

WOMEN'S WORK, MATERNITY AND PUBLIC POLICY IN INDIA



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Glossary

ANM	Auxiliary Nurse Midwife
BPL	Below Poverty Line
CSCDC	Kerala State Cashew Development Corporation
CAPEX	Cashew APEX
CPI (M)	Communist Party of India (Marxist)
CITU	Centre of Indian Trade Unions
ESIC	Employment State Insurance Corporation
FGD	Focussed Group Discussion
GOI	Government of India
GOK	Government of Kerala
IT	Information Technology
ICDS	Integrated Child Development Scheme
JSY	Janani Suraksha Yojana
kudivarappu	home based cashew peeling work – a putting out system
MBA	Maternity Benefit Act
NMBS	National Maternity Benefit Scheme
NRHM	National Rural Health Mission
NREGA	National Rural Employment Guarantee Scheme
NSS	National Sample Survey
SC	Schedule Caste
SSI	Small Scale Industries
SEWA	Self-employed Women's Association
raat	hand or motor operated coir husk spinning device to make rope
PF	Provident Fund
RSBY	Rashtriya Swasthya Bima Yojna
WIN	Women's Independent Network

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Executive Summary

Women as bearers and nurturers of children provide the foundation for generating future citizens for the country and labourers for the economy. In addition to reproductive or care work, women also contribute as workers to the nation's gross national product. In the labour market, women's reproductive role constrains their full participation and also acts as a basis of gender discrimination. Maternity Benefit is a tool that mainly enables women to participate in the labour force even while pregnant and provides employment protection and compensation for loss of wages while on maternity leave. In India, poverty and vulnerability provide additional arguments for state provision of social security including maternity protection and childcare. The Indian state is bound to the provision of Maternity Benefit not only by the Constitution but also by being a signatory of the ILO Convention 1919.

This report on women's work, maternity protection and policy in India aims to provide a critical overview and assessment of the adequacy and efficacy of existing arrangements for Maternity Benefit in India; to highlight the knowledge gaps, lessons and best practices; and give recommendations for legislative and operational improvement (Chapter 1).

The three models of maternity protection in vogue in India are: 1) contributory model (ESIA and Welfare Funds); 2) the employer liability model (MBA) and 3) the conditional cash transfer model (Janani Suraksha Yojana (JSY), Indira Gandhi Matritva Sahayog Yojana (IGMSY) which take the form of various Central and State schemes (Chapter 2).

The level of women's work participation and their location within the labour market dictate the availability of Maternity Benefit cover. Indian women have a low and declining presence in the labour market: only 38.4 per cent of rural and 19.6 per cent of urban women in the reproductive cohort (15 to 49 years) were workers in 2009-10. Peak age for labour market participation (35 -49 years) together with peak child bearing age (20-29 years) imply that the majority of women, including workers are out of the ambit of employment-linked maternity protection. Given the persistently high maternal (212) and infant (51) mortality rates this report recommends universal application of maternal protection – that is extension of maternal protection schemes to all women in the reproductive age without any conditionalities.

With regard to workers in the reproductive cohort, overall, the majority is in rural areas and in agriculture (64.8%). Their preponderance in certain sectors (agriculture in rural and service sector in urban areas), occupations (low end jobs, domestic workers, migrant labour, vendors etc.,) and type of work (unpaid work or self employment as opposed to paid work that is, regular/salaried or casual work) implies that the majority of women are in the unorganised sector and are informal workers – without any kind of social security.

The Employees State Insurance Act (ESIA) and the Maternity Benefit Act (MBA) together provide Maternity Benefit cover to a narrow segment of formal workers in the organised sector. The coverage of even this segment is uneven and incomplete for reasons originating in design and implementation.

Workers in the unorganised sector and informal workers are out of the ambit of the two legislations. A small segment of informal workers, usually belonging to specific professions, are covered by a handful of small Welfare Funds in certain States like Kerala. The reach of the Central and State conditional cash transfer schemes such as the Janani Suraksha Yojana (JSY) and the most recent Indira Gandhi Matritva Sahayog Yojana (IGMSY) are increasingly restricted by conditionalities pertaining to age (above 18), number of births (two) and household income status (Below Poverty

Line). In all, less than 1 per cent is eligible for maternity or health care provisions. In absolute terms around 100 million female workers or 99 per cent have no Maternity Benefit cover.

The social determinants of female workers – poverty, marginalisation in terms of social groups and low educational attainments; their health status and the low utilisation of health care – all provide the rationale for the expansion and modification of present arrangements for Maternity Benefit to cover all workers. Employment linked maternity cover should be available to working women in addition to other protection available on the basis of their citizenship. Benefits under one should not disqualify a woman for benefits under the other (Chapter 3).

An analysis of around 20 judgments under the MBA helps understand which categories of workers have been denied, or, given less than entitled benefit; the nature of establishments that deny such benefits; the reasons cited by establishments for denying benefits and the reasons for Courts' acceptance or rejection of arguments by employers/petitioners. This exposition of the effects of laws, such as the MB Act, 1961, has enabled to demonstrate how structures, social and legal, embody norms that inherently render women workers different so that legislations directly aimed at facilitating woman worker's maternity role instead become instruments not only for their subordination but also for their dismissal from work. Enactment of laws for women needs to be backed by clear rules of operation and institutional arrangements (Chapter 4).

The State Reports covering Kerala, Maharashtra, Orissa and Uttar Pradesh, demonstrate the diverse ways in which Maternity Benefit cover is denied to women and throw light on the limitations of design and implementation (Chapters 5 to 8). The findings of the State reports are many: the existence of multiple schemes, procedures and poor governance significantly reduces the reach and efficacy of maternity protection; maternity protection without health infrastructure cannot be successful and that awareness amongst female workers of their rights is critical for an effective maternity protection system. The better reach of maternity protection in Kerala compared to the other States bear out these conclusions.

The findings of the first eight chapters are brought into sharper focus, the main points and conclusions summarized within 3 sections. Part 1 covers the efficacy matters pertaining to the MB Act and the ESI scheme; Part 2 reviews the existing models of protection being offered and their assessment based on desk review and field based work and Part 3 brings out the field based observations of women in organised and the unorganised sectors. Recommendations (Chapter 10) emerging from this study include suggestions for improving the ESIA and the MBA; recommendations for the Ministry of Labour and Employment; convergence of the Ministries of Labour, Rural Development, Health and Women and Child; and progressive recommendations for transformative potential.

The three most important recommendations of this report are:

Maternity Benefits to Women as Workers and Citizens:

Maternity Protection is extremely important to women and should be available to all women regardless of their age, number of children, wealth status or employment status. This entitlement needs to be linked their citizenship, residence and human rights. This paradigm would provide for greater scope for women to be socially protected for an important contribution that they make to society by giving birth and contributing disproportionately to care work. In addition, workers, especially women in the unorganized sector, should also be entitled to employment linked maternity benefits as a part of their workers' rights. Entitlement to the one should not exclude women from eligibility for the other.

Portable Entitlements: This report recommends the need to explore entitlements that are portable especially for workers in the unorganised sector and in all occupations where women are engaged in a flexible manner. Further the need to explore mediation of access to maternity benefit through institutions (banks and post offices) rather than through the employer. The rationale is, in the case of women workers their vulnerability emerges from multiple factors, within which work or employment is one.

Maternity Cess:

In order to generate funds to cover all women and all women workers who are eligible for maternity protection, 1% cess on all economic transactions is being recommended. Further work on this is worth exploring. Through a state registration and enrolment system, maternity benefits can be made available as an entitlement.

Introduction

Maternity protection is recognised as an essential pre requisite for women’s rights and gender equality, with the right to maternity protection enshrined in International Human Rights Instruments (for example: International Covenant on Economic, Social and Cultural Rights 1966), International Labour Conventions (no.3, no.102, no. 103, and no. 183) and in national legislations in several countries. In 1975, International Labor Organization (ILO) adopted Declaration on Equality of Opportunity for Women Workers expressing the belief that equality of opportunity and equal treatment of women require the elimination of maternity as a source of discrimination and the protection of employment during pregnancy and maternity.

In 2004, at the 92nd International Labour Conference, ILO member states adopted a resolution calling on all Governments and social partners to, among other objectives, provide all employed women with access to maternity protection, to develop gender sensitive social security schemes, and to promote measures to better reconcile work and family life.

The focus on ‘maternity’ had been part of public policy to protect maternal and infant health in India even prior to India’s independence. One of the earliest was the Punjab Maternity Benefit Act (1943), which provided cash benefits to women workers for specified periods before and after confinements. The protection of women workers’ maternity related rights was governed by the Factories Act 1948, which in turn was influenced by various conventions of the International Labour Organisation. The report¹ by the Bhowmik Committee (1946) pointed out to the inadequate availability of crèche facilities in several industries and poor implementation of Maternity Benefit provisions by various Union Provinces of pre-independent India.

When policy indeed recognised the link between maternity and women’s work in much more explicit ways and addressed it in the Indian Factories Act 1948, it by design got limited to the organised sector where the presence of women is low (compared to the unorganised sector). The perspective that factory is the setting for ‘work’ and ‘man’ as an industrial worker governed the dominant thinking of this Act.

The first National Commission on Labour, which submitted its report in 1969 “reflected the prevalent mind-set. The bulk of the report was concerned with industrial labour, with less than 10 per cent of the report, 45 pages out of over 500, explicitly referring to non-industrial workers” (Jhabvala, 2003, p. 262). The national trade unions too neglected this sector making the workers truly invisible to planners and government (Bhowmik, 2009). This dominant neglect meant that the *protective* aspects of providing for leave during pregnancy and after child birth, providing for non-arduous work; and the *promotive* aspects of providing for transport, crèche facilities at the work place were unevenly implemented linked to the presence of women workers at the work place and the level of technology and mechanisation of the industry.

The Committee on the Status of Women in India (1974) pointed out a large proportion of women workers are in the agriculture sector and in traditional home based industries with very poor public policy support to improve their incomes and livelihood. The Report of the Commission for Self-Employed Women “Shram Shakti”² (1988) had documented the weak legal framework that governs

¹ Report of the Health Survey and Development Committee (1946): Vol. I - Survey, New Delhi: Government of India Press.

