the impact of the drive in several cities to clear the jhuggies where large numbers of home workers are concentrated. Demolitions and relocation to the peripheries of those cities has resulted in many workers losing the little employment they had as the sources of their work supply became too distant to access. Further, in the wake of import

¹⁹ Indrani Mazumdar, *Emergent Contradictions: Globalisation and Women Workers in India*, CWDS, 2004.

liberalization, many of the smaller factories and workshops that wed to farm out some functions into women's homes were in crisis and closing down, their work no longer available to home workers.

The causes of the present state of vulnerability of homeworkers in multi-sector urban trades would include:

- 1) The complete lack of any regulation and protection in labour law, leaving them open to highly exploitative wage rates, misappropriations by employers through rejections, and the uncounted deductions from wages due to workers themselves having to supply some of the product ingredients.
- 2) The unhealthy environment in which they are forced to work, i.e., in the dingy and overcrowded slum settlements that constitute the underbelly of every major city.
- 3) The lack of any support systems for childcare, the difficulties in accessing basic needs such as water, toilets, etc. which, in addition to social constraints, lead to confinement within the home.
- 4) The drive in most major cities, to push the slum settlers out of the commercial centers towards the outer reaches of the city where they lose connection with the sources of their employment.
- 5) The decline and loss of earlier employment and income levels, due to consolidation in some industries (particularly export oriented ones), and the erosion of several local manufacturing industries that used to provide them with employment due to the increasing availability of cheaper manufactured imports, within an overall context of increasing numbers of workers desperately looking for income based work.

Handloom Workers

Handloom has always been known as the most widespread cottage industry, with a presence in all states of the country. According to a Census of the Handloom Sector (1994-1996), there are more than 2 million (2,103,887) women workers in handloom across 24 states, and women constitute 61% of the workers in the sector.²⁰ 37% of the women are recorded as full time weavers and 82% of them as part time weavers. The majority of household based handlooms (64%) are involved in making saris, gamchas, dhotis, lungis, bedsheets and shawls, i.e., traditional items. The census recorded the average monthly income per household from handloom at 568 rupees. It should be remembered that handloom work is not simple unskilled work, and requires long periods of apprenticeship; it is also heavy duty manual work and involves multiple levels of physical strain and mental concentration. For such work, the income

²⁰ The states with the largest concentrations of handloom workers were Assam of whom 87% are women, Manipur with 98% women, Tamilnadu with 29% women, West Bengal with 30% women, Uttar Pradesh with 21% women, and Andhra Pradesh with 28% women.

recorded in the census is clearly unjust. It also makes clear that earnings from handloom work today are completely inadequate to support a family, which is why income from handloom work has to be supplemented, and now provides less than two fifths (39%) of the earnings of handloom worker households.²¹ Unfortunately the data on income provided by this census is not sex disaggregated, so we cannot really gauge the specificities of women's earnings in handloom from this data.

The handloom census reports that 15 per cent of the handloom workers are organized in cooperatives, just 1 per cent under KVIC, another 2 per cent under SHDCs,²² and 17 per cent work under master weavers, while an overwhelming 60 per cent are 'independent' weavers. This is perhaps a somewhat faulty categorization since nowhere is the trader – handloom worker relationship recorded. Presumably, many of the independent handloom weavers are weaving for traders. A dependence on traders is but natural since the form of labour in handloom is arduous and leaves little time to move about in search of markets. Such a search for wider markets is of course necessitated by the inability of the local or village markets to yield returns sufficient to feed the workers, let alone pay for the raw material required for their continued work.

It is by now virtually impossible to combine the functions of manufacture with marketing in handloom work, and the several (male) master weavers who have managed a degree of market expansion, have done so only by removing themselves from the actual function of weaving, by using hired labour on their own looms and putting out their designs to other weavers in their homes.²³ In such a manner a piece rate wage relationship with handloom workers has largely been established both by traders and master weavers. Further, durable modes of exploitation and depression of wages have grown through the system of advances or loans that tie workers to particular mahajans, leaving them with little scope to evade exploitation.²⁴ In fact, already by 1988, it had been noted that handloom weavers were characterized by 'downward occupational mobility and degradation of human resources, de-skilling and ruthless exploitation,' and that their wages had fallen below even that of agricultural labour.

Some broad tendencies that enable us to understand the situation of women in handloom have been noted across several studies. The first is that household based handloom, and in fact even manufactory based handloom has become one of the lowest paid segments of the textile industry. This has been in part due to the advance of powerloom (whose higher levels of productivity has undercut handloom), and the consequent reduction in the returns per unit of

²¹ *Joint Census of Handlooms and Powerlooms 1995 - 1996, Handloom Sector*, NCAER, 2004.

²² Khadi Village Industries Commission, and State Handloom Development Corporations.

²³ This we found to be the case in Kancheepuram, famous for its rich gold embroidered saris, where the master weavers are the main segment of private sector employers of weavers. The role of the master weavers is probably more significant in the more skilled and complex forms of handloom weaving such as silk with interwoven designs, and most probably more prevalent in the sari segment.

²⁴ Such forms of indebtedness to traders by women durrie weavers in Punjab, and sari weavers in Bengal was noted in Shramshakti, 1988.

labour time for handloom. The rapid rise of powerloom, particularly through the eighties, absorbed mostly male workers, which is why women constitute a bare 11% of the 15.8 lakh powerloom workers counted in 1995-96.²⁵ From the 1970s it has been known that each powerloom has the capacity to replace 12 handloom weavers. It is not surprising therefore that alongside the growth of powerloom, handloom based incomes have been shrinking, resulting in the number of working handlooms having fallen sharply from 48 lakhs in 1985 to 38 lakhs in 1995, rendering lakhs of workers jobless. It may be seen that only a fraction of them could have been absorbed by the powerloom industry, even more true in the case of women.²⁶

Secondly micro-studies have pointed out that in handloom, whereas earlier women were mostly involved spinning, or in ancillary functions of warping, setting the loom, or reeling, and often debarred from the generally male preserve of actual weaving, such a sexual division of labour has given way with the decline of handloom.²⁷ Women are now found to be working as weavers on the household loom, or as paid labour processing yarn for powerloom weavers, while men have been increasingly moving out of the sector precisely because of its declining status and incomes. Observing this phenomenon in the nineties, some commentators have noted, "most of the operations where women found an entry were poised for a change through challenges of modern technology and may become obsolete in a short while."²⁸ In the process, while the household unit of paid labour may be giving way to disaggregated units of male and female labour, this is happening in a situation of declining returns on the product of the forms of labour into which women are being drawn individually. Women in the handloom sector are actually being forced to labour harder, bearing the burden of additional tasks and therefore working longer hours, for less than what the family earned from the collective units of labour earlier.

The declining position and incomes of handloom workers has reached critical proportions over the last 20 years, a situation that has been aggravated by changing policy. Earlier the policy towards handloom in the period following independence was primarily based on recognition of its employment potential, and therefore provided for protective safeguards from the mill and powerloom sectors. But from 1985, in the runup towards liberalization, government's textile policy shifted its priorities to "productivity" rather than to "employment". Thus, over five lakh unauthorised powerlooms, the principal competitors of handloom, were regularised in 1985. Some protection of handloom was still enunciated at the time in the form of the 1) the Handloom Reservation Act (1985), according to which specified articles were reserved for

²⁵ *Joint Census of Handlooms and Powerlooms 1995 – 1996, Powerloom Sector*, NCAER, 2004, Table 10. According to a 1974 planning commission report, each powerloom had the capacity to displace 6 handlooms and 12 weavers.

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²⁷ Most of the studies on sexual division of labour among weavers from historical times has been based on the situation in Bengal. It is unclear whether this was universal. In the south and northeast there are instances where such a rigid sexual division of labour may not have been the norm.

²⁸ Nirmala Banerjee, *How Real is the Bogey of Feminization*, in T.S. Papola, Alakh N. Sharma (eds) *Gender and Employment in India*, New Delhi, 1999.

exclusive production by Handloom, and 2) through the Cotton Textile Order, 1986, stipulating that spinning mills pack 50 per cent of yarn produced in hank form (used in handloom production) under the Hank Yarn Obligation Scheme (HYO).²⁹ Further, the entire production of Janata or controlled cloth was transferred to the Handloom sector, expanded development of handloom cooperatives was envisaged, and a contribution thrift fund scheme and workshed cum housing scheme (generally for the cooperative society workers) was formulated. However, in the absence of any fixation of minimum wages, and with widespread violation and legal opposition to the order reserving 22 articles for handloom, plus diversion of a major share of yarn for handloom to powerlooms (in cone form), such protections remained theoretical and largely inoperative. Evidence placed before the eighth lok sabha showed that the average daily earnings of weavers producing Janata cloth remained below that of an agricultural worker in Tamilnadu, while in Andhra Pradesh, a survey of over 5000 weavers in Srikakulam District found that the monthly earning of a family of more than four was only about 214 rupees.³⁰

From 1991, a further shift in policy came with the establishment of the supremacy of an export drive over domestic market producer interests. Heretofore, apart from diversion of hank yarn to the powerlooms - yarn also began to be exported in large quantities leading to escalating prices and non-availability in the domestic market.³¹ By 2003, at a time when yarn prices had climbed to such levels as to become uneconomical for even powerlooms (which started closing down), and handloom weavers were in acute distress, the government announced a reduction in the hank yarn obligation of the mill sector, and withdrew the provision for compulsory fulfillment of the obligation for exporters, virtually adding salt to the wounds of an already suffering handloom industry.³² Additionally, even as the Supreme Court cleared away legal objections to the Handloom Reservation law in 1993, by 1996, the government reduced the number of items reserved for handloom from 22 to 11, although implementation of reservation for even these

²⁹ Stiff opposition from mills and powerlooms, and writ petitions filed by the mills led to staying of the Reservation Act and even of the full application of the HYO for several years. What was surprising was that the government had made no move to vacate the stay orders.

³⁰ Seventh Report of the Committee on Petitions (Eighth Lok sabha) quoted in Report of All India Convention of Handloom Workers, All India Co-ordination Committee of Textile Workers (CITU), Calcutta, 2000.

³¹ 170 million kg of hank yarn was diverted to powerlooms in 1991-92 alone, while Yarn exports increased from 94.68 million kg in 1990-91 to 110.99 million kg in 1991-92 - 86.8 per cent of it was low count hank yarn - when domestic yarn production had in fact declined dramatically. Ironically, while low-count yarn of 6s, 10s, 17s and 20s was exported, higher count yarn of 80s, 100s and 120s were imported to feed the "foreign" machines.

³² The shortfall in cotton yarn has been growing steadily for the past three years. The peak of the crisis in yarn came between the months of November 2003 and February 2004 for the handloom industry. The price of hank yarn went up several times during these three months. The price of 40-count yarn increased from Rs.10, 000 to Rs.12, 500 per bale. Yarn of 80 counts went up from Rs.21, 000 to Rs.24, 000. This affects the production and directly hits the weavers who lose work as the looms go idle. Cotton yarn price hike for the past few years is being linked to policies on the deregulation of the markets. Raw cotton being exported created a deficiency in the yarn output, which in turn caused the prices to rise.

items had been and still remains largely unenforced.³³ Other forms of state support to handloom are also going through progressive withdrawal. For example, in recent years, several states have abandoned procurement of Janata cloth from handloom weavers, leading to reports of starvation among handloom weavers in Andhra Pradesh and Tamilnadu.

Underlying this overall shift in the government's approach is an overemphasis on competitiveness (of a select few) in international markets as the only value of importance as against employment interests (of the many), feeding into a vision to "achieve total liberalization of the textile industry through further deregulation, and dereservation,"³⁴ Thus the Expert Committee Report of 1999, that provides the basis for current textile policy famously says, "Generally handloom weavers remain tradition-bound and are averse to change... For more than five decades, the poor handloom weavers remained spoonfed through government schemes and they continue to look up to the government for anything and everything."³⁵ What is envisaged in the current direction of policy is the elimination of that segment of the handloom industry that produces plain and low cost items (like Janata cloth), and preservation of only that segment producing unique, exclusive, high value added items "which cannot be replicated on other modes of fabric production and have excellent export potential."³⁶ Women workers in handloom, who predominate in the low cost items, are the ones who are being most adversely affected by such an approach.³⁷

A final aspect of recent developments in handloom that requires to be noted is the fact that the numbers of own account workers in unorganized textile manufacturing seems to have substantially increased across the nineties.³⁸ In the case of women, the numbers in OAMEs have risen from 11.8 lakhs in 1994-95 to 22.27 lakhs in 2000-01, while the number of male workers has also increased from 9.79 lakhs to 18.99 lakhs across the same period. Presumably this would include some increase in handloom and perhaps hand embroidery (on cloth, not garments).³⁹ Such an increase is somewhat puzzling, since the situation of handloom workers otherwise seems to be so dire that it is difficult to understand why anyone would take to this form of work at all. One possible explanation that emerged from reports from handloom weavers in Kancheepuram, is that the major fall in employment availability in agriculture during this

³³ Frontline, Volume 18 - Issue 08, Apr. 14 - 27, 2001

³⁴ Vision Statement of the Report of the Expert Committee on Textile Policy, Ministry of Textiles, 1999 generally referred to as the Sathyam Committee Report.

³⁵ Sathyam Committee Report. p.94. Considering that the 'competitive' segments of the industry are progressively unable to provide employment on the scale required, and considering that the so called spoonfeeding by the government failed to give handloom weavers even survival wages, such a statement smacks of a denigration of labour, and a growing bias against handloom workers.

³⁶ Ibid, p. 92.

³⁷ It is interesting that throughout the Sathyam Committee Report refers to the handloom weaver as 'he', despite having recorded at the beginning that 60 percent of handloom workers were women.

³⁸ This has to be viewed in the context of an absolute decline in numbers of workers in textiles and textile products seen in the Employment surveys of 1993-94 and 1999-2000. A major part of such a decline is in the organized textile mill sector.