² The chapter on “Legislative Protection” discusses about the different labour laws affecting the status of women workers. With respect to any categories of work, where the normal pattern of labour laws may not be applicable,

the informal sector women workers and the lack of implementation, monitoring and supervision of whatever that exists. The report pointed out the need to expand the understanding of 'work' and 'worker' and strongly recommended the need to create policy framework for ensuring social protection on the one hand and women's rights as workers on the other. However, the neglect of the informal sector despite its large numbers and contributions is a cause for concern.

The post liberalisation period (1990s) had seen the increase in women's work participation. On the one end of the spectrum is the increase in women's participation in the informal sector as casual workers and on the other end is the emergence of women in the growing service sector (education, financial, communications, travel and hospitality) and the global information technology (IT) and information technology and enabled services (ITES) with uneven social and maternity protection. In the era of globalisation, there are severe constraints in the growth of secure employment. While public sector employment has declined, the additional employment generated was entirely in the category of unprotected regular, casual or contract wage-workers which constitute informal employment. The workforce in the informal sector grew from 361.7 million in 1999–2000 to 422.6 million in 2004–2005. The emerging evidence shows that job destruction has outpaced job creation in the formal sector, forcing those thrown out of employment to eke out a living in the informal sector (Parasuraman, 2009). Hence, India is at the crossroads of a global trade regime that is capital oriented and pushes for pro-market policies and a global social/human development regime that seeks commitments to achieve the MDGs. The state seems to perform a tight rope walking with these competing demands.

Maternity protection in employment is an important cornerstone to achieving three of the Millennium Development Goals such as Gender Equality, Reducing Child Mortality and Improving Maternal Health. However, the existence of multiple maternity protection schemes with varying governing frameworks (employer liability; employer-employee contributory and State led conditional cash transfer) and varying emphasis on maternal health, infant health and public health, forms the background for this study commissioned by the Ministry of Labour and Employment, Government of India and the International Labor Organization, New Delhi.

BROAD OBJECTIVES

The objectives of the study are:

1. To provide an overview of existing maternity benefit schemes and their coverage, for the formal and informal sectors
2. To assess the efficacy of the schemes for the formal sector –MB Act and ESIC schemes
3. To assess the current coverage in the informal economy through Central and State level schemes for maternity benefit/ assistance.
4. To bring to light incidences/ signs of evasion tactics deployed by employers to avoid paying maternity protection under the MB Act and ESI acts in particular and in other schemes, and assess whether the evasion is aggravated in the case of an employer liability scheme.
5. To highlight the knowledge gaps, resultant lessons, similarities and differences in best practice among the various schemes and provide recommendations legislative and operational improvements.

it is necessary to evolve patterns and systems by which working women have a role not merely as beneficiaries but as participants in the enforcement of provisions applicable to them (Shram Shakti 1988: pp 99).

THE STUDY IS SPECIFICALLY EXPECTED TO:

1. Provide a picture of the pattern of women's employment in India, such as the number of the workforce in the organised and unorganised sectors, industry sectors of employment, rural and urban distinction, and so on.
2. Map Central and State level schemes for maternity protection in the informal and formal economy in India to provide an overview of coverage and provisions.
3. Investigate the efficacy of the MB Act and ESIC Schemes through cluster (industries/ location) based studies in four States.
4. Provide case studies of women in the informal sector to understand their experiences of availing maternity protection and their suggestions.

KEY QUESTIONS GOVERNING THE ENQUIRY AND POLICY SUGGESTIONS:

- A. Which segment of female workers enjoys a satisfactory or better coverage and which are the least covered due to poor reach as well as poor implementation?
- B. What are the critical sectors to extend/ strengthen the implementation of maternity protection on the basis of cost and extending existing structures?
- C. What is the scope for broadening the scope of MB Act and ESIC schemes to the informal economy workers, through convergence of funds and approaches? Likewise, to what extent could funds be merged to have a unified maternity protection system for all women workers?
- D. To what extent do non-employer liability schemes offer equity in maternity protection outcome of women workers?

NATIONAL ADVISORY PANEL

To advice and give suggestions on the study and carry it to the next level of advocacy for policy innovations, a National Advisory was set up. Prof. Armaity Desai (former Chairperson, University Grants Commission), Dr. Mina Swaminathan (MRSSF, Chennai); Prof. Padmini Swaminathan (MIDS, Chennai), Dr. Mirai Chatterjee (SEWA & National Advisory Council) were the members on the Panel.

KEY CONSULTANTS & RESEARCHERS

Prof. Maitreyi Krishnaraj, Retired Director, Research Centre for Women's Studies, SNDT Women's University, was the key Consultant who contributed to the conceptualisation of the study and to the various stages of conducting the study and preparing the report. Ms. Aruna Kanchi & Dr. Krishna M, have contributed to updating and reworking Chapter 3. Ms. Vaidehi Y and Mr. Rahul Sapkal have contributed to the review of various schemes presented in Chapter 2.

STATE PARTNERS

To conduct the study in four states, three partner institutions and senior researchers were associated for conducting the study – Dr. Nalini Nayak of Sakhi (Trivandrum, Kerala), Ms. Nishi Mehrotra of Education Research Unit (New Delhi), Dr. Amrita Patel of Sansristi (Orissa). Maharashtra the fourth state was taken care of by Dr. Shewli Kumar of the TISS who was ably supported by Ms. Aruna Kanchi and Mr. Rahul Sapkal.

TIME FRAME OF THE STUDY

With a consultative meeting in August 2009, the project commenced. There was an inception meeting attended by officials from the Ministry of Labour & Employment, ESIC and the ILO. The period of the study was from September 2009 to July 2010. Primary data for the study was collected during the months of January, February and March 2010. The report was submitted in April 2011. A national level dissemination workshop took place in September 2012 in Lucknow. The report had been updated based on the feedback received at the dissemination workshop and with 66th NSSO Employment and Labour data and submitted during the end of March, 2013.

OVERVIEW OF THE REPORT

This study is structured along the lines of the objectives of the study.

The introduction chapter provides an overview of the subject.

Chapter 1 provides an overview on maternity, women's work and policy framework in India.

Chapter 2 elaborates on the concept of Social Protection and reviews various models of maternity protection; significant Central and State level schemes for maternity protection in India, their overview, coverage and provisions.

Chapter 3 provides a picture of the trends and pattern of women's employment in India, a comprehensive analysis of NSSO 66th round data was undertaken and all other secondary sources of data were consulted and presented.

Chapter 4 provides an analysis of litigations on the various stipulations of the MB Act and how the Act is interpreted, contested and implemented.

A prelude to the State Chapters provides a broad overview of the social development and gender indicators of the four study states vis-à-vis all India data. The field based study findings and observations of the MB, ESIC Acts and situation of women in the informal sector and their experiences of availing maternity protection have been covered in Chapter 5 (Kerala), Chapter 6 (Maharashtra), Chapter 7 (Orissa) and Chapter 8 (Uttar Pradesh).

The conclusions emerging from the study and the policy recommendations are presented in Chapter 9 and 10.

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Maternity and Women's Work: Laying the Ground

1.1 MATERNITY AND LEGAL POLICY FRAMEWORKS

Globally various protections to workers are spearheaded by the International Labour Organization (ILO). The ILO laid down in the Maternity Protection Convention, 1919, various maternity related entitlements for women workers. Women workers were entitled for 12 weeks of leave with cash benefits; daily breaks for nursing, protection against dismissal during leave. 29 countries ratified this Convention. The 1952 revision stated that 6 weeks should be after confinement. Medical benefits should include pre natal, postnatal care by midwife or qualified medical practitioner or hospital if necessary. More recently ILO Convention 2000 extends the number of persons covered and protection offered. The minimum paid maternity leave is 14 weeks with a compulsory leave of 6 weeks after birth of the child (ILO, 2000). The convention provides that the cash benefit should be at a level that ensures that women can maintain themselves and their children in suitable conditions of health and standard of living. The amount should be not less than $\frac{2}{3}$ ^{ths} of the woman's previous earnings or insured earnings and preferably through compulsory social insurance or public funds. Countries with insufficiently developed social security may set lower levels. The convention provides for means tested allowance to be paid out of public funds for women who do not qualify. In addition to the special focus convention on MB, the ILO has several social security conventions.

1.2 INDIAN CONSTITUTIONAL GUARANTEES AND WORKERS WELFARE

The following articles in the Indian Constitution provide the broad framework for workers' rights in India:

- Article 41 : The State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want.
- Article 42 : Provision for just and humane conditions of work and maternity relief.
- Article 43 : offer a living wage for workers.
- Article 15 : promises equality before Law.
- Article 15(1) : enjoins no discrimination on basis of sex, caste, religion or region.
- Article 15 (3) : expressly stipulates special provisions for women and children.
- Article 16 : declares equality of opportunity in all state appointments.
- Article 39(d) : declares equal pay for equal work.

Article 43 states: "The State shall endeavour, to secure by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work, a living

age, conditions of work ensuring a decent standard of life and full enjoyment of leisure and socio cultural opportunities and in particular, the State shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas”.

The State has to carry out these obligations through enactments, setting up appropriate agencies, for execution and monitoring and creation of redressal mechanisms, such as appellate tribunals, for protecting the rights of workers.

1.3 WOMEN’S MOVEMENTS AND WORKERS’ RIGHTS

An enlightened vision for India’s women workers emerged after a century of struggle by liberal reformers and women’s action groups. Women’s India Association (1920) was the first to demand maternity benefits for women workers in Jamshedpur steel industry. The association raised questions of dismissal without compensation. Subsequently, Women’s India Association, which was renamed All India Women’s Conference (AIWC), demanded enquiry into the conditions of women workers in plantations and mines. It is through lobbying in the Congress led trade union (INTUC) that the matter was brought to the notice of then provincial governments. In the fourth, fifth and sixth conference AIWC’s major focus was women workers’ condition and their rights. From 1920 onwards it was the considerable presence of women in workers’ movements that finally led to the central Maternity Benefit (MB) Act of 1961. Women’s organisations demanded that all factories should have a woman doctor, and pre natal, post natal care, crèche, nursery for older children, and housing for women workers.

These efforts did result in positive State response in terms of suitable legislation. However, the legislation is limited to the organised sector and the huge back yard of unorganised sector and volume of unpaid women’s work in the household and agricultural sector got omitted.

1.4 KEY NATIONAL REPORTS AND POLICY DOCUMENTS

‘Towards Equality’ (1974) the report submitted by the Committee on the Status of Women in India (CSWI), pointed out the unsatisfactory condition of women in many walks of life. The report highlighted three critical areas—employment, health and education, where a great deal needed to be done if any dent on gender inequality was to be addressed. It argued strongly for promoting, encouraging, and protecting women’s economic participation. For strengthening and recognising women’s economic participation, the report made three telling compelling arguments:

1. Economic subjugation of women and dependence leads to exploitation and denial of social justice and human rights to women.
2. Development of a society requires full participation of all sections of the population. Therefore there should be opportunities for full development of the potentialities of women.
3. Demographic changes like rise in age of marriage, smaller families, urbanisation, migration, rising costs, all call for fuller participation of women in decision making.

The committee noticed declining ratio of female workers to male workers and the preponderance of female workers (41 to 49%) in the unorganised sector. Thus from the earlier complacency a new knowledge of the actual situation emerged. The Committee made extensive recommendations for job security, maternity benefit, vocational and skill training and institutional reforms to monitor and implement legal provisions.

The public policy focus on women was propelled by UN mandates during the Women’s Development Decade (1975–84), the second wave women’s movement and scholarly works on the ‘invisible’ women by women’s studies scholars. The focus on women independent of their role as

mothers was recognised for the first time in the Sixth Five-Year Plan (1980–85) document with a separate chapter on ‘women and development’ devoted to enumerating the multiple roles that women play and the need to recognise women as ‘partners’ in development rather than as ‘beneficiaries’ of welfare programmes.

A renewed concern on women in the unorganised sector led to the constitution of the National Commission on the Self Employed Women by the Government of India to make a comprehensive study of the working and living conditions of women in poverty. The report “Shram Shakti” (1988) was compiled on the basis of taskforces for specific areas of concern.

The report observed that poor women are not a homogenous group; the vast majority of them is in the rural areas; and is concentrated in food production, food processing, forestry, rural industry and is also home based. Anti poverty programmes have had limited effect. There is land alienation, environmental degradation, rising poverty in the agricultural sector due to low productivity, limited access to critical resources like technology and market and rising inequality. The commission strongly recommended that to improve the status of women working in the informal sector, strategies need to be devised: i) to enhance women’s ownership of productive assets; ii) better monitoring by the Dept of Women and Child Development; iii) to create a development commissioner in the States; iv) strengthen extension services for women; v) to have a separate labour commissioner for unorganised sector; and vi) women should be specific target group in development programmes.

1.5 MATERNAL HEALTH AND NUTRITION

The broad context of maternal health in India is characterised by major concerns pertaining to high rates of maternal mortality, maternal under-nutrition and high rates of infant mortality tied to the health of women. While most of these concerns are within the purview of the Ministries of Health and Women and Child, it is important to lay the context to identify points of convergence.

1.5.1 Maternal Mortality

India’s maternal mortality figures tell us the story of neglect of women during their most vulnerable period of pregnancy and childbirth. According to Sample Registration System (2011), in 2010 India’s maternal mortality rate was 212 per 100, 000 deliveries. There are immense regional variations in this with Kerala at one end having 81 and Assam at the other end having a high of 390. It is believed that institutional deliveries reduce maternal mortality. Though Tamil Nadu performs well on institutional deliveries its MMR is not significantly as low as it should be. Obviously the mere fact of institutional delivery is not enough. Post natal care and support for mothers and infants is important. Further, negative pregnancy and maternal outcomes are higher among women from the Scheduled castes and tribes, reiterating the multiple ways in which social disadvantage not only creates for access to social resources but thwarts survival and life. Indicators like the maternal mortality ratio is estimated to be quite high among the Scheduled Tribes (652) and Scheduled Castes (584) compared to the women of other castes (516) [Bhat, 2002] MAPEDIR or Maternal and Perinatal Death Inquiry and Response, initiated by UNICEF in 2005, also reiterate the fact that most maternal deaths occur in case of women belonging to SCs/STs and illiterates (UNICEF, 2008). Considering the poor socio-economic status of the families, where a majority of maternal deaths occur, strengthening the implementation and coverage of different maternity benefits becomes imperative to making healthcare accessible and more affordable for these underprivileged classes.

1.5.2 Women, Work and Supplementary Nutrition

A high proportion of Indian women and more precisely, pregnant women are anaemic. According to NFHS-3 (2005–06) about 60 per cent of pregnant women aged 15–49 years are anaemic, and the

proportion has increased by 10 per cent compared to NFHS-2 (1998–99) figures, which was around 50 per cent (IIPS and Macro International 2007). In order to improve maternal health and also support positive pregnancy outcomes, the Integrated Child Development Scheme is supposed to provide supplementary diet to pregnant women to meet the additional calorie requirement during pregnancy. This scheme is now restricted to only pregnant women holding the below poverty line (BPL) card. While this is an important intervention, the implementation of the programme and issues of access to and quality of food, registration of women for ante-natal care are causes for concern.

Moreover, the assumption of supplementing pregnant women's diet to meet the additional demand for calories during pregnancy is laudable but research on the subject indicates that this supplementation too would not fill the pre-existing calorie deficiency that women have. Batliwala's study (1982), one of the earliest to make the links between women's work, nutrition and poverty, had suggested that any attempts to increase or supplement nutritional requirement without reducing women's extraordinary work burden (wage and non-wage work) and providing for alternative energy sources, is like a "leaking bucket" syndrome. So any attempt to address food needs through targeted or direct food transfers will superficially and minimally address the requirement but not create sustainable solution of reduction of work burden and gendered food security.

1.6 WOMEN'S WORK: KEY ISSUES

1.6.1 Social Reproduction, Care Work and Poor Policy Support

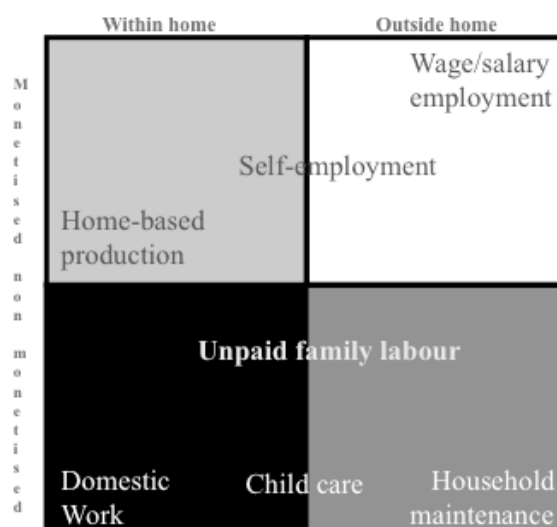
The recognition of women's contribution to economic activities and social reproduction through the multiple roles that they play is fraught with definitional problems of what constitutes 'work' and who is a 'worker'. Over the past two decades these definitional issues are a matter of public advocacy to affect census enumeration of the work force on the one hand, and methodological innovations through time use studies to generate better estimates in order to untangle wage work and non-wage work of women. The invisibility of understanding women's work is in the realms of disciplinary paradigms, concepts and notions of what constitutes 'work', who is considered a 'worker', whose work is considered to contribute to economy and national income and thereby who qualifies for various entitlements as a worker and as an extension a citizen.

Social reproduction attains lot more significance in economies which have a large subsistence sector and public provisions are inadequate or absent in many aspects of maternal care and child care. Despite the knowledge that women's work falls within a continuum of public and private domains, with the co-existence of wage and non-wage work, attempts are often made to draw neat distinctions to privilege what is seen as 'economic' work or 'productive' work. A diagrammatic representation of the domains of women's work and the overlaps as presented by Swaminathan (2009)³ is given below:

Women as bearers and rearers of children provide the foundation for generating future labourers for any economy. Reproduction involves not only procreation but nurturing and caring a growing child. There is also additionally social reproduction by means of care work for the family and household, transmitting culture and maintaining social bonds and community. However, the competing demand on women's energy and health is not within the existing policy radar. This underlines the discrimination and marginalisation that women face for their commitments to their household and care work, which often create the labour market entry barriers as well as the basis for discrimination.

³ Dr. Mina Swaminathan, presented this diagram at the inception meeting of this project on 9 August, 2009, held at TISS, Mumbai.

DOMAINS OF WOMEN'S WORK



1.6.2 Women's Waged and Non-Waged Work

Women's work, especially that of the poor is characterised by all its peculiarities (monotonous, repetitive, non-seasonal, energy intensive, drudgery producing, back breaking and so on), the location of women's work within the household as part of their domestic roles (case of artisans), or as unpaid family helpers (small and marginal farmers), or as self employed or low paid workers. The contribution of unpaid work of women to national income is estimated to be around 30 to 40%. However, women receive very poor policy support as workers and mothers. This undermines gender equality at the workplace and in society. Maternity protection, which enables women to participate in the labour force even while pregnant and provides income support and employment protection while on maternity leave is a legislation that supports women as workers. However, maternity protection related laws that exist are closely tied to women's waged work particularly to the organised sector. The promise of no discrimination on the basis of sex, ensuring humane conditions of work and receiving maternity benefits as an entitlement eludes women workers even after five decades of MB Act.