³⁹ Textile manufacturing here does not include manufacture of wearing apparel.

period, and the absence of other alternatives has driven workers and their family members towards handloom as the one area where they can at least do something on their own. Another possible explanation is a revived use of looms in order to supplement incomes. In one area of the capital city of Delhi, on the eastern borders of the metropolis, a small concentration of weavers (migrants from Uttar Pradesh) were observed in 2003, who earlier wove gamchas, bedsheets, and mosquito nets, but had virtually stopped weaving for some time, could be found now weaving floor mops (pochhas) for supply to Delhi's wholesale markets. Their monthly incomes from this ranged from Rs 200 to 500, and while younger male members of the family sought work elsewhere, often it was the old women who were left working on the looms. Old and rotting handlooms that had earlier fallen into disuse were thus now being brought into use again to supplement family incomes.

The entry of workers displaced from agriculture even into more skilled segments of handloom weaving was reported by weavers in Kancheepuram and neighbouring Arni, (in April, 2005), where young workers, including young girls from communities other than traditional weavers, worked as low level apprentices with master weavers. Some of them graduated to what they considered independent homebased weaving at piece rates for these master weavers. However, many of these homebased weavers were actually renting accommodations with looms from the same master weavers and doing put out piece rated weaving work for them. Household incomes in such put out homework, is in general low, but somewhat better than that of directly hired workers of master weavers. In one family where a mother and three daughters (from a traditionally cotton weaving family) worked together on two looms, they had an income of around 2500 rupees per month, which works out to 625 rupees per worker. In comparison, a directly hired worker gets about 1000 rupees. This was the situation in the skilled and irreplaceable category identified in the Sathyam Committee Report. They were weaving the rich brocade silk sarees for which Kancheepuram is so famous, which involves weaving in intricate designs, requiring intricate setting of the loom, hard physical labour, as well as concentrated attention to detail. Of some note was the fact that the eldest daughter was above 24 years of age and her mother reported that her marriage could not be arranged due to the family's inability to pay the required dowry. In such a situation, it is not surprising that in Tamilnadu, the proportion of unpaid women workers in OAMEs in unorganized manufacturing has remained at a high 70%. (In fact, minimum piece rate wages for these silk weavers was first fixed in 1982 on the basis of equation of the amount of plain silk that could be woven on a loom which required two workers in a day with the minimum wages of one agricultural labourer, thus institutionalizing the lower wage rates per worker among handloom workers.)

The phenomenon of homebased handloom emerging as a reserve absorbent for workers displaced from other employment, in a sense underscores the continuing importance of handloom in employment. However, the low levels of income per worker has obviously led to bringing in the labour of several family members, to compensate for the loss of employment of one labourer. While in families of traditional weavers, women might be replacing men, non-traditional entrants into handloom weaving are also bringing in along with their own hands,

the hands of children for more skilled work, and aging members of the family for relatively cruder forms, which perhaps accounts for the increasing numbers.⁴⁰

In general, it appears that handloom workers are becoming increasingly vulnerable to crises caused by fluctuating yarn prices, withdrawal of assured demand in the form of government procurement of their products, competition from powerloom, and the slew of policies that have adversely affected the overall employment situation. In addition, the manner of fixation of minimum wages has discounted the value of women's labour. It makes for a situation of enhanced vulnerability of women in the process of transformation of unpaid into paid labour.

II

Contextual Perspectives and Debates

Apart from sector specific issues and area of vulnerability, it is perhaps equally important to understand the more generalized developmental processes and context that have shaped the overall conditions in which women homebased workers find themselves. These processes have been the subject of wide-ranging national and international debates spanning several decades, an understanding of which is perhaps essential to guard against superficial or partial analysis in approaching the vulnerabilities of women homebased workers.

The evolution of perspectives on women workers, development and homebased production

In the first two decades following independence in India, and its constitutional mandate of equality, the dominant lines of progressive thought and policy in relation to women tended to focus on education on the one hand, and improvement of women's welfare defined mainly in the conventional terms of their reproductive roles. The issues and problems of women as workers and their changing patterns of employment received relatively less attention. Assumptions of the articulate and educated classes were rooted in old social reform ideas of expanding education leading to enhanced social status. And economic opportunities for women were thought of as a natural corollary to the process of modernising development. But from the 1970s, the realities of the specific exclusion of women from industrial employment began to appear in the declining work participation rates of women. New questions and thinking regarding the retrogressive effects on women of the pattern of industrialisation began to gain ground, sparked off by the Report of the Committee on the Status of Women in India (CSWI).⁴¹

⁴⁰ What is interesting is that in the slightly better off sections of handloom weavers, mostly in cooperatives, daughters are switching from handloom to purely domesticated housework.

⁴¹ The CSWI report in its chapter on Roles, Rights, and Opportunities for Economic Participation stated, "The impact of transition to a modern economy has meant the exclusion of an increasing number and

The CSWI attributed the main reason for the process of extrusion of women from industry to the rapid decline in the share of traditional household industries in the post-independence period (within an overall background of agriculture continuing to receive the burden of the surplus labour force including of women). Household industries, largely based on units of family labour, were identified as the biggest traditional source of women's employment outside agriculture and included both paid and unpaid forms of women's labour. Attention was drawn to the practice of payment of lower and unequal wages for women workers in areas where their individual labour was directly paid for, and to concentrations of women in low paying homebased work industries such as Beedi, chikan embroidery, and tailoring in readymade garments. It was argued that while the post independence period had been able to provide greater opportunities in the services and professions to middle class women with education, the poorer classes of women had become more vulnerable to unemployment and, underemployment. For women in non-agricultural occupations and manufacturing, displacement from employment and loss of old traditional skills had combined with declining economic opportunities in more modern sectors, leading to increased levels of poverty and economic inequalities.

At a wider social level, the seventies also witnessed a reassertion of the women's movement, a resurgence of mass actions by women, and a general growth in female ferment. In this watershed decade, the elements of a brewing economic crisis, including growing poverty and unemployment were also brought to the fore. Stagnation in the modern organized sector, and an increasing proportion of workers (including the overwhelming majority of women workers) being pushed into the more exploitative conditions of the unorganized sector, were among its characteristic features. This period saw the beginnings of new organizations for women workers in the unorganized sector on the one hand, and on the other, a special focus on both women workers and the unorganized sector within the mixed trade union organizations. By the eighties a significant expansion of the women's movement, its organizations, and their mass influence, generated by this great social ferment and new thinking on the women's question, was clearly visible. It combined with the gathering discourse on women in development at the international level to slowly reflect itself on official policy.

In relation to women and work, an initial influence on government policy was felt in the sphere of labour law where by 1976 an Equal Remuneration law (ERA) was enacted, and by the 1980s in the anti-poverty programmes that were started in the seventies. Conceived of as direct rather than indirect programmes for the removal of poverty, these programmes provided self employment or wage employment to the poor through subsidies, low interest loans (under a system of differential rates of interest provided by the nationalized banks), or direct wages for

proportion of women from active participation in the productive process. A considerable number continue to participate for no returns and no recognition. The majority of those who do participate fully are on sufferance, without equal treatment, security of employment and humane conditions of work. A very large number of them are subject to exploitation of various kinds with no protection from society or the State."

labour in specific public works.⁴² A process of earmarking a share for women within existing anti-poverty programmes was initiated, and followed by exclusive programmes for women.⁴³ Further, a recognition that women workers in the unorganized sector were facing specific problems that were still poorly understood and inadequately addressed, was reflected in the constitution of a National Commission on Self Employed Women in 1987, that later extended its scope to cover 'all unprotected women labour' and 'women in the informal sector'.

In the report of this Commission titled *Shramshakti*, the delineation of homebased workers was extended beyond traditional household industry with family labour, and they were identified specifically as 'an important category of labouring women.' It was pointed out that the workers working within the precincts of their homes are not always visible, and that the census statistics (gathered under the definition of workers in household industry) were obviously a gross underestimation of homebased workers. Where hitherto approaches to household industry had tended to view all as forms of self employment or own account work with most women involved in unpaid family labour, *Shramshakti* highlighted the 'large section of women doing piece rate work' in their homes, where 'the employer is in an advantageous position to exploit the workers.' Listing several kinds of activities in homebased work, it expanded the arena well beyond the few already identified by the CSWI. It classified homebased workers into two categories, the first being those working at piece rates for some other employer, and the second being own account small entrepreneurs or independent artisans. The first category was identified as being numerically predominant.

In terms of its overall analytical approach, the *Shramshakti* report held the view that the future of homebased work depended on Government's industrialization policy and its recognition of home-based work as regular work. It postulated that the conditions of work, the nature of work and wages in the unorganized sector would depend on the needs of organized industry and 'only those enterprises in the unorganized sector that complemented organized industry' or 'those that operate in the interest of the economy' could survive. Further, it explicitly stated that enterprises in the unorganized sector that competed with modern organized industry could survive only with government protection and subsidy, as well as access to modern technology. At the same time, *Shramshakti* argued that in a labour surplus economy like India, introduction of high capital intensive technologies should be a planned exercise. In the absence of planned transition, it may result in displacement. It was further argued that the constant displacement of labour in the unorganized sector by the modern technology of the organized sector leads to a constant tendency to push down wages. Such a downward pressure on wages is particularly acute for women because their primary role in feeding members of the family forces them to accept even extremely low wages. While encouragement given to small scale industry was viewed positively, it was pointed out that the splitting of large units, contracting and sub-

⁴² Foremost in the anti-poverty programmes was The Integrated Rural Development Programme (IRDP) launched in 1978-79, which was regarded as the "major instrument of the Government Strategy to alleviate poverty with the objective of enabling families below the poverty line to cross the poverty line through the use of productive assets

⁴³ 1982-83 saw the initiation of DWCRA, a loan and subsidy programme for groups of poor women.

contracting systems including into the home-based sector, were used as tools of avoiding labour laws and as a means of exploiting workers, women workers being the greatest sufferers.

The two strands that fed into women's homebased work as delineated by the above two seminal reports were therefore, 1) traditional household industry (originating in the period before the rise of modern markets and commercialization of the Indian economy which were generally on the basis of caste) in interaction with trade based commerce as well as growing modern industry, and 2) the farming out of work into the homes of women from the modern factory sector. The vulnerability experienced by homebased workers was further analysed as being caused by a) the decline of traditional industries characterized by self employment, due to their inability to cope with the changes taking place in the economy and competition from the growth of the technology driven modern industrial sector, b) changes in the relations of employment in such traditional industries with many, and primarily women being reduced to below subsistence piece rated wage labour, dependent on merchants or other entrepreneurs for their employment, c) changing employer practices in the factory sector and their drive to lower wages and evade labour laws through subcontracting into the homebased sector, and d) a general social denial to women of access to education, skills, better technology, and markets, which combined with poverty and their role in the family to lead to their concentration in the lowest forms of paid work.

What is of note is that despite their critique of aspects of the development process of industrialization and modernization of the economy resulting in marginalisation and increased exploitation of women workers, the line of thinking in both the CSWI report as well as Shramshakti, nevertheless sought the solution to such problems from a planned development oriented interventionist state. Both accorded a pre-eminent role to the state in regulating the conditions of labour of women workers, with the objective of mitigating the scale of exploitation and improving the conditions of work. The demand was for extension of labour laws (and their enforcement) to women workers in the unorganized sector, and enactment of specific laws and policies protecting women's employment. Both advocated direct intervention by the state in the economy for the purpose of enhancing employment and income opportunities for women, and for support and protection in sectors that played an important role in providing women with employment. And both envisaged a special developmental role for nationalized banks in terms of priority lending and DRI for the poor, albeit asking for greater sensitivity to poor women's needs and social conditions in the procedures and rules. All the above positions were of special relevance to homebased workers. Where extension of labour laws directly addressed the vulnerabilities of piece rated home workers, economic interventions and protection by the state were conceived of as addressing the vulnerabilities of both piece rated and self employed homebased workers in the sectors where they were concentrated. Similarly within the framework of a developmental role of nationalized banks, the emphasis on specific attention to poor women's specific needs was directed at enhancing opportunities for own account work or self employment among homebased workers.

The changing terms of contemporary debate

By the 1990s however, with liberalization and the introduction of 'economic reforms', seismic changes in overall government policy as well as development strategies began to envisage a reduction in the state's role in economic development and an increasing role for unregulated markets in determining the course of development. As state controls and protections for various sectors of industry were lifted, as public investment in industry, services, and the social sector retreated before increasing reliance on private profit driven enterprise, as the process of tailoring policy away from protective barriers towards integration with globalisation and the world economy unfolded, and as the role of nationalized banks was 'reformed' towards the primacy of profit considerations rather than development needs, the ground on which the conceptual advances and policy prescriptions of the preceding period were made, actually shifted. It is a matter of some note that no strand of the women's or workers' movement in India was ever able to give unequivocal support to such a shift. The fact is that it was imposed on them, and was largely resisted by the advance guard.

Since the terms of reference of earlier debates on women and the development process were rooted in the premise of a pre-eminent developmental role of the state, the switch to according a pre-eminent role to unregulated markets effectively marginalised much of the earlier discourse, disempowering and rolling back the advance of women into the macro-sphere. In response, many retreated into the micro-sphere as the principal arena of activity. By the end of the nineties, it was a common refrain that the official macro-picture of post liberalization development in India (presented in terms of the statistics of enhanced growth rates and lower levels of poverty) seemed to be contradicted by micro-level experiences.⁴⁴ From the micro-sphere came accumulating evidence of increasing vulnerability of women to economic and social exploitation, large scale displacement from employment, greater pressures in the sphere of paid and unpaid work by women, increased compulsions towards migration, and generally harsher conditions of life for the poor and unskilled among them.