1.6.3 Globalisation, Informality and Vulnerability

Since the 1990s, the loss of employment due to closure of public sector companies, loss of demand for products produced internally and competition from external markets led to shift of jobs from the formal sector to the informal sector. Increase in women's income earning work is explained as a counterbalance to male employment instability. Further, studies have shown an 'added worker effect'—i.e., households have deployed more workers to retain the same level of household income. Women from several states migrate within and outside the country to contribute to the 'global care economy'. The typical characteristic of women seeking flexible income earning opportunities, due to multiple and competing demands on their time and energy in the absence of any familial or community or state run support services, makes them susceptible to seek home based work or outsourced work as part of subcontracting. Manufacturing industries are characterised by skeletal permanent workforce, this 'flexibility' of labour supply seems to suit the need to 'outsource' or 'subcontract' to small-scale enterprises at times of peak demand or on a regular basis. Further, within the context of an international spread of the workforce, where manufacturing takes place in different locales, the tasks that require manual dexterity but least supervision are transferred to Asian countries

with enormous labour supply and poor bargaining power. The 'footloose' nature of foreign capital is always in search of cheaper labour wage destinations (Krishnaraj, 1999). Hence, to retain the foreign investment, there is a further downward pressure on wages, a tendency that is described as 'race to the bottom' syndrome. Therefore, the informal economy has emerged not as a residual category, but a sector that is embedded in the globalised economy holding the 'wrong end of the rope' (Lingam, 2006).

Regular work is available more to the relatively well to do women while poor women are bunched at the causal labour end. In addition, migration of males from rural areas for non-farm work has increased the burden of work on rural poor women. Female migration has also increased with the attendant hardships on women without childcare facilities.

While the official poverty ratio has declined, the decline has been very slow and India still has the largest number of poor people. To the old debates of unorganised sector workers and their rights, it is time to look at the rights of women workers in the several private enterprises, in sub-contracted workshops and in the high-end new industries that are part of the globalising economy. At another end of the spectrum, there is the IT sector and IT enabled services where out sourcing is done here while control and command lying in global centres (Pani, 2010). The export orientation bases itself on cheapness of labour here, which prohibits grant of labour social security measures. Maternity benefit will not figure under this regime.

While there is considerable heterogeneity in the informal sector, uniformly there are high levels of vulnerability and poor social security to cover sickness, unemployment, accidents, child birth, injuries and so on (Canagarajah and Sethuraman, 2001). Compounded to this situation is the overall decline in social sector funding, switch to a targeted approach in delivery of services rather than the provision of universal access and thereby exclusion of several groups who miss being the targets due to narrow definitions of who is considered to be eligible. While maternity provisions exist their reach and coverage is small. The household has to bear the maximum responsibility for the family's welfare and given the gender division of labour, this burden falls disproportionately on women.

1.7 MATERNITY, CONTEXT OF WORK AND BREAST FEEDING GUIDELINES

Promotion of gender equality in the world of work requires creation of an enabling environment for women workers, safe working conditions, creation of structures that address sexual harassment at the work place; have in place policies that recognise work-family balance and particularly implement provisions that support women's maternal roles particularly of reproduction and as primary caretakers of children. While safe working conditions and policies for work-family balance would be applicable to male workers as well, issues of sexual harassment and maternity protection are particularly applicable to women workers.

Legislations such as the Factory Act and others where the provision of crèches is conditional on the number of female employees and providing for maternity leave and breastfeeding breaks are built into the entitlements of women employees. However, the legislative framework is limited to organised work; sets preconditions for record of continued work (160 days for example) and, limits the period of maternity leave to 14 weeks. Obviously this leads to the neglect of women in the unorganised sector where work is irregular, seasonal; and employment records are poorly maintained.

Over and above all these limitations, the period of maternity leave does not cohere with the WHO guidelines of six-month period of exclusive breast-feeding that infants should receive. Women often make the difficult choice of quitting work or introducing formulae feed to their babies. Lack of or poorly maintained crèche facilities at the work place and lack of transportation facilities discourage

women from continuing with breast-feeding their infants. This is detrimental to the survival, health and growth of infants (Swaminathan, 1988).

SCOPE OF THE PRESENT REPORT:

The study of maternity protection is cognizant that women’s work spans beyond wage/salaried/ monetised work and the need for a policy framework that covers social reproduction. However, given the objectives of the study commissioned by the Ministry of Labour and Employment (MoLE) and the International Labor Organisation (ILO), this study limits itself to addressing the following key questions.

The key questions that govern this study and the incumbent policy directions are:

1. Are the current Acts, schemes and programmes addressing maternity protection of women workers in general and with reference to the changing characteristics of Indian economy and labour use, how work is organised and where women workers are located?
2. Should maternity protection entitlements be limited only to women whose worker status is clear and undisputed? and
3. If maternity protection needs to be provided for all women workers—how do we net all the workers and how would the financial support be extended?

The study attempted to cover the organised and the unorganised sectors where different models of maternity protection are in force and the implementation also is varied. The desk review and the field based studies across four states attempted to capture all the three models.

This study is attempting to examine the following models to assess the way forward.

**TABLE 1.1:
Maternity Entitlements Under Review**

Sector	To Understand
1. Existing Employer Liability Model (Organised Sector)	<ul style="list-style-type: none"> — Implementation — Categories of informal workers in organised sector—entitlements
2. Contributory Social Security Model (Organised Sector)	<ul style="list-style-type: none"> — Enterprises under ESIC — Functioning and the reach of sector-based Tripartite Boards Funds where they exist
3. Public Safety Net Model (All un-reached by the first two sectors)	<ul style="list-style-type: none"> — Reach the un-reached—scattered, tiny and invisible, self-employed, migrants, seasonal labour, etc., and women in the ‘care’ economy — Examine possible linkages of maternity to ICDS and other existing basic services for poor — Assess insurance schemes and the JSY

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Social Protection, Maternity & Programmes

The role of state in securing the rights of voiceless and vulnerable groups and devising ‘safety nets’ and mechanisms like ‘social audit’ and ‘right to information’ has attained a new significance in the post-liberalisation period in India. In contemporary times, several social protection initiatives broadly within the realms of health, child development, food security, employment and so on, are receiving fresh impetus with communities and civil society groups seeking good governance to ensure the delivery of these initiatives. So the initiatives that purportedly look like they were welfare oriented are being steered to bring in discourses on rights and fulfilment of constitutional mandates. In case of maternity protection, the existence of the Maternity Benefits Act, 1961, provides the legal framework for women to exercise rights, however, compliance of employers to the Act and awareness of women workers of their rights still remain a challenge. Further, the existence of several women in the informal sector places them outside the ambit of maternity protection and any form of social protection. Access to financial and social assistance for women workers who are in the informal sector or are invisible as workers because they are home-based workers or family helpers is poor or non-existent. This makes it imperative to broaden the discourse of social protection to incorporate maternity protection and childcare services.

While the earlier chapter had laid the ground for understanding the context of women’s work and the changing context of labour and policy framework, this chapter attempts to elaborate discussions on social protection and the location of maternity benefits within them. A detailed review of existing Central Government and state policies is presented herein to assess if they fulfil the parameters of maternity protection.

2.1 SOCIAL PROTECTION

Poverty and vulnerability are key issues that provide the rationale for devising measures within public policy to deal with the consequences of vulnerability and deprivation. Most of these measures are broadly referred to as social protection policies/schemes and programmes. Guhan (1994) makes a distinction of various social protection measures in terms of the outcomes—promotional measures—help improve incomes and capabilities; preventive measures—help avert deprivation; and protective measures—guarantee relief from deprivation. While each of these measures is important in varying levels (macro, meso and micro) and contexts (conflicts, disasters and normal times) the possibility of having social protection measures to provide for improvements in capabilities and structural transformation has greater long-term promise. Suwannavat (2003) explains protective measures as preventing households or individuals from falling below a certain threshold level; promotional measures prevent the fall in the first place. However, there is growing literature to centre stage safety nets with wider objectives such as addressing vulnerability and the ‘promotion’ of better chances of individual development (Guhan, 1994).

There is consensus on the need to have social protection policies, especially in this region, where as per the Global Employment Report 2008 (ILO) the largest share of vulnerable employment as a proportion of the total employment worldwide with a rate of 77.2 per cent exists. This means that nearly eight out of every ten workers are unprotected with no access to labour rights or security in times of economic crisis.

The ILO (2000) has defined *social security* "as the protection which society provides for its members through a series of public measures:

- to offset the absence or substantial reduction of income from work resulting from various contingencies (notably sickness, maternity, employment injury, unemployment, invalidity, old age and death of the breadwinner);
- to provide people with health care; and
- to provide benefits for families with children."

This definition places the understanding of social protection not just as a 'safety-net', or as 'risk reduction' but, more importantly, to 'prevention' against increases in deprivation. Interventions in India are framed with risk and vulnerability management framework rather than addressing the deeper issue of dealing with the factors that create vulnerability.

Social protection initiatives can be positioned as (a) employment based entitlements, (b) community based entitlements, (c) market based entitlements and (d) citizenship based entitlements (Chhachhi, 2009). It is important to assess in the case of maternity protection for women workers which approach and framework will be important.

The passing of the MB Act in 1961 and ratification of several ILO Conventions reiterate maternity protection as a right. However, lack of maternity protection and supportive enabling environment pushes women into high degrees of vulnerability. Maternity protection is a significant intervention that recognises women's reproductive rights whether they are in the formal or in the informal sector or 'non-workers'. It is a key instrument in promoting equal opportunity for women and removes vulnerability due to market pressures.

The most productive years of a woman's life are also the reproductive years. In the absence of maternity protection a woman has to forego her employment with adverse consequences not only for herself but also her family through reduced income and enhanced medical expenses that often results in her returning to work soon after child birth with deleterious consequences for her health. It also affects the infant's health, for according to health specialists babies need six months of full breast-feeding and supplemented by solid food for the next two years. Breast-feeding is energy intensive for mothers, who require extra nutrition as well as extra calories.

The Constitution of India stipulates in its Directive Principles that States should make provisions for securing just and humane conditions of work and for maternity protection. Accordingly, the government of India promulgated the Maternity Benefit Act in 1961 and the Employees State Insurance Act in 1948. Prior to looking at the reach of these acts to women in general and women workers in particular, it would be worthwhile to explore the estimates of women who require maternity cover due to pregnancy and child birth.

2.2 ESTIMATES OF WOMEN'S FERTILITY

In order to understand in terms of number of pregnant women to be covered every year it is important to know the figures of pregnant and lactating women, their background characteristics and so on. The National Family Health Survey – Round 3 conducted in 2005–06 has been used for arriving at these estimates.

NFHS-3 interviewed a total of 124,385 women age 15–49 of which 73 percent of women are in the prime childbearing ages of 15–35 years. About one-third of the women age 15–49 years live in urban areas. Overall educational attainment among women in India is low. Forty-one percent of women have no education, 8 percent of women have been to school but have not completed primary school. Only 22 percent of women have 10 or more years of education. Thus, the majority of the women in reproductive ages have little or no education. By caste/tribe, nineteen percent of women reported that they belong to the scheduled caste, 8 percent to the scheduled tribe, and 39 percent to the other backward class. One-third women do not belong to any of these three groups. Nine percent of women gave birth in the one year preceding the survey.

Based on estimates for the three-year period before NFHS-3, the crude birth rate (CBR) was found to be 23.1 births per 1,000 population and the total fertility rate (TFR) [which is the average number of children a woman will have in her lifetime] was 2.7 children per woman.

- Seventy percent of urban total fertility and 63 percent of rural total fertility is concentrated in the prime childbearing ages 20–29.
- There is also a moderate amount of early childbearing at age 15–19.
- Fertility at age 15–19 accounts for 14 percent of total fertility in urban areas and 18 percent in rural areas.
- Fertility at ages 35 and older accounts for only 4 percent of total fertility in urban areas and 7 percent in rural areas.

Total fertility rate (TFR) is higher for rural women, reduces with women's education, is higher for women belonging to scheduled caste, scheduled tribe or other backward class than for women not belonging to any of these groups; and decreases steeply with household wealth index.

2.2.1 Profile of Maternity and Vulnerability

NFHS-3 data shows that among women in India there are significant disparities in health and also utilisation of health care services including maternal care by caste, economic status and education.

- Pregnancy-related problems are found to be more among scheduled caste women, scheduled tribe women and poor women.
- Percentage of mothers who receive antenatal care from a doctor increases sharply with education, from 29 percent for women with no education to 88 percent for women who have completed 12 years of education or more.
- By caste/tribe, the likelihood of having received any antenatal care and care from a doctor is lowest for scheduled tribe mothers and highest for mothers who do not belong to a scheduled caste, scheduled tribe, or other backward class.
- Institutional deliveries increase steadily with education. Only 18 percent of women with no education had institutional delivery compared with 86 percent of women with 12 or more years of education. Overall, less than 40 percent of births take place in institutions. Only 18 percent of births to scheduled tribe mothers are delivered in health facilities, compared with 51 percent of births to mothers who do not belong to a scheduled caste, scheduled tribe, or other backward class.
- A higher proportion of not employed women receive maternal care than employed women, which is kind of contrary to expectation. This trend could be because more not employed women could be from families with better access to services or the natal family provides maternal care during the early years of marriage.
- A large percentage of employed women from the unorganised sector are least likely to be utilising the maternity care services.

Findings from NFHS-3 show high levels of infant and child mortality for these groups of women and one of the major reasons for this could be attributed to the direct impact of low utilisation of maternal care services by women belonging to SC and ST groups and women from poorer sections of society. This data provides a rationale to develop a framework for providing maternity benefits based on vulnerability as well as on the status of employment.

2.2.2 Social Categories & Maternity

The Table 2.1 given below gives estimates for women and workers aged 15 to 49 based on various background of vulnerability – SC, ST and belonging to poor socio-economic strata, requiring maternal protection cover as well as the estimated number of women who require maternity benefits each year linked to fertility rate. In the endeavour to achieve the long term goal to provide universal maternal care in order to minimize maternal and child mortality, it is important to address socio-economic variables. Equity can only be achieved if these structural disadvantages are taken care of.

Percentage distribution of births in the past one year by various socio-economic variables has been provided in Annexure 2.1. The methodology adopted for arriving at estimates of fertility among various categories of women and projecting the same to the total population of India has been explained in Annexure 2.2.

TABLE 2.1:
Estimated Number of Women in Reproductive Age group and Women who will draw Maternity Benefits Across Different Sources of Vulnerability - 2011

Women According to Different Characteristics	Women aged 15-49 (%)	Women aged 15-49 yrs. (in million)	Women who will draw maternity benefits (in million)
Total, of whom	100.0	308.9	25.92
Poor Women irrespective of Caste and Education	39.9	123.25	10.34
All Women with no education irrespective of Caste & Wealth	46.2	142.71	11.99
SC/ST Women irrespective of Education & Wealth	30.7	94.83	7.96
All SC or ST or Poor Women	53.1	164.03	13.76
All SC or ST or Poor Women or Women with no education	65.5	202.33	16.98
Workers age 15 to 49	100.0	100.78	7.05

Note: Population figure is from Census 2011. According to SRS 2010, 83.9% women gave birth in the previous year; amongst workers the NFHS-3 was 7%; characteristics are overlapping ; hence do not total to 100.

Source: Data computed by Ms. Vaidehi and Ms. Aruna Kanchi, for this report, Jan, 2011.

2.3 MATERNITY PROTECTION MODELS

In order for women to not risk their health and that of the child; and benefit from employment security during their maternity, following elements is required (in line with to ILO Convention, 183):

- maternity leave;
- cash benefits to ensure the mother can support herself and her child during leave;
- medical care;
- protection of the health of pregnant and breastfeeding women and their children from workplace risks;
- protection from dismissal and discrimination; and
- breastfeeding on return to work.

The two key approaches for social protection pertaining to maternity are employer liability and the conditional cash transfer. The current schemes that are being implemented as Central or State programmes have varying eligibility criteria and implementation issues. The following sections review these models and the schemes.

This chapter attempts to assess the effectiveness of these schemes based on extant literature and review of schemes.

2.3.1 Employer Liability Approach

Maternity Benefit Act of 1961:

MB Act follows the employer's liability approach, which implies that the employer solely bears the full amount of liability for providing maternity protection to pregnant employees and the employees are not required to make any contribution for availing of the maternity benefits. Indeed, this is a major legislative enactment providing for maternity benefits in the formal sector. The explicit objective of MB Act is to regulate the employment of women in certain establishments for certain periods before and after child birth and to provide for maternity benefits and certain other benefits such as paid maternity leave, cash benefits, exemption from arduous work, protection from dismissal and nursing breaks.

The Act extends to the whole of India and applies to those establishments, which are covered under the enabling provision of the Act in different states:

- i) Every factory, mine, plantations, establishments for the exhibition of equestrian, acrobatic and other performances.
- ii) To every shop or establishments defined under any law applicable to such establishments in a state in which persons are employed on any day of the preceding twelve months.
- iii) This Act was amended in the year 1988 to extend its application to the shops and establishments employing ten or more persons.

There is no wage limit for coverage under the Maternity Benefit Act, 1961, which covers all the women in the applicable establishments. It is not applicable to the employees working in factories and other establishments covered by the ESI Act, 1948.

It is quite noteworthy that the MB Act does not mandate that a women employee be married to avail of these benefits. This Act enshrines that a women shall be entitled to the maternity benefit for a maximum period of 12 weeks of which not more than six weeks shall precede the date of her expected delivery. If a woman could not avail of six weeks leave preceding the date of her delivery, this could be availed after delivery. This change has come about by virtue of an amendment in 1989. Interestingly, the pregnant women employees working in the Central Government are entitled to a maternity leave of 180 days (6 months) and in addition, women having minor children below 18 years of age are entitled to child care leave for a maximum of 2 years during their entire service where as the pregnant women under ESI Act and MB Act can get maternity leave of maximum 12 weeks only. No women employee under MB Act shall be entitled to the maternity benefit for a period of not less than 80 days in the 12 months immediately preceding the expected delivery; it means the female employee on contractual appointment having worked for 80 days will be entitled to maternity benefits.

MB Act is also applicable to casual workers and daily wage workers. It lays down that maternity benefit to which every woman shall be entitled to and her employer shall be liable for is a payment to a worker at the rate of average daily wages for the period of her actual absence immediately preceding and including the day of her delivery and for six weeks immediately after that day. In this regard, it is noteworthy that without making any contributions whatsoever the pregnant women is

entitled to derive maternity benefits provided she has worked for not less than 80 days in the establishment during the 12 months preceding the date of her expected delivery.

Maternity Amendment Act, 1995:

In case of miscarriage or medical termination of pregnancy on production of proof, a woman will be entitled to leave with wages. For tubectomy on production of proof will be entitled to leave with wages at the rate of maternity benefit for two weeks following the operation.

Amendment in 2008 to the Maternity Benefit Act of 1995:

The existing ceiling of maternity benefit has been increased from Rs. 250 to Rs. 1000. The Central Government is empowered to increase the medical bonus from time to time subject to a maximum of Rs. 20, 000/-. Under ESI/MB Acts a woman gets 84 days in case of confinement and 42 days in case of miscarriage.

2.3.2 Employer-Employee Contributory Approach

Employees State Insurance (ESI), 1948:

The ESI Act, 1948, is a piece of social welfare legislation enacted primarily with the object of providing certain benefits to employees in the event of sickness, maternity and injury at the site and during employment. The Act tries to attain the goal of socio-economic justice enshrined in the Directive Principles of State Policy under Part IV of the Constitution, in particular articles 41, 42 and 43 which enjoins the State to make effective provisions for securing the right to work, to education, and public assistance in cases of unemployment, old age, sickness and disablement and in other cases of any undeserved want to make provision for securing just and humane conditions of work, and maternity relief and to secure by suitable legislation or economic organisation or any other way, to all workers, work, a living wage, a decent standard of life full enjoyment of leisure and social, and cultural activities.

Broadly the benefits provided by the Act to insured persons and their dependents are:

- i) periodical payment in case of sickness of the insured person,
- ii) periodical payment to insured woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of a child,
- iii) injury or disablement,
- iv) periodical payment to dependents of the insured person who dies as a result of an employment injury or is disabled—partially or fully,
- v) medical treatment for and attendance on insured person,
- vi) for expenditure on funeral to insured person's dependents.