It is perhaps a similar situation in several developing countries that provided the context for the shift in the international discourse from women in development (WID) to gender and development (GAD). Whereas in the former, the focus was on women, the latter sought to 'mainstream gender' (as the social meaning of sex differences) as a category of analysis. This meant that where the former focused on women, particularly poor women, and their needs, and argued that there were 'efficiency gains' in eradication of the disadvantages women faced in economic life, the latter focused on the 'unequal power relations between men and women' in political, economic and social spheres. The emphasis shifted to the need for transformation of 'markets and other institutions in order to enhance women's productive and decision making

⁴⁴ Of course the rosy picture of shining India was of course challenged at the macro-level too, where some academics concentrated their fire on the faulty basis of the poverty statistics, others focused on the spectre of growing unemployment and the fall in work participation rates of women, while common people perhaps had their say on this in the general elections of 2004.

capacity', advocating a 'bottom-up' process of development, based on 'self generated' empowerment of women.⁴⁵

In relation to homebased work, much of the discussion now became preoccupied with the relationship of home work with international markets. This was largely driven by studies of the garment industry, where female labour intensive manufacturing in several developing countries for export to the developed world was a visible phenomenon. Attempts were made to follow threads of global subcontracting, analyse global commodity and value chains, and in general establish better and more direct linkages between buyers in global markets and the homebased work of women. No doubt important and significant analyses were made within such frameworks, but it is our contention that for Indian home based workers, such a framework had limited and perhaps illusory benefits. Empirical data from macro and micro sources shows that the largest and most significant expansion of women homebased workers has taken place in the domestic market oriented beedi industry where the shift to home work by women had been visible by the 1960s, that local handloom continues to also employ a large, if declining proportion of homebased workers, and that the overwhelming majority of home workers, even in the city centres of modern industry and commerce, are primarily involved in largely domestic circuits of capital, labour and trade.

What has happened is that home based workers have been greatly affected by the general volatility of markets, by fluctuating prices of primary products, and declining local production in several spheres due to import competition, all of which have been the hallmark of liberalization driven globalisation. In some sectors such as handloom, quite acute and direct effects have been in the form of rise in prices and scarcities of raw materials required by workers due to diversion to exports and deregulation. Combined with withdrawal of state procurement and support to cooperatives, it has led to starvation deaths and suicides among handloom weavers in several areas. Further, with the opening of the economy to a range of imports, local industries for even low end products for the domestic market, who employed homeworkers in a part of their production processes, have also been adversely affected leading to declines in work availability and a further downward pressure on wages. And finally, the compulsion to tailor the production process of even expanding export commodities (such as garments) to the needs and stipulations of major buyers from the developed world is effecting changes in the earlier organization of production, in which large numbers of home workers had found initial place. In the garment export industry, factories have tended to become larger and more consolidated at the expense of more dispersed small scale production, and the governments' policy response has been to dereserve garments from the small scale sector. The result has been that in several parts of the country homebased work for garment exports has been on the decline. All this has only worsened the situation and conditions of homebased workers. The complex of factors that are enhancing their vulnerabilities are clearly such that investigation or forays into external markets, and trying to improve their location in them can

⁴⁵ For a fuller discussion on WID and GAD, see 1999 World Survey on the Role of Women in Development, Deptt. Of Economic and Social Affairs, United Nations.

hardly be considered to be a strategy that can benefit even a significant proportion of homebased workers in India, let alone the majority.

Nevertheless, gathering international discourses and networking on the homebased work of women and the conditions of home workers have had significant positive outcomes, of which the most important is the adoption of a Convention on Home Work by the ILO in 1996. Recognizing the elements of discrimination inherent in the system of outwork into homes that leaves homeworkers vulnerable to unequal and depressed wages, unhealthy work environments, and open to the use of child labour, the ILO Convention lays down that equality of treatment between homeworkers and other wage earners must be promoted. It seeks to promote such equality, particularly in (a) the homeworkers' right to establish or join organizations of their own choosing and to participate in the activities of such organizations; (b) protection against discrimination in employment and occupation; (c) protection in the field of occupational safety and health; (d) remuneration; (e) statutory social security protection; (f) access to training; (g) minimum age for admission to employment or work; and (h) maternity protection. It also enjoins the adoption, implementation, and periodical review of a national policy on home work aimed at improving the situation of homeworkers. In sum, the Convention gives due recognition to home workers as a category of workers entitled to the same rights and facilities as were hitherto designated for workers working in factories and other such establishments belonging to employers, while also maintaining that home workers require specific provisions and protections to improve their situation.

III

The Issues and Problems

Legislative Protection for piece rated home workers

Since the ILO Convention defines "home work" as work carried out by a homemaker, 'in his or her home or in other premises of his or her choice, other than the workplace of the employer', for 'remuneration which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used', its focus is obviously on that section of homebased workers who are engaged in forms of wage work and brings within its ambit piece rated work as well as where employer employee relationships are disguised under sale purchase contracts. Particularly since the adoption of the Convention, it has become a common practice to refer to wage or piece rated homebased workers working for some form of employer as home workers distinguishing them from the other segment of homebased workers, namely those who work on their own account, and are self employed.

Before we discuss the ongoing process of the follow-up of the ILO Convention in India, it would be useful to briefly outline the present position of home workers in the country's existing labour laws. At the outset it is important to recognize the common consensus that the labour law

enforcement machinery is at present inadequate in its outreach, both in terms of inspectors, as well as adjudicating authorities. And this, along with general definitions oriented towards organized sector employment in most of the labour laws (quite apart from other problems of biases, corruption etc) has been one of the main reasons for lack of protection and vulnerabilities of not only home workers, but the overwhelming majority of unorganized workers. The only two labour laws which recognize home workers are The Minimum Wages Act, 1948, which refers to outworkers, and the legislations specifically for beedi workers, namely the Beedi and Cigar Workers (Conditions of Service) Act, 1966, and allied legislations – the Beedi Workers Welfare Cess Act, 1976, and the Beedi Workers Welfare Fund Act, 1976.

Reviewing the Minimum Wage law, the Shramshakti report had mentioned that apart from the general problem that it does not provide any guidelines as to the basis on which minimum wages are to be fixed and revised (leading to below poverty line wages being notified as statutory minimum wages), specifically for home workers, there were problems in the practices adopted for fixing minimum rates of piece rate wages. On the issue of piece rates, the report commented that “in determining the output, no scientific or equitable procedure is followed, resulting in women workers particularly in home-based occupations, having to put in very long hours of work supplemented by the efforts of other members of the family, to earn a pittance of a wage which may be a fraction of the time-rated wage.” It had therefore recommended that determination of minimum piece rates should be done “with reference to what an ordinary adult woman can be able to produce or achieve in a period of eight hours of work and that output must entitle her to earn what would be the minimum time-rate wages per day in that employment.” Further, it had proposed a fallback wage to be paid to workers if output was low due to failure of the employer to provide raw materials, etc or a retaining allowance during off season periods of inactivity. These recommendations were designed to effectively formalize the relationship between employers and workers, with the object of ensuring that employers of home workers were prevented from inequitable underpayment of piece rate home workers, and became bound to undertake some responsibilities for the workers whose labour they profited from. The object was to reduce the vulnerability of the workers to excessive exploitation and insecurity of employment.

The laws for beedi workers referred to above, are the only labour enactments that deal with home workers in a detailed manner.⁴⁶ The first of these laws is directed at regulation of the conditions of employment and provides for registration of home workers in the books of the employer who is bound to issue identity cards and log books to them. It provides for an authority to settle disputes between employer and employee relating to provision of raw materials, rejection of beedies, and payment of wages for rejected beedies. It thus takes note of the specific sort of disputes that do arise between piece rated home workers and employers since cheating of workers through short weighments and arbitrary rejections is quite common. The other two laws provide for levy of cess on manufactured beedies, and for provision of

⁴⁶ An often forgotten history behind the enactment of the beedi workers’ law in 1966, was the role played by trade unions and their leaders, in particular A.K. Gopalan who as member of parliament brought the need for protection of beedi workers on the legislative agenda.

welfare facilities with the Fund so created. However, as Shramshakti noted, “there does not appear to be any close relationship between the working of the fund and the implementation of the Bidi and Cigar Workers (Conditions of Service) Act.” The report advocated establishment of such a relationship so that both the laws could be better administered.

One Step Forward, Two Steps Back

Where the laws for beedi workers had constituted the first step towards addressing the vulnerabilities of home workers in one industry, the ILO Convention advanced further in establishing a general framework for eradication of the discriminatory and superexploitative practices that have dominated the working lives of home workers. In recent times however, policy statements emerging from the government indicate that there has been a shift of emphasis away from regulation of employment relations that determine the conditions of work and wages of home workers, and a de-emphasising of the issues related to their exploitation.

Let us look at the Discussion Paper on Home Based Workers prepared by the Ministry of Labour (2000), “pursuant to the adoption of the ILO Convention.” It defines home based workers as “workers within the confines of their respective homes and could be termed ‘self-employed’ as well.” It further states, “In many cases, either the head of the family or a member of the family does the work himself/herself with the help of other members of the family. It is a collective self-employment effort and strictly speaking, there is neither an employee nor an employer. In fact all these home-based workers are workers, materials managers, production managers, finance managers, personnel managers, marketing managers and chief executives of their businesses – all rolled into one.”⁴⁷ The peculiar bias that marks this Discussion Paper may be gauged from the fact that the worker aspect is defined as one minor element of what is seen as predominantly a series of management functions of the home based worker (note that there are five forms of management excluding the chief executive function, and only one worker function).

This substantive definition follows a preceding series of paragraphs, where it is stated that the homemaker has “economic dependence on the person for whom he works, but the latter carries no responsibility for him...he is also subjected to exploitation in various forms,” that “functionally Home Based Workers are defined as those engaged in the production of goods or services for an employer or contractor in an arrangement whereby the work is carried out at a place of the workers’ own choice, often the workers’ own home” along with outlining the definition provided by the ILO Convention. However, these aspects are not considered so important, for it is the self employment manager oriented definition that lays the ground for the penultimate argument that is as follows: “Instead of drawing an exhaustive definition of HBW and confining them to the basic characteristics like place of work, employer employee relationship and the possibility of exploitation, it is perhaps more relevant to carve out a clear

⁴⁷ Para 8, Discussion Paper on Home based Workers, Govt of India, Ministry of Labour, 2000.

definition which is relevant to Indian situation from the unorganized sector, informal sector and self employed class.”

Further, the paper lists the “advantages of home based work for the economy”, as a) No overhead costs as these costs are borne by the workers, b) workers subsidise costs of raw materials, c) workers form a dispensable pool for employers, d) because workers work in isolation, unionization is difficult and employers can pay them very low wages, e) employers do not provide social security, f) piece rates ensure that workers bear responsibility for quantity and quality of output and save cost of supervision for the employer. It then goes on to add, “The system of home work is sometimes advantageous to them [i.e., women] because while tending to their routine work at home, they do the job and supplement the incomes of their families.” And finally, almost as an afterthought to the otherwise advantageous aspects of home based work, the low wages, excessively long hours of work without any social protection and a concealed army of unpaid assistants and child labour are referred to as among its disadvantages. The analysis of the role of homebased work in the economy which otherwise makes a distinction between worker and employer thus actually postulates an equation between the exploitative interests of such employers with the interests of the economy.

There is a need to question many of the assumptions in the official approach to women in homebased production, of which the abovementioned Discussion Paper is merely one illustration. Some of these would include the patriarchal bias that is first of all evident in the projection of income from homebased work by women as supplementary income. It may be pertinent to recall that prior to the enactment of the ERA, it was precisely the definition of the women’s wage as supplementary income that led to lower wages for women in the official minimum wage fixation processes.⁴⁸ Such a bias is again evident in statements such as “The raw materials [for women homebased workers] are generally collected from the employers/contractors by the menfolk of the household and finished goods are also delivered...by them....The situation is, however, different in the case of single women or households where women are the sole or main earning members. In such cases, sometimes, the women are exposed to different forms of labour exploitation.” In other words, the assumption is that women homebased workers with men in their households are protected from labour exploitation. Implicit in such an approach is that lesser wages and lesser legal protections from exploitation would be acceptable and left to the area of social negotiation with their menfolk, and need not be reflected in statutory provisions.

Another aspect that requires to be questioned is the blurring of the distinction between piece rate workers and self employed workers. It is of course true that there are also own account workers in the homebased sector, but this in no way militates against the fact that a distinct class of wage workers working at piece rates today constitutes the majority of women home workers. From the evidence of wide ranging enquiries within the country, it had earlier been

⁴⁸ This is elaborated with reference to the Report of the Fair Wages Committee, and examples from Minimum Wage Notifications are given in I. Mazumdar, Rewa Shankar Misra, Aanchal Kapur, *Equal Remuneration in India*, 2000, mimeo of ILO sponsored study.

concluded that this section was “vulnerable to abuse by employers” and required legislative protection.⁴⁹ Discussions in the eighties had concluded that “the nature of legislative protection that is needed for these two categories of home-based workers is not the same. The piece rated home workers need better wages, better implementation of labour laws; on the other hand, the own account workers need remedies that generally lie beyond the scope of labour laws, such as better facilities and arrangements for purchase of raw material, for marketing, for credit, for storage, for workplace, for better prices and for protection against harassment from public authorities.”⁵⁰

From well before the ILO Convention, the arguments for specifically designed legislative protection for home workers had been advanced in India. Attention had been drawn to the atomized organization of production, and the fact that the nature of the employer employee relationships operative in relation to home workers are such that it is difficult to establish the fact that work is being done, the amount of work being done, or for whom it is being done. It was argued that this is particularly difficult to establish within the rigid framework of proof of employer employee relationships required in prevailing labour laws. The consensus that had emerged through the eighties, after intense study and debate, was that legislative protection for home workers required a separate law rather than amendments to existing labour laws. Such a consensus was articulated in the recommendations in the Shramshakti report (1988), and reiterated in the report of the National Commission on Rural Labour (1991) [See annexures].

More than a decade later, and despite the adoption of a separate convention by the ILO, a reversal in perspective has been effected by recommending amendments to existing laws rather than a separate law, as evident in the MOL Discussion Paper of 2000 and in the Report of the 2nd National Commission on Labour (2002). Thus although these earlier recommendations are referred to in the MOL Discussion Paper, it glides quickly over them into estimates of numbers of workers in various trades, largely based on non-official surveys conducted by SEWA, since as admitted, the official data is considered inadequate. The net result of such a course of discussion emerged in the Report of the 2nd Labour Commission, which recommended ratification of the ILO Convention, but failed to reiterate the need for a separate law for home workers. Its recommendations in the sphere of legal protections for home workers remained confined to the principle of “suitable provisions in labour legislations currently in force” delineated in the Discussion Paper as part of the framework basis for a National Policy for Homebased workers.

At the interface between economic policy and labour law: The current context of approaches to labour and the informal economy

An ostensible reason for the abovementioned reversal is the ongoing process of formulation of an ‘umbrella’ legislation for unorganised sector workers for which suggestions were sought

⁴⁹ National Commission on Rural Labour, (1991).

⁵⁰ Shramshakti, p.115.

from the 2nd Labour Commission, and which the Ministry of Labour is in the process of drafting. The understanding being propagated is that the protections sought for home workers can be incorporated into an umbrella law covering all unorganized sector workers obviating the need for a separate law for home workers. On face value this might appear to be reasonable. However, strong criticism has come from trade unions that the successive drafts of the unorganised sector workers' bill that have been circulated by the Ministry of Labour since 2002 do not provide for adequate protections for workers, and serve to water down the established principles of protections as well as social security for workers. Further, they maintain that major contingents of the unorganized sector workforce such as agricultural labourers and home based workers are not only victims of poverty, but are also exploited in specific ways requiring separate laws addressing the unique nature of their employment relations, and cannot be just thrown under one broad and incoherent umbrella.

There are others who perhaps consider all this to be an idle debate, and believe that what is required is recognition of all unorganized workers in their personal capacity rather than in the economic and social relations that are entered into through their labour. They argue that workers in the unorganized or informal sector transit across occupations and jobs, that the employer employee relationship is difficult to establish and should therefore be done away with as far as the law for unorganised workers is concerned, particularly since unorganized workers include the self employed. Further, it is the identity as an unorganised worker, and his/her productivity and contribution to the growth of the economy, which is what should be recognized in the law. They believe that the objective of the law should be "removal of poverty of the working population....through improving their productivity, quality of work, enhancing income earning abilities and increasing bargaining power."⁵¹In such arguments, what is most noticeable in the departure from earlier established principles and approaches to labour law is the lower degree of priority given to curtailing exploitation of workers by those who profit from their labour.

It is true that homebased workers, like other unorganized sector workers often do not have any fixed occupation or job, although this is generally not a matter of choice but due to the fact that such jobs are not made available to them, or because the income from their occupations is declining and inadequate. It is also true that the relationship between the piece rated home worker and the actual and particularly principal employer is often camouflaged either through sale purchase mechanisms or through a series of intermediaries and subcontractors. Nevertheless, it is also true that there are acute levels of exploitation of such workers, that while they are paid the lowest wages and denied any other benefits, merchants, traders, and factory owners have accumulated wealth and capital from their work. Further, as has been pointed out earlier, farming out work into the homebased sector is used by employers to evade labour laws that otherwise bind them to provide basic necessities and rights to the workers they employ. Since it is also recognized in all circles that inequalities have become far more marked in the

⁵¹ From the indicative bill for unorganized sector workers given in the Report of the 2nd National Commission on Labour. This approach is supported by SEWA which has given a memorandum to the Minister of Labour stating the above argument in January, 2003.

present period, it therefore becomes relevant to ask: can the distress of poverty, of the increased vulnerabilities of workers, be tackled merely by what is defined by economists as economic growth, without addressing issues of exploitation and the inequalising process inherent in it?

We would argue that it is precisely the evasion of this fundamental question that permeates the discussion on the need for 'labour market reform' as part of the ongoing 'economic reforms' initiated in 1991. It is the paradigm of such reforms that have laid the foundation for the changes that are being effected in approaches to labour, to expanding informalisation, and the emphasis on micro-enterprise as the panacea for poverty, particularly among women. Briefly stated, the argument for labour market reform goes thus: Labour laws have established 'onerous job security regulations', have led to 'rigidities' in the labour market that prevent the reallocation of capital and labour required for economic growth. Therefore, such provisions in laws should be abolished, contractual and casual employment encouraged, and there should be no restrictions on retrenchment to allow for free movement of capital and labour.⁵² Of course most of the labour laws referred to are applied only to the organized sector, and there too inadequately. Sometimes, the poor and neglected conditions of unorganized workers in comparison to organised sector workers is emphasized in a manner as if to say that the removal of the protections for organized workers and granting unrestricted freedom to capitalists, will actually be of benefit to unorganized workers. However, what is being sought in the argument for labour market reform, is merely providing legal approbation for easy and quick hire and fire. Its relevance for unorganized sector workers, or home workers in particular, lies in its effect on the determination of the lesser principles, lesser protections, lower benefits, and greater allowance for exploitation, that forms the basis of potential legislation, as has become clear from the discussions outlined above.

The drive for deregulation and labour market reform is also closely linked with promotion of the informal sector, a concept that, despite having thrown up a plethora of literature, has remained fuzzy or somewhat ill defined. Its birth and easy currency was rooted in the empirical experience of large proportions of the economically active population of developing countries working outside the formal worker employer contracts of large and organized industry. Initially conceived of as including only those involved in various forms of petty production and services of a self employed nature, it extended beyond the boundaries of what earlier used to be termed the traditional economy, since clearly new and non-traditional forms of employment were growing, particularly in urban areas.⁵³ It thus replaced the earlier divisions of traditional and modern sectors with a formal and informal (which included more than just traditional industry) dichotomy. With the incorporation of unorganized wage labour within its boundaries, the increasing rather than decreasing share of the informal sector workforce became apparent, challenging the earlier assumptions that it would fade away with the advance of modern capitalist industry. Nevertheless, in the beginning, empirical experience focused attention on

⁵² See World Bank's *World Development Report (1995), Workers in an Integrating World* for the argument for labour market reform, and Jan Bremar's article *Labour Get Lost,.....* for a sharp critique.

⁵³ The term Informal Economy was first coined by the anthropologist Keith Hart in 1971 to describe urban employment outside organized labour activities in the Ghanaian city of Accra. It was later

the fact that particularly women's work in the informal/unorganized sector was characterized by arduous work, low wages, piece rates, casual labour, paid and unpaid family labour, dismal economic and social conditions, total lack of job security, high levels of exploitation, long hours and unsatisfactory work conditions, and occupational health hazards.⁵⁴

Such a focus has now been overlaid by "rethinking of the concept [of the informal sector] with a view to focus on the positive aspects of this sector." Emerging from discussions about flexible specialization in small scale industrial production in the 1980s, by the 1990s micro-enterprises and the informal sector began to be lauded and positively projected, particularly by the World Bank. Increasingly with the drive to deregulate and 'flexibilise' both the organization of production and the employment relations established in the formal sector, the terms of the debate on the informal sector have significantly altered. In influential circles, its lack of regulation is viewed as a basis for its ability to create jobs, its intermittent forms of labour is seen as adaptability, ingenuity, enterprise, and sometimes even efficiency. Exploitative labour contractors are viewed as efficient brokers who "act as employment agencies and contribute to the flow of information across labour markets of neighbouring regions."⁵⁵In general, the focus has shifted to vesting the informal sector with entrepreneurial and competitive value, and one could argue that in the process its exploitative characteristics, and the manner in which the rich get richer and the poor become poorer, are covered up.

To sum up, the thrust of state regulation in the form of labour laws in the first phase after independence, was directed at the employer employee relationship. Such laws broadly accepted the principle that in the realm of work, workers had to fulfill the basic demands made on them by any employer, but it was the responsibility of the employer to provide for minimum wages, security of employment, and humane conditions of work, while the general welfare and social security needs of workers were drawn from contributions by both workers and employers, and administered by the state. The enunciated policy for such a set of laws included a 'recognition of the state as a custodian of the interests of the community, as a catalyst of 'change and welfare programmes', 'intervention of the state in favour of the weaker party to ensure fair treatment to all concerned', 'co-operation for augmenting production and increasing productivity, ensuring fair wage standards and provision of social security', and 'enhancing the status of the worker in industry'.⁵⁶ Such a policy was however weak in enforcement. Coupled with limitations of definitions of establishments, narrow lists of scheduled industries, and rigid written proofs of employer employee relationships required, it tended to result in the exclusion of the vast majority of unorganized sector workers from access to labour laws. In the present period, although the growing emphasis on unorganized workers is welcome, the ideological thrust of

⁵⁴ Shramshakti. Earlier the 1st National Commission on Labour (1969) defined the unorganized sector as that part of the workforce 'who have not been able to organize in pursuit of a common objective because of constraints such as a) the casual nature of employment, (b) ignorance and illiteracy, (c) small size of the establishments with low capital investment per person employed, (d) scattered nature of establishments and (e) superior strength of the employer operating singly or in combination.'

⁵⁵ World Bank, op.cit.

⁵⁶ Report of the National Commission on Labour (1969), pp. 29-30.

earlier labour policy seems to have come under pressures from the liberalization oriented economic policy and processes. The effects of such pressures are also being felt in the altered terms of policy towards unorganized sector workers, reflected in the different principles and lower standards of protection being advocated for proposed legislation for them. It has in a sense made way for lesser obligations of employers, and lesser protections for workers. This appears most sharply in relation to piece rated home workers, whose claims against exploitation by employers are being watered down on the basis of an economic logic that favours employer interests and is directed at promoting informal sector enterprise. It is our contention that such an approach would result in evading the issue of vulnerability of home workers to the severe forms of exploitation that have so far been their lot. There is therefore a need to bring these concerns more forcefully into the process of preparation of a National Policy for Homebased workers.

Own Account Self Employment in Homebased Production

Apart from piece rated or wage workers in homebased production, who have so far been the main focus of our discussion, there can be no doubt that there is a large, and in some segments, perhaps even a growing class of self employed women in the homebased workers category. Within such a category would fall the segment of traditional artisanal workers who have so far escaped being converted into piece rated wage workers dependent on merchants and manufacturers for their actual employment. A second section whose number has been increasing in recent years, perhaps combines some manufacture and processing with retailing, particularly in urban areas.

In the case of artisanal workers, despite the fact that in general, most approaches in both government as well as non-governmental organizations (NGOs) have generally been oriented towards promotion of own account work, there is little by way of information regarding the conditions of such workers outside the co-operative sector. From the few such examples that were given in the Shramshakti report, it would seem that a degree of mobility is required, for procurement of raw materials as well as for marketing. Thus basket weavers in Tamilnadu, reportedly trekked to Andhra Pradesh to collect their raw material over six months, then brought it by truck to Tamilnadu to weave and sell their products. Blacksmiths in West Bengal traveled between villages and marketplaces to ply their trade, carpenters in Gujarat went to wholesale markets to buy scrap wood like fruit boxes, and then after producing small items like stools and kitchen equipment, traversed poor and lower middle class neighbourhoods to sell their products. Junksmiths or tinsmiths reported that they bought scrap metal from wholesalers and made baskets, buckets, barrels and cooking utensils and then sold them in poor people's markets. In all, much of such own account work involves several levels of activity that extends outside the home. However, all such primary reports indicate that among most artisanal workers, and particularly those that cater to wider markets, piece rate work has mostly overtaken own account work, leading to the transfer of a share of the meager incomes of producer workers to traders in return for relatively more assured orders and therefore employment.

Among the principal problems that own account workers face are difficulties in procuring raw materials and then in marketing their products. In several cases, declining access to raw materials are of course related at one level to the general shrinking of resources that were earlier more freely available, due to enclosure of natural resources by public and private agencies. This would mostly affect workers who earlier accessed their raw materials from common lands or forests such as basket weavers. For example, in Kerala, for several years the Forest Department regulations gave only restricted entry for bamboo workers (producing mats and baskets) into the forests, and therefore restricted their access to raw material. From the mid-nineties such raw

material has become even scarcer with bamboo forests being leased out to private industries at a subsidized price, which has effectively debarred the workers from access to the forests.⁵⁷

Shrinking markets on the other hand, are related to declining demand for the products of homebased workers due to the availability of cheaper industrially produced substitutes. Finally, the low profit margins that are forced on them by virtue of the fact that in most cases the non-luxury and non-mechanised goods of own account homebased workers service mostly the poor, who are able to buy only when prices are low. In situations of expanding poverty, these workers face an additional problem from falling demand for even low priced goods. In all this leads to a cycle of low investment capacity, low productivity, insufficient working capital, and overall poverty. Such problems become enhanced among the assetless, i.e., those without land or proper housing, and among those whose social mobility is curtailed on grounds of gender and caste.

Almost the only way in which sections of such homebased workers have been able to remain own account and out of the exploitative trader/manufacturer middleman net has been on the basis of institutional intervention in the form of cooperatives. Some cooperatives, have been able to provide better incomes and better facilities to self employed workers because of marketing support through government procurement of their products and other forms of institutional support from government, or with NGOs substituting their institutional infrastructure in place of government.