The Act has wider coverage than Factories Act, which concerns with only health, safety, welfare, leave, etc. Extensive regulations have been framed under the Act. The employees are to be registered and their contribution cards and identity cards are to be prepared. An employee has to be identified in the records of the ESI Corporation. The funds required for the functioning of the scheme are raised from contributions, both of the employers and employees, grants, donations and gifts from governments, local bodies, whether corporate or not. For adjudication of claims and disputes there are Employee Insurance Courts. Provisions for recovery of contribution; penalty and damages for default; prosecution and punishment are provided.

Short-comings of ESI and MBA:

- o ESI and MBA are restricted to more or less organised sector, which represents a small proportion of all workers in the economy.

- Both these Acts gloss over the discrimination which pregnant women face at the time of recruitment and widely prevailing practice of dismissal if a woman employee is pregnant.
- No provision for paternity leave.
- No leave for child adoption or if a newly born child is adopted.
- MBA provides for two nursing breaks till the child is 15 months old; but ESI does not.
- The current arrangement is not supportive of exclusive breast-feeding nor suggests crèche at the work place and nursing breaks.
- The period of maternity leave is only 84 days within the ESI, while the recommendation for exclusive breast-feeding is 6 months by WHO.

2.3.3 Conditional Cash Transfer Approach

Conditional Cash Transfers (CCTs) is an approach, which is a departure from more traditional approaches to social assistance and represents an innovative and increasingly popular channel for the delivery of social services. Conditional cash transfers provide money to poor families contingent upon certain behaviour or action, usually investments in human capital such as sending children to school or bringing them to health centres on a regular basis. They seek both to address traditional short-term income support objectives and promote the longer-term accumulation of human capital by serving as a demand-side complement to the supply of health and education services. Conditional Cash Transfers have been implemented in countries such as Nicaragua, Colombia, Chile, Brazil and Mexico. There is clear evidence of success from the first generation of programmes in Brazil, Colombia, Mexico and Nicaragua in increasing enrolment rates, improving preventive healthcare and raising household consumption.

2.3.3.1 National Social Assistance Programme (NSAP)

The National Social Assistance Programme (NSAP), which came into effect from 15th August, 1995, represents a significant step towards the fulfilment of the Directive Principles in Article 41 and 42 of the Constitution. It introduces a National Policy for Social Assistance benefit to poor households in the case of old age, death of primary bread-winner and maternity. The Programme has three components, namely:- 1. National Old Age Pension Scheme (NOAPS), 2. National Family Benefit Scheme (NFBS), and 3. National Maternity Benefit Scheme (NMBS). These Schemes were partially modified in 1998 based on the suggestions received from various corners and also on the basis of the feedback received from the State Governments.

The NSAP provides opportunities for linking social assistance packages to the schemes for poverty alleviation and provision of basic needs. Its major effectiveness lies in linking maternity to maternal and child care programmes which provide inclusive coverage for all. At the Districts, there are District Level Committees on NSAP. The States/UTs have notified the constitution of the District level implementing authorities under the Chairmanship of the respective District Magistrate/District Collector to implement the Schemes under NSAP in their respective areas. The Gram Panchayats/Municipalities are expected to play an active role in the identification of beneficiaries under the three NSAP Schemes.

2.3.3.2 National Maternity Benefit Scheme⁴

Under this Scheme, benefit was provided in the form of a lump sum cash assistance to pregnant women of households below the poverty line subject to the following conditions:-

⁴ <http://planningcommission.gov.in/reports>.

- The benefit was restricted to pregnant women for up to the first two live births to women of 19 years of age and above.
- The beneficiary belongs to a household below the poverty line as per the criteria prescribed by the Government of India.
- The amount of benefit is Rs 500.
- The maternity benefit was disbursed in one instalment 12–8 weeks prior to the delivery.
- In case of delay, it could be disbursed to the beneficiary even after the birth of the child.

One of the review study conducted by Planning Commission(1999), states that, NMBS was one of the landmark schemes in targeting women across country but the beneficiaries had observed that the amount was not adequate for them. On the basis of cross-survey the investigators of the Planning Commission had confirmed that:

1. Assistance should be given in two parts, 50% in pre-natal period and 50% in post-natal period.
2. Higher post-natal assistance should be given in case of female child.
3. Amount should be given through cheque to avoid corruption.

According to the Government of India, Second Labour Commission's Report (Sharma, 2005), the number of women who actually received cash payments under NMBS in 2003–2004 was as low as 4.3 lakh—less than 2% of the total number of births in that year. The payment is to be made 8–12 weeks. The NMBS was merged with the Janani Suraksha Yojana in 2006.

2.3.3.3 Janani Suraksha Yojna (JSY)⁵

The Government of India in 2005 launched the National Rural Health Mission (NRHM) recognising the need for marked improvements in provision of basic health care services to rural people in the country. It seeks to provide effective, equitable, and affordable quality health care services particularly focusing on the needs of women and children, the poorest and most vulnerable segments of society. The Janani Suraksha Yojana (JSY) is one of the schemes implemented as part of NRHM with a financial outlay of over Rs. 1,000 crore. It is a Cash-Conditional Transfer (CCT) mechanism and is a demand-side safe motherhood intervention aimed at promoting institutional deliveries.

Janani Suraksha Yojana (JSY) under the overall umbrella of National Rural Health Mission (NRHM) has been proposed by way of modifying the existing National Maternity Benefit Scheme (NMBS). While NMBS is linked to provision of better diet for pregnant women from BPL families, JSY integrates the cash assistance with antenatal care during the pregnancy period, institutional care during delivery and immediate post-partum period in a health centre by establishing a system of coordinated care by field level health worker. The Janani Suraksha Yojana (JSY) is an incentive-based programme for the promotion of institutional deliveries. The main objective of this programme is to ensure that each delivery is conducted in an institution and is attended to by a skilled birth attendant (SBA) to minimise/prevent maternal deaths and pregnancy-related complications in women and at the same time ensure the well-being of the mother and the new-born.

Incentives to mothers range from Rs. 700 (rural) and Rs. 600 (urban) in high performing states (HPS) to Rs. 1400 (rural) and Rs. 1000 (urban) in low performing states (LPS). JSY was introduced in urban areas since April 2006 for women Below Poverty Line (BPL). From October 2006 JSY benefits have been extended to SC/ST pregnant women irrespective of BPL card. There is cash incentive of Rs. 500/- to all BPL/SC/ST women above 19 years of age, up to two living children irrespective of sex of the child at the time of home delivery and additional Rs. 200/- and Rs. 100/- for

⁵ <http://www.mohfw.nic.in>.

institutional delivery to rural (Total Rs. 700/-) and urban (Total Rs. 600/-) pregnant women respectively for delivering in a government or private accredited institution. Cash assistance to the mother is mainly to meet the cost of delivery and is given by bearer cheque only.

Where Government specialists are not available in the Government's health institution to manage complications or for Caesarean Section, assistance up to Rs. 1500/- per delivery can be utilised by the health institution for hiring services of specialists from the private sector.

2.3.3.4 JSY: What do the Assessments Reveal?

JSY is a Conditional Cash Transfer (CCT) mechanism and is a safe motherhood intervention aimed at promoting institutional deliveries as noted earlier. It focuses on four categories of states (Table 2.2) - 1. High Focus States; 2. North Eastern (NE) States; 3. Non-High Performing States; and 4. Small States/Union Territories. The women have to be from BPL households. The allocations, expenditures and number of claimants vary across and within the States. The per-capita expenditure on women also varies across the states.

One of biggest of such programs in the world, the JSY has stimulated extraordinary attention and curiosity by public health stakeholders worldwide because of its scale, coverage, and budget. In just 4 years, its beneficiaries multiplied from 0.74 million in 2005–06 to 10.9 million in 2011-12 (GoI 2013). The number of institutional deliveries increased from 10.8 million in 2005-06 to 17.5 million in 2011-12. In addition, Janani Shishu Suraksha Karyakram (JSSK), a new initiative which entitles all pregnant women delivering in public health institutions to an absolutely no expenses delivery covering free delivery including Caesarean, free drugs, diagnostics, blood and diet, and free transport from home to institution including in a referral institution, is also in operation.

Budgetary allocation for the JSY increased from a mere US\$8.5 million to \$275 million between 2005 and 2009. Lim, Dandona, Hoisington, *et al.*, (2010) in the first analytic study of the impact of JSY by secondary analysis of the countrywide District-Level Household Survey (DLHS) data document high odds for in-facility births in JSY users. More importantly, the study showed a reduction of around four perinatal and two neonatal deaths per 1000 live births as a result of the JSY, 2 to 3 years into the programme. An expanding body of field studies (UNFPA 2009; Sharma *et al* 2009; Khan *et al* 2010; Dongre & Kapur 2013) since then show that institutional deliveries, antenatal and to a lesser extent post-natal services have increased due to JSY. However, the poor quality of maternal—neonatal care facilities despite substantial inputs under the National Rural Health Mission is a cause for concern. Most public sector facilities continue to be understaffed, and do not meet the desired functional standards (DLHS-3, IIPS, 2009). Deliveries are often carried out by unskilled support staff rather than by skilled nurses or doctors. The system of referral to a higher level for emergencies is inadequate (Mohapatra, *et al.*, 2008). Most mothers and babies are discharged within hours after delivery because the hospitals lack amenities, and families want to return home having got the cash incentive (MoHFW, 2008) although at least 48 hour care is recommended under JSY. As a result, there is inadequate time for newborn-care counselling, stabilisation of the post-partum mother, and detection of danger signs in the mother and the infant. There is an urgent need to ensure continuing postnatal care to neonates and mothers at home, where they spend the rest of the at-risk postnatal period. It has been recommended that the incentive to the ASHA for this function be increased.