Co-operatives and the state

It is in such a context that, the role of cooperatives, and the set of state regulations and policies that promoted and protected co-operatives, have to actually be evaluated. Since the 1980s, a strong critique of the manner in which cooperatives functioned had emerged from organisations of women working with the self employed. Criticism was leveled against the process of registration, which was restrictive and cumbersome, against undemocratic functioning within cooperatives, against the substitution of workers' own management by bureaucratic management by the government, against rampant corruption, all of which had resulted in the exclusion of women. The argument was that the legislation governing co-operatives, and government control, had ensured that effectively self-employed women workers had great difficulty in forming their own co-operatives, that women workers' specific needs and voices found no place due to male domination in cooperatives, that internal democracy and accountability to members of co-operatives was curtailed by control and management by government, and that the objective of cooperatives was being subverted by

⁵⁷ In the mid-1990s, the government leased large bamboo tracts in Kerala to Hindustan Newsprint Limited at a subsidised price - while a tonne of bamboo reeds is allegedly priced at Rs.500-800 for the industry, it is about Rs.2,000 in the open market for the traditional weavers. Apart from depriving the traditional weavers of their raw material, this also led to the depletion of bamboo forests. For, while the weavers would cut only two-year-old bamboo culms, it is alleged (by the Bamboo Corporation) that the newsprint industry cut culms that were hardly two-three months old.

politically powerful vested interests.⁵⁸ Earlier, Shramshakti had concluded that “The cooperative is seen as a form of organizing by which the weak and vulnerable can collectively protest against exploitation....[they] have not been able to serve as the vehicle to organize the weak and vulnerable, especially self-employed women.” Its position was, “although the state started with the good intention of promoting genuine cooperatives, it has smothered these co-operatives to death by over-regulating and over controlling them.”

However, by the time the several such criticisms started taking effect at least in the form of a new central law, (The Multi-State Co-op Societies Act, 2002), that purportedly grants greater autonomy to cooperative societies in their operations, it was accompanied by a set of policies that effectively withdrew the several forms of subsidy, support, and market protection given to cooperatives under the earlier policy regime. An example of the present dire situation of cooperatives is of the loss of livelihood among cooperative sector weavers in Andhra Pradesh caused by cutbacks in subsidies by government to APCO, the apex state cooperative society that supports several primary cooperatives. This has led to APCO defaulting on payments on stocks procured from primary societies from 1998, and resulted in several suicides by starving weavers as reported in several newspapers and journals at the time. APCO’s default on payments came on top of the state of collapse of several cooperatives due to the withdrawal (in 1996) of the Janta Cloth Scheme, which had earlier provided some assured demand through state procurement of Janta cloth from cooperative societies.

Some cooperatives that have been able to survive and in a few cases even augment the incomes of workers, are where institutions and NGOs have used their own institutional resources and staff to find marketing outlets, introduce new designs and skills, arrange for low interest credit, etc., but in such cases, no real assessment has ever been made of the institutional investments made on the part of NGOs, which in a sense substitutes for a part of the withdrawn government subsidies. The question that still remains before us is whether it is possible for cooperatives in the self employed artisanal sector to ensure sustained incomes, equivalent to at least statutory minimum wages for workers, without a subsidy and procurement support regime.

Micro-Credit, SHGs and Self Employment

The other persistent problem for self employed women workers has been the problem of access to lines of credit for working capital and technological upgradation. Although following nationalization of banks and the introduction of the Differential Rate of Interest for priority sectors, theoretically some steps had been taken to provide the poor and self employed with low interest credit. However, in practice the formal banking institutions were insensitive to poor women’s needs, and were not geared to their low literacy levels, lack of mobility, and social inhibitions. In the seventies some grassroots women’s organizations took the initiative in

⁵⁸ See Samakhya, *Cooperative Legislation and the Self Employed Woman*, in R. K. Punia (ed) *Women in Agriculture*, 1992.

forming cooperative banks, and from the late eighties, greater stress was laid on involving NGOs in specifically targeted government credit programmes for poor women.

Since 1992, the focus of credit policy for poor women has become directed at 'micro-finance' through 'autonomous' 'self managed' collectives of 10-20 women in the form of self help groups (SHGs). Pioneered by NABARD, the apex institution in the field of agricultural lending in the country (following a three-year action research project conducted by NABARD along with an NGO, MYRADA), "the self help group-bank linkage project involved a three-way relationship between the SHG as village level retailer, the NGO as sponsor or promoter of the group (a role which entails formation of groups, training of group co-ordinators in accounts maintenance, supervision, monitoring, trouble shooting etc.), and the [nationalized] commercial bank as financier of the group."⁵⁹ SHGs, which grew out of the women's groups formed under the DWCRA programme, and upgraded the practice of small informal mutual savings and credit groups (often called committees) through more formal but flexible procedures, were allowed to open group accounts. The formation of the SHG and the opening of its account then became sufficient condition for eligibility for small non-subsidy loans without collateral, under the SHG-bank linkage programme of micro-finance, or for loan programmes under the poverty alleviation programmes of the Central Government, which involve a subsidy component.⁶⁰

The phenomenal growth of SHGs among women (90% of the over 1.6 million SHGs are women's groups according to NABARD) is indicative of some success of the SHG programme in establishing links between the formal financial institutions and poor women, something that had eluded the earlier priority sector lending programmes.⁶¹ But one of the reasons for such expansion was because the loans disbursed were not tied to any pre-determined purpose, and could be for consumption or personal emergencies as well as investment in enterprise. Since periodic states of emergency are endemic among those living on the margins, whereby absence of employment for even a short period or a delay in payment of wages, an illness or death of a family member, etc., creates a problem of immediate survival, loans are required for consumption which even moneylender mahajans may not be prepared to give out to the

⁵⁹ K. Kalpana, *Micro-finance – the Silver Bullet for Empowerment: Some Questions*, Working Paper No. 191, MIDS.

⁶⁰ According to NABARD as on 31 March 2005, cumulatively, banks have lent Rs 68.98 billion to 1,618,476 SHGs, about 24.25 million poor households have gained access to formal banking system through SHG bank linkage programme, with the average size of loan per SHG amounting to Rs 42,620, and average loan per household being Rs 3,044.

Nearly 90% of the groups are women only groups.

⁶¹ Of course the primary source of lending among members of the SHGs and there have been criticisms that in an era of financial sector reforms which have shifted the emphasis from development priorities to profitability in determining bank lending programmes, the SHG-bank linkage programme, which shows high levels of return of loans, has been primarily instrumentalist in its approach. Several cases of SHG members taking loans from usurers to return SHG based loans have also been reported. In other words, while linking formal sector banking to women, there is inadequate investigation of whether it has actually curtailed usurious lending.

assetless. It is in such areas that SHGs have no doubt filled an otherwise unmet need.⁶² Further, in several areas, they have provided a tool for self organization and a mobilisational impetus to women's collective intervention on social issues such as domestic violence, alcoholism, etc which has perhaps enhanced women's commitment to SHGs.

With the integration of SHGs into the credit-cum-subsidy based asset creation and self employment programmes of the government, it is expected that the success of the SHG as a savings and credit group and its mobilisational potential will also work to help self employed women workers use small subsidies and credit in order to enhance their incomes through investment in enterprise. Research into actual outcomes in this area is somewhat inadequate, not of sufficient scale, and shows mixed results. In some cases where NGOs support them with adequate resources and continuing institutional support systems (particularly in the area of marketing), improvements in the incomes of workers (although generally of a marginal order) has been shown. But the investment and costs incurred for such institutional support is rarely accounted for and the more well known success stories tend to follow the larger cooperative model more closely than the smaller sized SHG model. Further, a pertinent question that needs to be raised is whether even the improved incomes in the self employed segment are equivalent to minimum wages. On this question unfortunately, no one is particularly forthcoming. Finally, the extent and role of funding of the 'voluntary' organization (which is usually equivalent to outright investment or some might say subsidy in contrast to the interest returning loans offered to workers) is rarely factored into analyses of success stories. As such, it remains an open question as to whether promotion of self employment in atomized homebased production through SHGs can counter the vulnerabilities of such women workers, or offer anything more than marginal incomes on a continued basis.

Skills and Technology

An area where there has been much discussion in recent years has been the need to upgrade skills of women workers. At the same time, attention has also been drawn to the process of deskilling as workers lose their traditional or acquired skills when they cannot find employment with these skills. We have already referred to the deskilling among handloom weavers, others have pointed to highly skilled women embroidery workers being forced to dig mud or break stones to earn a livelihood. In practice, the actual dexterity or fine manual skills that may often be found among homebased workers, which involve years of on the job practice, are undervalued. In most forms of organized sector employment, experience is recognized as an addition to skill, and given due economic status in the form of annual increments, etc. The same recognition is of course completely absent in the case of home workers.

The problem is that the issue of skill is closely interwoven with technology, although it is commonly perceived as being more linked with education. No doubt education is an important facilitator in the acquisition of several kinds of modern skills, but the crucial issue that affects

⁶² A less discussed aspect of SHG based micro-credit is the high rates of interest on the loans disbursed, which has been shown as ranging between 24-36% per annum which is quite close to the prevailing private usurious rate.

both the productivity as well as the employment status of the class of homebased workers that we are concerned with, is related to the social scale and availability of technology, which in turn determines the price of labour time in the market for labour. It is not the individual creativity and dexterity involved in the manufacture of a product that determines the value of labour time under capitalism, but productivity measured in terms of output upon labour time (except perhaps where fashion tastes of the rich create select and small islands of patronage). It is for this reason that skill too is measured in terms of machinery. Thus operators working on machines are designated skilled, while purely manual operations are termed unskilled.

We have already seen how the rise of the powerloom to its pre-eminent position in textile production has led to a reduced value of labour time in handloom. In coir spinning, which is a significant homebased occupation of women in Kerala, the introduction of the ratt (a wooden or metal spinning wheel rotated by hand into which coir fibre is fed and drawn out as twisted yarn by hand) was a major technological innovation for homeworkers. The manually operated ratt requires three women to work on it, one for rotating the wheel and two for drawing out the twisted yarn. It has mostly replaced the practice of spinning coir fibre into yarn between just the two palms of the hands, although in some parts such handspinning still continues. Recently attempts have been made in the coir cooperatives to introduce a power driven ratt from which yarn can be spun by only one woman in place of three, although many workers who have spent many years spinning on the older ratt complain that the yarn tends to break often when they use the new version. These recent introductions in coir spinning are of course taking place in a period when the coir cooperatives of Kerala are in a state of decline, state supports are being withdrawn, and local state regulated linkages in the supply of coir fibre (on which cooperatives have been dependent) have been disrupted due to cheaper supplies from Tamilnadu. While in Kerala, due to the strong trade union organization among coir workers, effectively pull up wages of even privately engaged workers in some areas, exploitative practices and wages are once again seeing a revival. As such even technological innovation is not spreading among an aging workforce of coir spinners.

It is thus difficult to formulate a meaningful generalised approach towards skill development and technology as a measure for increasing incomes and reducing the vulnerability of homebased workers without addressing the several larger economic relations. No doubt some technologies could be introduced to reduce the drudgery and strain of the work and also increase productivity to a limited extent. But it is unlikely to address the real issue of the social relations involved in the spread of homebased work among women, and its inherent force of downgrading of the value of such work on any sustained basis.

Social Security

One of the recognized areas of vulnerability of unorganized sector workers is in the area of social security. Of course in recent years in academic discussions under the rubric of what is called a social capital approach, it is often argued that these workers have social capital in the form of family, kinship, and (perhaps not so laudable) caste networks which also provide for

some aspects of social security. Nevertheless, there has been a growing recognition that actually unorganized sector workers are in need of formal social security, in the form of health insurance, provident fund, pensions in old age, etc., in order to reduce their overall levels of vulnerability. It is also recognized that legislation is required for social security and this consensus provided some of the background to the proposed bill for unorganized sector workers, which at the time of writing was still to be finalized by the Ministry of Labour.

However, in the meantime the National Advisory Council to the Government of India has drafted a separate bill on Social Security for Unorganised Sector Workers, and placed it before the Government in June 2005.⁶³ While at this stage, the NAC draft does not appear to have been endorsed by the government, a summary of its proposals serves as a useful entry point for a discussion on the several areas of concern in relation to social security for workers.

To begin with, in the proposed draft, the definition of the unorganized worker is delinked from any employment relationship. It explicitly mentions homebased workers, both piece rated and self employed, but delinks definition of social security from income security, employment security, and working conditions, and its focus is on health insurance, maternity benefit and pensions. Premising its proposed structure for administration on the understanding that the Government bureaucracy “has neither the manpower nor the knowhow to reach the scattered crores of workers”, the draft bill envisages the establishment of Worker Facilitation Centres to be run by a ‘network of Facilitating Agencies.’ Such Facilitating Agencies are to include SHGs and their associations, Post Offices, Co-operative societies, Micro-Finance Institutions, Trade Unions, District Panchayat, Village Panchayat, Existing Welfare Boards, and Urban local bodies (listed in that order). They are to be appointed by a Central Social Security Authority, which will be responsible for managing the funds and implementing the Act and for which it will appoint the Facilitating Agencies as the implementing agencies on its behalf.

In the draft bill, the Central Social Security Authority (hereafter referred to as the Authority), consisting of a Managing and Executive Directorate and a Supervisory Board, are to be responsible for the framing the policy and implementation of the Act, and all to be appointed by the Union Government. The Directors will decide on the Facilitation Agencies to whom the Authority will delegate its powers in running the Worker Facilitation Centres. The functions of the Worker Facilitation Centres are to include (a) Registration of workers and giving them unique identification social security numbers and identity cards, (b) Mobilization of workers to become members of the Scheme, (c) Securing the contribution of members to the funds, and (d) Delivery of benefits to the members. It is stated that a floor level scheme to be funded by the Union Government directly is to include “(i) health, life and permanent disability insurance; and maternity benefits without contribution from the member, and (ii) a contributory old age benefit scheme including pension.”

⁶³ Reportedly this draft has been prepared by a committee headed by Arjun Sengupta, and has not received the endorsement of the Ministry of Labour. The full draft with an introductory note is available on the NAC website

Resources for the Welfare Funds constituted by the Authority are envisaged as coming from a) contributions of workers for registration and renewal for individual schemes or any other contribution, the amounts of all of which are to be decided on by the Authority and other contributions which the Authority may possibly decide upon, b) possible cess or tax levied on individual or a class of employers, and/or cess or tax on goods and services, to be decided on by the Union Government at will, c) possible levy on any individual employers in specific circumstances also to be decided at will but by the Authority. It may be noted that in the draft bill, the workers' contribution is definitively listed, while all other contributions are at the discretion of primarily the Union Government and then of the Authority.