There are other problems in the scheme too. Payments to families and the health workers are delayed in places, and there are instances of corruption. Another serious issue is the overshadowing effect of the JSY on other initiatives for maternal, newborn, and child health. The results for JSY uptake indicate the central part that state authorities play in the implementation of national health programmes in India.

The study (Stephen, *et al.*, 2010) finding that the poorest and the least educated women do not consistently have the highest odds of being JSY recipients indicates that an improvement of the targeting of this programme is required. There are several possible explanations for why JSY uptake was not the highest in the poorest and least educated women.

- First, a common challenge seen in other large national social programmes that have expanded in a short period is to reach the most disadvantaged population.
- Second, physical access might be a substantial barrier for women in the lowest socio-economic status groups since JSY payments can only be made in accredited health facilities. Noteworthy is that Madhya Pradesh, which has made special efforts to accredit remote health facilities; also has one of the highest levels of participation in JSY.
- Third, cultural barriers against in-facility births are also prevalent among women of low socioeconomic status in India, and these barriers must be addressed. Lower uptake by Muslims and Christians than by women of other faiths that might suggest poor reach of ASHAs in these communities or poor access of these minorities to accredited health facilities.
- Finally, the previous national maternity benefit scheme included a payment of 500 rupees (\$11) to poor women for deliveries at home. In LPS, all births delivered in government health centre are eligible; in HPS assistance is available only up to two live births.

2.3.3.5 Promotion of Institutional Deliveries to be coupled with Maternity Entitlements

The main focus of JSY is not maternity entitlements but the promotion of institutional deliveries and safe motherhood. It is open to all women regardless of their employment status. Maternity Benefit schemes in India have been in existence for over five decades, yet the vast majority of Indian women do not get any maternity entitlements as the legislation does not apply to the unorganised sector. The majority of working women in the country work until the last stages of pregnancy and get back to work soon after delivery to avoid loss of wages. There are at least 19 maternity benefit schemes across all states, run by the Department of Health and Family Welfare and Department of Labour. A brief analysis of the schemes reveals that, demand driven approach has been adopted by such schemes. This perhaps, has widened the gap of differential accessibility of schemes. Except Dr. Muthulakshmi Scheme of Tamil Nadu, other schemes have recorded poor performance in terms of targeting the number of pregnant women.

TABLE 2.2:
Details of Financial and Physical Performance against Allocation under
JSY 2005–06 to 2008–09 as on 31st December, 2008

Sl. No.	State	2005–06		2006–07		2007–08*		2008–09*		Total Expenditure
		Expenditure (Rs. in Crore)	Beneficiaries (in Lakh)	Expenditure (Rs. in Crore)	Beneficiaries (in Lakh)	Expenditure (Rs. in Crore)	Beneficiaries (in Lakh)	Expenditure (Rs. in Crore)	Beneficiaries (in Lakh)	
A. High Focus States										
1.	Bihar	0.77	--	4.42	89839	0	838481	108.18	800000	113.37
2.	Chhatisgarh	2.23	3190	4.9	76677	10.2	175978	14.76	94000	32.1
3.	Himachal Pradesh	0.02	1585	0.35	6303	0.58	10371	0.5	7000	1.44
4.	J & K	0.14	2134	1.22	13127	2.8	10568	0.68	0	4.85
5.	Jharkhand	0		2.21	123910	7.79	251867	32.03	431000	42.02
6.	Madhya Pradesh	4.15	68252	48.64	401184	194.31		129.15	500000	376.25
7.	Orissa	2.54	26407	24.44	227204	71.6	490657	58.8	309000	157.38
8.	Rajasthan	0.22	10085	30.57	317484	130.05	774877	139.39	515000	300.23
9.	Uttar Pradesh	2.58	12127	19.64	168613	118.56	797505	189.99	871000	330.77
10.	Uttarakhand	0.16	1360	1.91	23873	8.32	69679	7.87	51000	18.26

Sl. No.	State	2005-06		2006-07		2007-08*		2008-09*		Total Expenditure
		Expenditure (Rs. in Crore)	Beneficiaries (in Lakh)	Expenditure (Rs. in Crore)	Beneficiaries (in Lakh)	Expenditure (Rs. in Crore)	Beneficiaries (in Lakh)	Expenditure (Rs. in Crore)	Beneficiaries (in Lakh)	
B. NE States										
11.	Arunachal Pradesh	0.24	794	0.12	1433	0.45	7689	0.31	8000	1.12
12.	Assam	1.14	17523	29.94	190334	54.73	304741	41.4	215000	127.21
13.	Manipur	0	--	0.57	7602	0.44	8664	0.56	5000	1.57
14.	Meghalaya	0.01	471	0.47	4257	0.65	1003	0.66	0	1.78
15.	Mizoram	0.28	1056	0.59	7462	0.91	13371	0.99	9000	2.77
16.	Nagaland	0		0.42	1301	1.35	8457	1.29	6000	3.06
17.	Sikkim	0.06	1128	0.1	1719	0.23	1616	0.15	2000	0.54
18.	Tripura	0.5	2247	0.33	3203	1.13	15547	1.22	13000	3.18
C. Non-High Focus States										
19.	Andhra Pradesh	15.38	167000	26.19	429000	38.5	563401	138.76	358000	218.82
20.	Goa	0	57	0.03	483	0.07	898	0.03	0	0.14
21.	Gujarat	2.12	0	8.92	121153	9.55	185956	7.48	48000	28.07
22.	Haryana	0.19	1825	2.15	23123	2.4	35441	1.95	9000	6.68
23.	Karnatak	1.35	50542	9.67	233147	18.28	283000	22.58	243000	51.87
24.	Kerala	1.69	0	3.28	56072	14.83	162050	9.42	74000	29.22
25.	Maharashtra	2.03	5650	3.78	97390	16.69	375000	9.7	182000	32.19
26.	Punjab	0.35	11595	1.05	16079	1.64	9917	1.69	25000	4.73
27.	Tamilnadu	0	321567	20.03	288224	21.04	229609	13.14	66000	54.21
28.	West Bengal	0.11	31363	12.1	224863	27.15	572651	17.62	317000	56.97
D. Small States/UTs										
29.	Andaman & Nicobar	0	314	0.06	600	0	354	0	0	0.06
30.	Chandigarh	0	0	0	14	0	1215	0.05	1000	0.05
31.	Dadra & Nagar Haveli	0	146	0	76	0	270	0	0	0
32.	Daman	0	0	0	0	0	0	0	0	0
33.	Delhi	0	0	0.01	242	0.45	7238	1.08	16000	1.54
34.	Lakshyadweep	0.01	114	0	42	0.02	200	0.11	0	0.14
35.	Puducherry	0.03	379	0.15	2284	0.29	4389	0.21	0	0.68
Percentage of expenditure over Allocation		39.07		190.56		302.00		74.27		113.50

*Expenditure as per FMR

*Expenditure as per FMR

Source: NRHM, MIS Data Assistant Maternity Commissioner, NRHM, March 2010.

2.3.3.6 Muthulakshmi Reddy Maternity Benefit Scheme

In order to implement various programmes to control anaemia and malnutrition among the women and children, the Government of Tamil Nadu, introduced the Muthulakshmi Reddy Maternity Benefit Scheme in 1987. In its present version, Rs12000 is given as financial assistance to pregnant women, i.e., Rs. 6000/- is given in the 7th month of pregnancy and Rs. 6000/- within 3 to 6 months of delivery. The monetary assistance to pregnant women in the Below Poverty Line (BPL) category compensates the wage loss during pregnancy and enables them to get nutritional food, avoiding the birth of low-weight babies. As a result of this assistance, weight gain during pregnancy has shown much improvement.

The Dr. Muthulakshmi Reddy Maternity Benefit Scheme of the Tamil Nadu government has been widely appreciated by all States in India. During the period between 15 September 2006 and 31 March 2011, nearly 6 lakh women benefited annually under the schemes and on an average about 1,600 women received the money per day. About 50–60% of the deliveries, which occurred in the

state, were covered under the programme and more than Rs 300 crore were spent per year (Balasubramanian and Ravindran 2012). As per the guidelines of the scheme, pregnant women have to obtain family income certificate to avail maternity assistance. As this is a hardship for them during pregnancy, the State Government has decided to relax this condition. Currently, financial assistance is given to women from poor families based only on the recommendation of the Village Health Nurse who examines the beneficiary during pregnancy and without having to produce an income certificate.

A recent research study on Dr. Muthulakshmi Maternity Assistance Scheme (DMMAS) jointly undertaken by the Public Health Resource Network (PHRN), M.S. Swaminathan Research Foundation (MSSRF) and Tamil Nadu—Forum for Crèche and Child Care Services (2010) shows that the scheme offers greater universality than schemes limited by the BPL framework by including women on the basis of wide criteria. It is laudable that the study hardly found any evidence of corruption or leakages with some women getting full amounts of JSY and DMMAS both. It is also worth noting that incidental findings of the study show that Supplementary Nutrition Programme (SPN) through ICDS is working well and the DMMAS do not supplant the use of SNP through the ICDS programme and women have reported using both the services. The study, however, noted that delays of payments were ubiquitous and there is need for training and capacity building for the scheme providers.

2.3.3.7 Indira Gandhi Matritava Sahayog Yojana (IGMSY)

After a careful study of the DMMAS of Tamil Nadu, the Union government, Ministry of Women and Child Development, has framed a new scheme Indira Gandhi Matritva Sahyog Yojana (IGMSY) for pregnant and lactating (P & L) women. This is a centrally sponsored scheme in which conditional cash transfers (CCTs) are to be made directly to the beneficiaries. Basic objective of the scheme is to support women with nutrition and enhance early infant nutrition and survival through protection and promotion of early breastfeeding within one hour and exclusive breastfeeding for the first six months in order to improve child health and development. Aimed at achieving the broad objectives of the Tamil Nadu scheme, the IGMSY focuses on the care of women during pregnancy and delivery and infant care. The scheme would contribute to better enabling environment by providing cash incentives to P & L women, implemented through ICDS. All Government/PSU (Central and State) employees are to be excluded from the scheme, as they are entitled for paid maternity leave. All other pregnant women of 19 years of age and above for first two live births are entitled for the benefits under this scheme. The beneficiaries will be directly paid Rs. 4,000 in three instalments between the second trimester till the child attains the age of 6 months on fulfilling specific conditions related to maternal and child health. In this way the scheme attempts to partly compensate for wage loss to P & L women both prior to and after delivery of the child. The beneficiaries who are eligible for Janani Suraksha Yojana (JSY) package would be encouraged to avail of the incentives provided under this scheme as well.