It seems that what is proposed in the NAC draft is little more than another central government scheme, since no legal or justiciable right or entitlement is conferred on workers either from government or employers. What is envisaged is a contracting out or outsourcing of the delivery and administration of social security schemes by the central government to various agencies including private agencies, whose legal terms of accountability is limited to providing audited accounts and an annual report to the Authority. Added to this is a specific provision for permission being granted to Facilitation Agencies for charging user fees, and for taking donations or grants. Finally, there are no penal provisions in cases of denial of benefits to any worker, and reference of any disputes and complaints to any court of law is debarred.⁶⁴

It is important to note the absence of any entitlement of workers or any justiciable claim by them on either government or employer, which renders the concept of social security little different from any private contributory insurance scheme. It is interesting that the only area, which any private insurance does not cover, (namely pregnancy and maternity), is listed as practically the only area where contributions from workers are not being sought. As far as the actual maternity benefit is concerned, the bill has little new to offer since several state governments already have cash maternity benefit schemes whereby a miserable amount unable to support an individual, let alone a family for even one month, is given. Further, in the absence of any institutional provision for healthcare in the Act, the patently inadequate public health institutions and hospitals, which are in any case open to all citizens, are all that is likely to be available to workers or alternately some cash benefit to avail of private healthcare. Although any additional cash benefit may be useful to individual workers in the present context, in the absence of defined parameters of covering all costs incurred, it would be difficult to term such a provision as one for social security.

Secondly, the delinking of social security and welfare from conditions of work and employment in the present draft bill stands in marked contrast to the recommendations of Shramshakti of establishing a closer relationship between the two in relation to beedi workers. While no doubt, own account workers require social security as much as wage workers, but the elements and economics of such social security encompasses a distinctly different set of issues requiring a

⁶⁴ The draft also appears to completely bypass state governments, limiting their role to again possible contributions to the Funds. This is quite odd considering that labour is a state subject under the constitution.

different framework. On the other hand wage workers out of whose labour employers gain wealth are entitled to a degree of support from employers' contributions. And even if one were to accept that both categories of workers be clubbed together, a fundamental flaw in the scheme lies in the fact that it presumes that all workers have a surplus income, which they can put aside in the form of contributions for their social security. Another consequence of delinking social security from employment relations would be the absence of any mechanism to protect women workers' continued employment after any leave taken for maternity purposes.

Thirdly, the institutional framework for the administration of the Act seems to be little other than the opening of a channel of funding for a range of private agencies who have no commonly laid down penalizing procedures in cases of default and dereliction, and no compensation for workers who are so denied any benefit. It requires only a cursory knowledge of the existing social security delivery systems for organized sector workers to know that unless systems of accountability are given due place, many workers would remain excluded from the benefits of the proposed social security schemes due to inability to pay regularly, while others are liable to be defrauded of their savings. In the EPFO for example, on the one hand unclaimed pension and provident fund contributions have accumulated, and on the other hand employers have defaulted on payments to the tune of crores of rupees (in which the deductions from workers' wages already made by employers as PF contributions is included).

Fourthly, the conception of government funding for what has been identified as floor schemes is also left to annual budgetary vicissitudes. Going by the resistance to expansion of social sector spending, or rather the tendency to cut such spending as part of the economic reforms process, a question remains as to whether budgetary allocations would be of sufficient order to meet even the requirements of even the floor level schemes envisaged.

The multiple levels at which the issue of social security for unorganized sector workers is surfacing is perhaps testimony to the growing visibility of the insecurities and vulnerabilities of unorganized sector workers, a fact that has ensured that the issue is now on the national agenda. Nevertheless, it would be unfortunate if the issues involved are not debated more keenly. While there appears to be a broad consensus on the need for legislation for social security, there is likely to be a degree of controversy on whether the conception of social security ought to be watered down in the case of unorganized sector workers to one of a lesser order than what has hitherto been the conception of such security in the case of the organized sector.

The undertows of Patriarchy

We have already observed the practice of family members (particularly male ones) moving out of traditional household occupations in decline, leaving the women to continue there at a low income, which occasionally leads to an alteration in the traditional sexual division of labour within the household in such occupations. As mentioned before, while this might be seen as leading to more direct forms of income for women in the family, it also often means that their

overall economic conditions deteriorate, and the burden of labour is increased. This is particularly the case when other work is not available for the menfolk, who tend to sink more easily into demoralization, social and moral decay, most commonly appearing in the growth of alcoholism, domestic violence against women, and an increased tendency to leave the entire burden of managing the economy of the household on women. Such a phenomena is experienced by those persisting in self employment as well as those working at piece rates, since the tilt towards becoming piece rate workers is part of the same broad economic tendency of declining incomes from artisanal production as well as the drive to push wages down by putting out work. Vulnerability and inequality is thus inbuilt into the process of women being drawn into homebased work.

This brings us to the question of why homebased work has become an area of concentration of women workers and the social consequences of their increased vulnerability. As mentioned before, earlier discourses on women and development had emphasized the marginalisation of women in the development process. More recently the emphasis has shifted to promotion of homebased work and self-employment as evidenced in the MOL Discussion Paper as well. The argument that through such promotion the marginalised can be brought into the mainstream, in a sense begs the question raised initially that it was precisely the nature of mainstream development that had resulted in the marginalisation of women in the economy.⁶⁵ At one level this obviously ties in with the shift in emphasis in the discourses on the role of the informal sector discussed above. What is perhaps increasingly left out of the debate is the depressing social function of expanding homebased work among women, in buttressing the practice of confinement of women to the home by the economic process.

This is of course a most obdurate area of both inequality and vulnerability of women, i.e., within the patriarchal household, and invites concern regarding the socially retrogressive impact of promotion of homebased work among women. Such a concern is reflected, albeit obliquely, even among that segment of women's organizations that otherwise seek to promote homebased work. Attempts to break the barriers of confinement, have been made by them through the demand for workshed space for collective grouping of homebased workers in production activity. Official discourses, on the other hand, which in the 1990s have effected a shift in emphasis from 'development' to 'empowerment' have focused on programmes for 'multifaceted (including social) capacity building'. In general, the elements of such empowerment are seen to mean women's access to credit, involvement in economically productive activity, control over income, access to and control over production assets, and autonomy over personal choices. The 'enabling' instruments are institutionalized into programmes for such capacity building with an emphasis on group formation among designated 'beneficiaries' for building co-operation and solidarity among them, backed by supportive institutional arrangements and facilities by government or non-governmental agencies. Such an empowerment framework has become part of the design and terminology of

⁶⁵ For a discussion on this see Indu Agnihotri and Vina Mazumdar, *Changing Terms of Political Discourse: Women's Movement in India, 1970s – 1990s*, EPW, July 22, 1995.

several programmes of the government, although it perhaps has yet to be fully incorporated into the lexicon of the labour departments. A limitation of such an approach is that while it seeks to change the internalization of inequalities by women towards promoting their 'agency', it offers little in the way of a programme for structural change in economic or labour relations, and fails to address the issue of the intertwining of household patriarchy with the broader economic processes that work towards pushing women into the lowest paid segment of the workforce.

It is our contention that the failure to incorporate this concern in any policy towards homebased work would constitute a fundamental failure to comprehend the specific nature of women's vulnerabilities in homebased work. Further, it would lead to promotion of inequality, and the charting of a path of social and economic development that implicitly (and in some cases explicitly) supports the tendency to confine women to subordinate positions in the organization of monetised production. It might be argued that the stress on equality between home workers and other workers in the ILO convention provides a sufficient framework to tackle this area of women home workers' vulnerability. However, an area on which the Convention is noticeably silent is the question of childcare responsibilities, since the issue of maternity protection is confined to prevention of dismissal due to pregnancy, and healthcare during pregnancy or cash in lieu of institutional provision for such healthcare.

Women's responsibilities in childcare, as well as in the other multiple care responsibilities that women generally bear in the domestic realm, is not an issue on which there is otherwise any silence in government sponsored discourses. In fact, as mentioned before, one of the arguments in the background paper for a National Policy, is precisely that homebased work is advantageous for women as it provides flexibility to women workers to go about their domestic duties along with work for income. Whatever concern exists on this front is directed at the use of child labour. But the impact of confinement in enhancing women workers' burden and strain, the effects of a generally dingy and unhealthy work place which is all a poor workers' home can provide, and the submission to domestic patriarchy that it entails, does not appear to be something that is required to be addressed in the official framework. And yet these are crucial areas of vulnerability of women in homebased work, with long term implications.

IV

Institutions and Organisations

It is difficult to present an overview of government initiatives, programmes for homebased workers in any comprehensive manner, since various ministries and departments deal with different and sometimes overlapping segments of homebased workers. Here we attempt to just briefly highlight some of the key strategic elements in government structures and programmes in relation to homebased workers.

At the outset it is perhaps useful to just quickly go over some of the ministries and departments that directly deal with home based workers. The first is of course the Ministry of Labour at the central and state level, in whose ambit lie the enforcement of legal rights of workers, which in relation to homeorkers primarily involves administration and enforcement of the Minimum Wages Act and the laws specifically directed at homeworkers in the beedi industry, including the administration of the Beedi workers' welfare funds. The second is the Ministry of Textiles, in which are housed the national specialized agencies that deal with the handloom and handicraft sectors. The third is the Ministry of Rural Development, which provides the line departments and agencies that administer and enable the delivery of the vast bulk of the government sponsored employment programmes, and with whom the Council for the Advancement of People's Action and Rural Technology (CAPART) liases. And finally, the Department of Women and Child Development under the Ministry of Human Resource Development, as the nodal department on women's affairs entrusted with the task of guiding, coordinating, and reviewing the efforts for the advancement of women, has the task of playing a key monitoring role, as well as of initiating independent programmes in relation to women's affairs. As is known, all these ministries and agencies function within a more generalized framework expressed in the five year plans formulated by the Planning Commission, and policies of the government in the determination of which the Ministry of Finance has acquired an increasingly strategic position.

Among the current processes and programmes emanating from governmental institutions, two that are of importance to homebased workers provide an entry point for highlighting some of the differing patterns and trends that have evolved in the approach and practice of government institutions. 1) The process of preparation of a National Policy on Homebased Workers, and the drafting of the Unorganised Sector Workers' Bill, both currently being undertaken by the Ministry of Labour, and 2) The Swarnajayanti Gram Swarozgar Yojana (SGSY), which has consolidated several of the earlier IRDP employment generation programmes into one consolidated model of SHG based credit and subsidy for self employment initiated by the Ministry of Rural Development.

In an earlier section, some aspects of concern in the approach to the preparation of a National Policy on Homebased Workers and the arguments taking place on the unorganized sector workers' bill, have already been discussed. Generally the position so far is that most organizations of workers have been arguing for a separate legislation for home workers, while the government's position has been for amendments in existing labour laws, and the incorporation of home workers' issues in the proposed unorganized sector workers' bill. In the case of the drafts of the bill prepared so far, the issues of contention have been in relation to the emphasis (or lack of emphasis) on providing regulatory protections for workers' employment and conditions of service, and the provision (or again lack of it) for statutorily sequestered government contributions for the purpose of providing income and social security to workers. Since the focus here is on the institution, it is worth touching upon the institutional processes involved on these issues. In terms of the process so far, some consultations to prepare a framework for the Policy on Homebased Workers have been held with organizations of

workers and other departments of government. These have been reported at the tripartite institutional consultative bodies of the Ministry of Labour (consisting of representatives of Central Trade Unions, Employers' Organisations, and Government) in the shape of Standing Labour Committee and the Indian Labour Conference (ILC), and it is presumed that any draft would go before the ILC before finalisation since in its own words the Ministry of Labour, "is committed to the ethos and culture of tripartism, [and] initiates the process of enacting a new law or bringing about changes in the existing laws only through a process of consultation with the social partners and after obtaining a consensus." One of the problems of these tripartite bodies is that they have no statutory authority, and while some of their recommendations have found their way into policy (both legislative and executive), several important consensual recommendations have not. For example, as far back as 1956, the ILC had evolved a set of principles for calculation of minimum wages, which is till date not being followed by the Government in its Minimum Wage notifications, and similarly the persistent recommendation for a separate law for agricultural workers has been ignored. In recent years, trade unionists have been saying that the ILC has been converted into a mere 'talking shop' where views are aired and recommendations are made, that have no influence on actual policy. Other workers' organizations not represented in the ILC because of non-recognition as central trade unions, have been pressing for representation on the body, although it must be said that some of them are called in for consultations by the Ministry and today have perhaps more influence on policy formulation particularly for unorganized sector workers than the recognized trade unions. Such problems in the institutional processes of course do not lend themselves to simple solutions and in reality reflect actual class and political correlations and contradictions. Of some concern is the fact that under the pressure of globalisation, a process of marginalisation of the voice of labour (from both organized and unorganized sectors) has taken place, and a decline in its political influence is discernible, something that is reflected in the lowered value of the ILC. Nevertheless the tripartite consultative machinery remains an important institutional arena and it is to be hoped that some of the concerns in relation to policy towards homebased workers raised in this paper will find some voice in the ILC.

The SGSY, is administered by the Ministry of Rural Development, represents the increasing inclination of the Ministry towards associating NGOs with the delivery of their beneficiary oriented programmes (since the 1980s) for employment among the rural poor, and particularly for self employment of the unorganized sector type, a pattern also followed by the DWCD. The claim of the Ministry is that the SGSY is different from earlier Programmes, in terms of the strategy envisaged for its implementation and has been 'conceived as a holistic Programme of self-employment', covering all aspects of self-employment of the rural poor viz. 'organization of the poor into Self Help Groups (SHGs)' and their 'capacity building, training, selection of key activities, planning of activity clusters, infrastructure build up, technology and marketing support'. The programme conception is premised on the understanding that the incidence of poverty is not only because of absence of requisite economic development, but also due to absence of opportunities to the poor for their capacity building such as lack of avenues for employment and access to basic amenities like drinking water, housing, education and roads. Credit is viewed as the critical component, and subsidy as a minor enabling element. It has

integrated the SHG model into a targeted credit cum subsidy programme for income generation activity, directed at BPL families (i.e., those being below the official poverty line with an allowance for a maximum of 20 to 30 percent of SHG members being APL). The subsidy component under the scheme has two elements, viz., 1) in the form of Revolving Fund Assistance equal to group corpus of the SHG subject to minimum of Rs.5000 and maximum of Rs.10,000, "with the possibility of total subsidy going upto Rs.20,000/- in multiple doses," and 2) project based subsidy – "to be kept by Bank in Subsidy Reserve Fund Account," the quantum of which amounts to 30% of Project cost for individuals subject to a maximum of Rs.7500, and 50% of project cost subject to Rs.1.25 lakhs or Rs.10,000 per SHG Member whichever is less for SHGs. Under the scheme 2000 rupees is paid to NGOs, (or Community Based Organisations (CBOs) Community Coordinators/ facilitators/SHPs/animations) for each SHG at the time of its formation, and another 3000 is paid when the SHG becomes eligible for revolving fund assistance, a further 4,000 when a project for economic activity is initiated, and 1,000 on adherence of the group to repayment of bank loan. It thus involves these organizations and individuals as part of the governmental outreach as a form of incentive/contract work, while the SHGs themselves are to undertake projects 'designed in close cooperation with banks' in designated 'key activities' selected by Block level SGSY committees and recommended by panchayat samitis with a stress on building 'clusters of economic activity'.

It is claimed that this is part of a 'paradigm shift' in the strategy for rural development, with its emphasis on participation of people through decentralization, and involvement of Panchayati Raj Institutions (PRIs) and Self Help Groups in the planning, formulation and execution of the Programmes. The relevance of the SGSY for women homebased workers is that it promotes self employment which may be homebased, and 40 percent of the beneficiaries have to be women. However, the Ministry's association with NGOs, and its conception of participatory approach is quite different from the nature of the class based representational structure of the tripartite machinery that has evolved in the sphere of labour relations. Since some of the self employment based income generating work by SHGs has also been in the sphere of marketing of organized sector corporate sector products (including multinational corporations), or ancillary manufacturing work for them, it remains unclear as to how much of the employment generated is genuinely independent self employment and how much of it is actually disguised employer employee relationships, and if so, then are the incomes so provided at least equivalent to minimum wages, what are the terms of such employment, and further, with the dismantling of the protective regulatory regime in the sphere of markets, whether such kinds of integration of SHGs with large scale industry will result in further displacement of several small scale local producers, etc. From the side of the SHG movement itself there have been some criticisms leveled against the manner in which the projects under SGSY are being forced upon SHGs without taking into account the overall situation of viability of projects in conditions where falling demand due to rampant agrarian distress has become an inbuilt feature of the current day rural economy.

The above two separate conceptions of the functions, role, and inbuilt institutional mechanisms of government's relating with women homebased workers in a sense reflect the foundational

compulsions and vulnerabilities of homebased workers. On the one hand the need for employment is becoming increasingly acute, and on the other that very need in conditions of low or jobless growth creates the conditions for acceptance of below subsistence wages and extreme levels of exploitation. Both require addressal, and both require action on the part of government. In this it is to be hoped that the Employment Guarantee Bill currently before Parliament, will play some role in altering the ground situation on both counts.⁶⁶ Of course, actual benefits to homebased workers will still remain dependent on the degree to which they are able to organize and represent their interests.

Before we enter the realm of organizations of homebased workers, it is perhaps important to note that apart from the institutions of government referred to above, the National Commission for Women is yet another arena of institutional intervention, which has as yet not come into operation in relation to homebased workers. The Commission has a broad mandate including being consulted on measures taken by the Government in the sphere of legislation and policy that affect women. For such purposes, although it has played a role in highlighting the adverse effects of globalisation on women workers, as yet there have been no specific interventions in relation to the conditions and vulnerabilities of the class of homebased workers have been initiated by the Commission.

Unions and Organisations of homebased workers

Over the last twenty years, a variety of forms of organizations that work among homebased workers have been thrown up. Trade Unions have of course a much longer history, particularly among beedi workers and handloom workers. Cooperative societies and mahila mandals (organized mostly for the purpose of delivery of government welfare schemes) were among the forms of organisation that became important through the fifties and sixties. In the 1970s organizations of informal sector women workers, began to emerge both within and in some states independently of the trade unions. At the same time old and new mass organisations of women with a wide mandate covering women's issues in a variety of spheres were activated and grew into a significant force. In the 1980s, NGOs (large and small) proliferated over vast areas, some of whom initiated associated or subsidiary organizations of women. By the 1990s, large numbers of women were being organized into government and NGO sponsored SHGs. All these forms of organization now have a presence among homebased workers, with some having gained in scope and scale, and others having receded in terms of significance. Given the size of the country and the proliferation of organisations, it is not possible to provide any kind

⁶⁶ The National Rural Employment Guarantee Bill, 2004, has been the subject of much debate and popular campaigns. The bill tabled before parliament in December, 2004, was charged with being of an extremely limited nature, as it targeted only those below the official poverty line, and left its area coverage open to executive discretion. The bill was referred to the Parliamentary Standing Committee on Rural Development, which submitted its report in June, 2005, recommending extension of coverage, and several changes to make it an effective guarantee at minimum wage rates. Reports so far indicate that the government is perhaps prepared to incorporate the changes made by the Standing Committee.

of comprehensive listing of these organizations or map all their distinguishing features and characteristics.

Nevertheless there are some aspects of the primary purpose and role of the various kinds of organization that are useful in evolving some form of categorization, although in most cases there is a fair amount of overlapping of functions. Let us begin with those organizations that have had a long been held to be the primary voice of workers, the trade unions. Trade Unions owe the purpose of their existence to the insurgent voice of industrial wage labour seeking amelioration of their conditions of work and representation through collective organization and action, although in the early industrializing countries many grew out of protective combinations of workers in independent trades, many of whom would perhaps now be called self employed. Based on an instinctive class collectivity of workers in socialized modes of manufacture, from the early years of the birth of the trade union movement in India, when the voice of insurgence dovetailed into the anti-colonial nationalist upsurge, through the several decades of industrialization in independent India, trade unions emerged as a fighting force whose collective bargaining capacity could not be ignored. These are among the historical factors that have shaped the instinctive purpose of trade unions to represent the workers in opposition to or in relation to employers, and accorded a position to them in labour laws, and some institutionalized methods and forms of representation. Representing workers and fighting for protection of their employment, for economic and social advance of workers, and against severe forms of exploitation, are therefore, the primary purpose of the organisation of trade unions. Generally, such representation is constitutionally bound to the democratic organizational principles, involving election of leaders by members, with unions being federated into a cenral trade union organization. The strength of any trade union in institutional structures is based on the scale of its membership, and its capacity for mass action. Their role is to represent the interests of labour and their recognition is based on their effective presence in the workplace in relation to employers. It is from the central point of the relationship between employers and workers, that trade unions have been organizing home workers in beedi, although other longstanding forms of homebased work in textiles have also been an area where trade unions have a presence. One of the methods that unions have used to defend homebased workers employment and improve their conditions of work have been formation and participation in cooperatives. Trade unions are often charged with ignoring women's specific issues, of patriarchal male domination and marginalisation of women in their organizational practice, of preoccupation with organized sector workers and neglect of the larger mass of unorganized sector workers. Nevertheless, they are still amongst the most significant representation platforms for and organization among home workers at least in some sectors and areas. The form of trade union organization, with its habit of assertion of workers' rights, and drive to impose the concerns of workers over employers' interests and on economic policy, remains most useful in breaking through the unequal power structures. For where contradictory interests are involved, reliance on only consent by all parties concerned can rarely push or transform such power structures in favour of workers.⁶⁷

⁶⁷ Major central trade unions include AITUC, AICCTU, BMS, CITU, HMS, INTUC, TUCC, etc.

Where the workplace is the center of gravity of trade union organisation, women's mass organizations are generally based on residential area based membership. There has been a tremendous spurt in growth of membership of women's organizations in the country from the 1980s, now constituting among the largest mass bases of the women's movement.⁶⁸ The broad purpose of these organizations is generally organization of women and movement for women's social advance and for establishing equality in all spheres of social, economic and political life, and they tend to have area membership based upward election of local leaders and delegates to state and national conferences who in turn elect their state and central leaders. Lakhs of women homebased workers have been brought into the fold of such organizations across the country, enabled by the residence based form of organization. With the mandate of these organizations being broader than only workers' issues, their arena of activity extends to all women and not just working women. Some initiatives by such organizations at organizing women in homebased production have been undertaken at various state levels, through income generation projects or SHGs and the demand for protective legislation for homeworkers has often been raised. But in the institutional framework of consultations on the issue of homebased work, they have possibly not been given due place. However, the National Commission for Women has the practice of consulting these organizations. There is perhaps a wide scope for joint initiatives of trade unions and these mass organizations of women in relation to homebased work among women.⁶⁹

The third form of organization that have generally been most integrated into government programmes are the NGOs, which have been termed as representing "an individual's or a small group of individuals' volunteerism to effect changes in favour of the larger interest of society...[they] tend to have a pyramid structure, with the founder member at the top, representing the chief functionary."⁷⁰ Generally there is an executive or governing board of members who may be selected by some core group, nominated, or directly appointed, while in their outreach groups and organizations there are nominations and elections. Their constituency is generally area based economically or socially disadvantaged sections of people, and livelihood issues, anti-poverty programmes, and provision of various types of needs and amenities are among the activities they undertake. It has been said that in NGOs "Accountability is often limited to public opinion, and transparency to the governing bodies and donor agencies." While NGOs may be large or small, in aggregated terms they have a wide outreach and influence among poor women, including homebased workers.

A few women workers' organizations have grown out of the interstices of trade unions and NGO's, who have been taking up multiple levels of organization of homebased workers. They

⁶⁸ AIDWA, the largest women's organization in the country has alone a membership of over seven million women.

⁶⁹ The major all India mass organizations of women included AIDWA, AIWC, NFIW, MDS, JWP, YWCA. Smaller groups or collectives of women also intervene and over the years united platforms of large and small organizations have emerged on several issues.

⁷⁰ Piyush Antony, *Towards Empowerment: Experiences of Organising women Workers*.

combine the trade union format, with credit based organization. They undertake marketing of homebased workers' products, organization of women workers' cooperatives, negotiating and advocacy with employers and government on homebased workers' issues. They are distinguished from NGOs and have quite recently given the broad umbrella title of Member Based Organisations (MBOs) among informal sector women workers by some commentators, a term which has been taken up in the Report of the 2nd Labour Commission. For the purposes of organizing informal sector workers, this form of organization is projected as more feasible and effective than the 'traditional trade union model', which is seen as having "inherent problems of feasibility and effectiveness....because of the 'absence of a clear employer-employee relationship, non-existence of a common work place as in the organized sector, high incidence of under employment, multiple employers, absence of protective laws, etc. These have characteristics of both trade unions and NGOs and it is said that they "have contributed to many changes in the structure and functioning of NGOs." They are generally viewed as being "autonomous with focused action plans for distribution of tangible and intangible benefits" among their members, presenting an alternative framework reflecting 'the paradigmatic shift in development discourse vis-à-vis participatory development.' A few of these organizations have secured national and international goodwill and are the most visible face of homebased women workers today.⁷¹ They have played an important role in lobbying and advocacy on homebased workers' issues, and have found a place for representation in various formal decision making bodies and consultations initiated by government agencies.

As may be seen there are a range of forms of organization that articulate the voice of homebased workers. We have attempted to just point to some elements that distinguish the major forms from each other here. Within each major form of organization, and even between them, there are of course deep and ideological differences, even as there are several areas of common agreement. Finally, it is perhaps important to note that there has been a strong groundswell culture of joint and united activities and struggles of workers and women, which tend to take two kinds of forms, the first being joint platforms which enable large organizations to bring together their strength on various issues, the second being loose networks consisting of non-organisational individuals and organisational. However, on the issue of homebased workers, mass based joint actions have been rare. Networks have played a role at the international level, but they have yet to emerge as a force on the national stage.

Conclusion

This paper has tried to present a broad stroke picture of the principal areas of vulnerability of homebased women workers. The objective has been to centrestage the multi layered intertwining of policy, law and the set of social relations that give rise to the conditions of life

⁷¹ Among the earliest form of such organizations are SEWA and Working Women's Forum. SEWA is the most acknowledged face of homebased workers in India, and has been an important part of the various stages of consultation in the process of the preparation of the National Policy for homebased workers. It played an important role in the discussions preceding the adoption of the ILO Convention on Hom Work.

and work that the majority of women homebased workers in the country are condemned to and take up the major debates and contentions that are involved. We have tried to avoid clichéd descriptions, or present simplistic solutions to problems, both of which abound in the 'politically correct' rhetoric on women's issues. The investigation into the interconnectedness of the issues involved and the underlying causes of the vulnerabilities of women in homebased production, has been done with a critical eye. Such a critical perspective has been one of the singular contributions of women's studies and the women's movement and still has tremendous relevance in this age of gender mainstreaming. Of course justice has not been done to all issues and all perspectives, but it is hoped that a debate may be initiated with a wider and deeper rather than a narrower scope on several of the fundamental issues before home workers today.

In conclusion, a few points are highlighted which perhaps require to be attended to in the preparation of the National Policy on Homebased workers

- 1) Any approach to the issues and vulnerabilities of homebased workers requires clear identification of the two categories of homebased workers, 1) piece rated home workers and 2) self employed workers. Blurring of the distinction between these two categories would only lead to the issues of exploitation of piece rated workers being covered up in policy measures as well as legislative framework.
- 2) Separate legislative protection for piece rated home workers with a comprehensive coverage of employment relations as well as providing for income security, employment security and social security may be a basic need of home workers. The Shramshakti Report recommendations (see annexure) provides an appropriate framework as the basis of such a law.
- 3) In order to particularly address the issue of unpaid labour of women in homebased production, the labour time of all individuals involved has to be accounted for in the minimum wage fixation process.
- 4) The employment concerns of major segments of homebased workers require to be foregrounded in the evolving of policies for the sectors in which they are concentrated or in large numbers.
- 5) For the self employed segment of homebased workers, employment and income protection requires a reappraisal of the set of economic policies that are eroding the employment and income base of small scale or household industries. Without this the initiatives in providing easier lines of credit, skills and technology to these women workers are unlikely to improve their situation.
- 6) The patriarchal undertones that provide the basis of the policy of promotion of homebased work among women require be reviewed.

Home based Women Workers

Q4. Home based workers, a vast majority of whom are women, can be broadly classified into two categories. The first, which is the most predominant is piece-rated home-based workers working for some other employer, and the second is own account small entrepreneurs or small artisans. By and large, bidi workers, agarbatti workers, handloom workers, readymade garment workers' and the like will fall in the first category while hawkers, vendors, rag pickers, and artisans will be in the second category. Within the same occupation it may be possible to find both categories, as for example, in papad making or basket making or leafplate making.

65. It could be argued, on the following grounds, that both these categories should be included, viz. that both types of workers exist as home-based, that *the* conditions of work and life of both are not very different, that own account workers are increasingly becoming piece rated home workers and that protection for piece-rated workers' might lead them to become independent own-account workers. However, it was felt that the nature of legislative protection that is needed for these two categories of home-based workers is not the same. The piece-rated workers need better rates of wages, better implementation of labour laws; on the other hand, the own-account workers need remedies that generally lie beyond the scope of labour laws, such as better facilities and arrangements for purchase of raw material, for marketing, for credit, for storage, for work, place, for better prices and for protection against harassment' from public authorities. In view of the different sets of remedies that these two categories seem to require, we decided to confine our attention in this section to home-based piece-rated women workers, leaving the problems of own-based women workers to be dealt with in next section; where general laws (rather than labour laws) are being considered. However we recognise the need for the legislative framework for home-based piece-rated workers to encourage formation of cooperatives or cooperative like groups which could handle problems of marketing purchase etc. and make the workers ultimately independent of middle-men or employers.

66. We considered whether the legislative framework for protection of ham based piece-rated workers should include or incorporate an approach on home-based work itself-whether this method of protection should be encouraged or discouraged and/ or whether any attempt is to be made to restrict or further increase in the number of home-based workers category wise. However, after discussion, we agreed that it is not necessary nor even desirable for us to take a view on these larger questions. Nonetheless, we felt that the home-based workers must have a genuine free choices to whether they would like to, work at home or outside their homes; such choice presupposes the necessary facilities and infrastructures that will enable home-based workers to opt for work outside their homes.

67 In deciding on the nature of legislative protection that must be given to home-based piece-rated women workers, the question naturally arose as to whether it is necessary to think in terms of a comprehensive self-contained law on the subject or whether the same result could

be achieved by making suitable amendments to existing labour laws. After earnest consideration, we came to conclusion that the best way of helping the home-based women workers would be to have a new law specific to the needs of home-based workers as would give them greater visibility. The vexatious question of employer-employee relationship tests can be avoided altogether and a new method for fixing responsibility by looking at control over, the production process and ultimate product can be introduced.

68 Having decided on a new law, we considered whether the new law could be on the lines of the Bidi and Cigar workers (Conditions of Employment) Act 1966 which after all relates to all industry where over 90 per cent of the workers are home-based and predomlllantly women. We took note of the yaps in the implementation of the above law, particularly in respect to women workers, most of whom do not even get recognised as workers. In the light of the experience of the working of the law, and at the same time without denying that the law has over the years in certain cases' acted as a rallying point 'for organizations of workers to be formed or attempted to be formed. We came to the conclusion that the law should provide for Tripartite Boards, on the pattern of Dock Labour Board or Mathadi Boards for the following reasons:

- (a) A protective Act like the Bidi Act leaves the implementation of the Act to the employers and the enforcement to the governmental machinery. Experience has shown that neither is effective and the victim is the worker for whose benefits the laws are enacted. A Board, on the other hand, takes over the responsibility for both implementation and enforcement.
- (b) A protective Act necessitates the establishment of employer-employee relationship which, as experience has shown, can become a tedious legal exercise. The Board remove this difficulty as individual employer-employee relationship is replaced by a group relationship between the Corpus of employers and of the workers under the aegis of the Board. This will also enable implementation of social security schemes without difficulty.
- (c) A Tripartite Board will enable security of employment to be provided to the workers which an Act of the protective type cannot.
- (d) A Tripartite Board on which the home-based workers, more particularly the women workers, will have a position of responsibility and authority will not only ensure. benefits to the women workers but will give them a visibility which they had been lacking so far. Not all the laws, be it the Minimum Wages Act or the Equal Remuneration Act or the Contract labour Act or even Bidi and Cigar Workers Act have so far helped the women workers obtain either the intended benefits or their visibility.

69. While the advantages of having a law which would, *inter alia*, provide for a Tripartite Board to implement the provisions of the Act and Schemes are obvious, we were not unaware of the difficulties that are to be surmounted in a Board type of set up, particularly in the earlier stages of its functioning. We were aware of the difficulties that the Gujarat Cloth Market Board

which has been in existence for seven years is facing, having been dysfunctional with the employers and workers and workers not registering themselves, resulting in the workers being left without any protection or benefits. We also recognised that the Board, in respect of home-based workers will have to deal with operators and workers spread over a large area and in dispersed locations, unlike the case of Dock Labour Board or Mathadi Boards which function within a limited and compact geographical area.

71. Taking note of these difficulties, we considered that the law should be so drafted as to enable the Board to take on functions in a phased manner wherever this becomes necessary. Broadly, we envisage the law to contain provisions relating to safety, welfare and working conditions of the home based workers, on the lines of the usual protective legislations; the law will also provide for setting up Boards which will be Tripartite consisting of the Government and employers and an equal number of representatives of workers of whom the majority will be women, whose functions will be wide ranging including registration of employers and workers regulation of employment and be responsible for payment of, wages, provisions of other benefits including welfare accident compensation and social security for which purpose it will obtain funds either as advance deposit or levy from the employers.

71. A rough calculation shows that about 36 per cent of the wages will have to be collected additionally from the employers to provide for provident fund, medical benefits, maternity benefits, gratuity, bonus and leave. The Board will have the powers to inspect power to prescribe and call for returns and information, power to prosecute and power to de-register employers and workers should the need arise. The various trades and occupations relating to home-based workers will be listed in the Schedule to which additions can be made by the appropriate Government by notification. The Board will be authorised to draw up schemes for the various categories of trades/occupations, subject to approval by the appropriate Government. The Board will be enabled to set up Tripartite bodies at the local levels in respect of specific trades/occupations for coming out of this the function of the Board. The Board will also be enabled to set up tripartite/appellate bodies to deal with disputes, if any, between the employers and the workers.

72. While the Act will be a Central Act enacted by Parliament the State Government will be enforcing the provisions of the law. The law may provide for a Central Advisory Committee consisting of representatives of the various State level Advisory Committee of the State level Boards and the Central Government. The law may also provide for special sanctions like attachment of stocks, suspension of licences, withdrawal of other facilities like quotas and bank loans in respect of recalcitrant employers.

73. While the establishment of Boards, drawing up of schemes, may take some time, the provisions of the Act relating to welfare, working the normal Government machinery until the Board is able to take over the functions. However, the first task that will have to be undertaken is the complete enumeration of all workers and all employers including contractors, trade or occupation wise. All contractors will be registered as employers and where they are working for

a 'principal employer' then they shall be considered to be employment of the 'principal employer'. To ensure that workers entering into a 'sale purchase' arrangements are not left out of the reckoning of workers, the law may define workers on the 'lines of the Bidi and Cigar Workers Act 1966 and include any person entering into a sale purchase agreement with an employer or group of employers as a worker.

74. We would also suggest that the draft Bill prepared by Government must be widely circulated to all State Government, Voluntary Organizations, trade union organizations, academic institutions and other bodies which are interested in this subject for comments, so that what is ultimately put on the Statute Book has been preceded by extensive consultation and hopefully, consensus.

Source: Report of National Commission on Self Employed women and Informal Sector, Shram Shakti, p5.115-117, 1988.

Salient features of a proposed legislation for home-based workers

Home-based workers have not been able to secure the protection and benefits of labour and welfare legislation. Working in their homes either on a piece rate or a time-rate, they are vulnerable to abuse by employers. There is evasion of labour legislation as home based workers do not work in a factory and work in a system of contracting and sub-contracting. Sometimes, even the nature of their labour is disguised in the form of a sale-purchase agreement. It is, therefore, necessary to propose a new legislation dealing specifically with home-based workers which will ensure regularity and continuity of employment to them, protect and improve the condition of their employment, such as wages, hours of work, welfare benefits and working conditions. Some of the salient features are summarised below:

1. Employments to which the legislation would be applicable would be put in a Schedule to the Act, capable of being modified by Notification.
2. It would be applicable to home-based workers in such scheduled employments. It would include all out-workers to whom articles or materials are given on job basis by other persons being employer, contractor etc., for processing in the home of the out-worker or some other premises not under the control or management of the employer or contractor. A worker would include persons doing any work, skilled or unskilled, manual or clerical and also include a person entering into a sale-purchase agreement for supply of any article mentioned in a schedule to the Act, in which case the purchaser would be deemed to be the employer or contractor, as the case may be.
3. The appropriate Government may prepare and notify schemes for the purpose of ensuring a definition of rights and obligations of such classes of registration of protected home-based workers, for making better provisions in the terms and conditions of employment of such workers and for welfare of such workers. The provisions may provide for:
 - a) Registration of home-workers, employers and contractors and defining the rights and obligations of such classes of registered home-workers, contractors and employers to whom the scheme will be applied.
 - b) Regulating the recruitment and entry into the scheme, allocating of registered home-based workers to employers or contractors and regulation of employment and the terms and conditions of such employment of registered home-workers, including rates of wages, hours of work, maternity benefits, overtime payment, leave with wages, provisions for gratuity, weekly and other holidays and pay in respect thereof.
 - c) The welfare, health and safety measures for registered home workers.
 - d) Constitution of a Tripartite Board with representatives of employers,

registered home-workers and the appropriate Government, with a tenure of three years and a Chairman of the Board being one of the members appointed to represent the appropriate Government. The Board is to be responsible for the administration of the scheme as well as for maintenance of accounts and submit annual reports thereon.

- e) The time within which the registered employers or contractors should remit to the Board the amount of the wages payable to the registered home-workers, requiring employers to keep a deposit with the Board an amount of equal to twice the monthly average wages, penalty for persistent defaulters in this regard and for giving a fallback wage to the registered home-workers during periods of unemployment or under" employment.
 - f) Regulating the employment of home-workers, termination of services on account of closure, retrenchment etc. No discharge, termination, dismissal or retrenchment of registered home-based workers shall be done by any employer or contractor by way of disciplinary action or closure of business, except with the prior consent of the Board, and any disciplinary action also be taken only with the consent of the Board and after an enquiring by an officer appointed by the Board.
 - h) For the constitution of a welfare fund and payment of contribution by employers and contractors to the fund for welfare benefits like provident fund, gratuity, health insurance, maternity benefits, leave etc. as well as to set up an authority to administer any welfare scheme affirmed by the Board.
 - i) To provide for penalties including imprisonment for contravention of provisions of the schemes.
4. The Board would have powers to determine and recover dues from the employers and workers, to register employers/contractors and all home-based workers, to prohibit the employment of unregistered workers, cancel registration of employers or contractors for violation of provisions etc. There should be a Commissioner for home-based workers who would also be the duty of the employers and contractors to intimate the Board/Commissioner of the home-based workers in the scheduled employment, their place of residence of work, nature of employment carried on, wages and other benefits paid etc. The Commissioner can also conduct a survey of the home-based workers and after due enquiry and procedure proceed to register such workers.
5. No child below 14 years of age shall be allowed to work in any scheduled employment.
6. The Board shall have the powers to fix the rates of wages and scheduled employments will be deemed to have been included in the Minimum Wages Act, 1948. The rates of wages may be fixed on a time-rate or wages fixed by the Board. Home-based workers shall be paid 25% of such wages additionally as home-based

work allowance, on account of the use at his or her cost of raw material, premises or other facilities such as electricity etc., not provided by the employer or contractor. Where the employer or contractor is unable to give work on account of bad weather, shortage of raw material, power failure or other like causes, 50% of the wages shall be given as fallback wages, to home-based workers who are registered and have worked for not less than 120 days with the said employer or contractor. Where the scheduled employment is seasonal in nature, a retention allowance as may be fixed by the Board shall be paid when there is no work. There should also be provision for setting up of creches in the neighbourhood where home-based work is carried on.

7. The registered employer or contractor is to contribute 20% of the wages in the first and second year after registration to the Social Welfare Fund and at 35% of the wages every year from the third year onwards. Social security benefits mentioned earlier as well as accident compensate shall be paid out of this Fund in accordance with the social security scheme to be framed by the appropriate Government. The benefits however should not be less than what would be available under the Maternity Benefits Act, Workmen's Compensation Act, Provident Fund Act and Gratuity Act.
8. There should be a provision for a Dispute Settlement Tribunal (consisting of judicial officers) to adjudicate any dispute arising from the Act or a scheme, from the orders of the Board or Commissioner regarding registration or refusal to register as also to determine and recover dues. The Tribunal will also have powers to take cognizance of offences and impose penalties.
9. The Board may appoint inspectors for the purposes of administration and enforcement of the Act or the scheme.
10. There would also be provision for Advisory Committees at the Central and the State levels.

Source: Report of the National Commission on Rural Labour, 1991. pp. 152-153