As the implementation of the scheme is through the platform of ICDS, the focal point of implementation is the Anganwadi Centre (AWC), and the key personnel are Anganwadi Worker (AWW) and Anganwadi Helper (AWH). To ensure effective implementation of the scheme cash incentives for these workers have also been allocated which would act as a catalyst to motivate the AWW and AWH to service the beneficiaries efficiently and also encourage women to participate in the scheme. AWW and AWH would receive a cash incentive of Rs. 200/- and Rs. 100/- per P & L woman, respectively, after all the due cash transfers to the beneficiary are complete. The IGMSY is being implemented as a pilot project in 52 identified districts from all the States and Union Territories.

Based on (NFHS-3) fertility rates for different sections of women and taking just two eligibility criteria under the IGMSY – age and number of births, Lingam and Yelamanchili (2011) show that the conditionalities will result in the exclusion of 48% of women from the benefits of the IGMSY. They also calculate that proportion excluded differs for women with different combination of vulnerabilities: 56 per cent for ST/SC women; 59% for poor SC/ST women with no education; 63 per cent for poor women and 66 per cent for women without education. They rightly remonstrate against the presumption in government schemes that inclusion of mothers younger than 18 years and mothers of more than two children will be seen as rewarding behaviour such as early marriage and more than 2 children. There is need to understand that such behaviour is often the outcome of social pressures and the conditionalities and conditionalities in schemes end up “victimising the victims”, in effect defeating the very purpose of such schemes. Two other field studies in select states (Chhattisgarh, Uttarakhand and Uttar Pradesh; and W. Bengal Odisha, Jharkhand and Uttar Pradesh) point to other limitations besides exclusion of the IGMSY (Sahayog, 2012).

One of the most important criticisms pertains to the fact that a conditional cash transfer scheme such a IGSMY presumes that low utilisation of health services is due to lack of demand rather than supply side issues. Hence the conditions on health service usage by beneficiaries. Yet fulfilment of these conditions is outside women’s control and is actually dependent on the availability of the services, whether in terms of physical accessibility of facility, presence of personnel, availability of medicines or the level of transaction costs. The effectiveness of IGMSY also critically hinges on the convergence of ICDS and the effectiveness of ICDS staff – the Anganwadi worker and the Anganwadi helper. The resource weakness of ICDS poses a constraint on the functioning of the IGMSY. Inadequate childcare and support services affect the provisioning of immunization and other services. Finally, the benefit of Rs.4000 is inadequate either as an aid to supplementary nutrition and medical care or as a compensation for wages lost.

The most important recommendation of all three studies and reinforced by this report is that maternity entitlements need to be made available to all women without conditionality and that working women need also to get wage compensation regardless of whether or not they claim benefits from a general scheme of maternal support. It is insufficient to have a constitutional or mandated right in place if it is not enforced. Finally child support services such as crèches are critical for the effectiveness of maternal support programmes.

2.4 INTEGRATED CHILD DEVELOPMENT SERVICES (ICDS) SCHEME

ICDS Scheme represents one of the world’s largest and most unique programmes for early childhood development. ICDS is the foremost symbol of India’s commitment to her children. India’s response to the challenge of providing pre-school education on one hand and breaking the vicious cycle of malnutrition, morbidity, reduced learning capacity and mortality, on the other. The programme attempts to assure nutritional support and health care for expectant mothers and infants, which has a crucial impact on reducing maternal malnutrition and infant mortality rates in India.

The Government of India has recently, revised the cost of supplementary nutrition for different category of beneficiaries vide this Ministry’s letter No. F.No. 4–2/2008–CD.II dated 07.11.2008, the details of which are as under:

Sl. No.	Category	Pre-revised Rates	Revised Rates (Per Beneficiary Per Day)
1.	Children (6–72 months)	Rs. 2.00	Rs. 4.00
2.	Severely Malnourished Children (6–72 months)	Rs. 2.70	Rs. 6.00
3.	Pregnant Women and Nursing Mothers	Rs. 2.30	Rs. 5.00

Per day allocation of rates for beneficiary is Rs. 5.00/- and for 180 days it is Rs. 900/-. So it is less than the requirement over six months.

This mammoth programme with an allocation of Rs.444000 million in the 11th Plan, claims to reach 8.06 million expectant, pregnant and lactating mothers along with 39.35 million children (under 6 years of age) (UNICEF nd). As of 2009, there were 6,284 operational projects with 1,241,749 operational Aanganwadi centres (wcd.nic.in). Several positive benefits of the programme have been documented and reported, mainly in terms of increase in the birth weight of babies.

However, World Bank has also highlighted certain key shortcomings of the programme including inability to target the girl child improvements, participation of wealthier children more than the poorer children and lowest level of funding for the poorest and the most undernourished states of India (World Bank nd). However, these studies fail to assess the effect of the programme on women.

However, the linkages of expectant mothers' nutrition to their work related commitments, migration for purposes of work and lack of ICDS programmes at the place of destination are issues of concern, which have been brought out in Chapter 5 (State study reports).

2.5 PUBLIC PRIVATE PARTNERSHIP APPROACH

In recent years, state governments have been attempting to bring into the ambit NGOs and private health care providers to extend health care services to urban and rural people who have lesser access to Government health care services at the primary and tertiary level or where there is weak government capacity. This approach is at one level seen as a contracting out of services and is also referred to as public private partnership (Dimovska, 2009). Two such schemes in the states of Andhra Pradesh and Gujarat have attained lot of attention in recent years. These schemes have increased access to various health care services including emergency obstetric care. The Rajiv Aarogyasri—Community Health Insurance Scheme (RAS)⁶ of Andhra Pradesh was designed to cover catastrophic illness among the rural and poor households. The scheme came under a cloud when rampant hysterectomies were reported among other issues (Shukla, Shatrugna & Srivatsan, 2011). The Government removed coverage of hysterectomies out of this scheme. A recent study by Mitchell et al (2011) has found that poor patients continue to spend significantly on conditions that are not covered by RAS and the financial burden is not reduced in any big way. Since there is no gender segregated data on the scheme, it is impossible to assess its impact on women beyond the issue of misutilisation.

2.5.1 Chiranjeevi Yojana (CY)

Chiranjeevi Yojana is a government-organised, quality-driven voucher programme, contracting private obstetricians and gynaecologists to provide delivery services to women who live below the poverty line to reduce maternal and infant mortality rates. CY was established by the government of Gujarat, with support from the Indian Institute of Management (IIM) Ahmedabad and Sewa Rural–Jhagadia and facilitation by GTZ. The Scheme was first launched in 2005 in five poor districts of the state of Gujarat and as of now has been extended to the entire state. The Chiranjeevi Yojana is financed by the government of Gujarat, with support from the central government under the National Rural Health Mission.

CY was created to significantly reduce maternal and infant mortality by harnessing the existing private sector and encouraging it to provide delivery and emergency obstetric care at no cost to

⁶ www.aarogyasri.org.

families living below the poverty line. Under the scheme the government contracts private providers that volunteer to render their services by signing a Memorandum of Understanding (MoU) with the district government. In return, they receive an advance payment to commence services and are compensated at about \$4,500 per 100 deliveries (normal, caesarean, or with other complications). Any qualified private provider with basic facilities, such as labour and operating rooms, and access to blood and anaesthetists can enrol in the programme after a thorough orientation. CY beneficiaries are enrolled through family health workers. The scheme uses the existing cards issued to families living below the poverty line by the rural development department of the state government to access services.

Up to May 2009, out of the 332151 total deliveries under the Scheme, 469 maternal deaths and 6363 neo-natal deaths are claimed to have been averted (www.gujhealth.gov.in). This scheme is considered a successful PPP model, and is reportedly being considered for scaling up at the national level. However several shortcomings have been revealed: most hospitals that registered under the scheme are those located in big cities like Surat defeating the purpose of reaching out to rural women; a very small proportion of hospitals have performed delivery; only safe cases are taken up, the others being referred to public facilities once again defeating the aim of using private sector resources to compensate human resource shortage in public hospitals. A more thorough evaluation is required (Acharya and McNamee, 2009).

CONCLUSION:

This chapter had attempted to provide the social protection perspective, the scope of requirement of maternity protection and an overview of various schemes—national and state level—relating to maternity and pregnancy.

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**TABLE 2.3:
SOME SOCIAL SECURITY & MATERNAL ASSISTANCE SCHEMES**

Sl. No.	Law or Scheme/Geographic Coverage/Type of Scheme/Source of Funding	Objective	Eligibility/Exclusion (also provide info sectors it covers if it targets specific sectors)	Maternity Benefits including Cash Benefits, if any
<p>Unorganized Worker's Social Security Act 2008 - The National Social Security Board constituted in 2009 under this Act has recommended that basic minimum social security should include life and disability insurance, health and maternity benefit and old age pension and it should be applicable to all unorganized workers belonging to all types of occupational groups irrespective of whether they belong to BPL/APL category.</p>				
1.	<p>Janani Suraksha Yojana (JSY) Started in 2005; NMBS was merged with JSY; All India - States are categorized as Low Performing States (LPS) and High Performing States (HPS); Conditional cash transfer; Central Government</p>	<p>Scheme to promote institutional deliveries under NRHM</p>	<p>Women from BPL families, over 18 years and up to two live births;</p>	<p>All women delivering in government health centres/accredited private institutions are paid - In LPS states, Rs. 1400/- in rural areas and Rs. 1000/- in urban areas and in HPS states, Rs. 700/- in rural areas and Rs. 600/- in urban areas; under NMBS eligible women who delivered at home are paid Rs. 500/-; Institutional delivery is free of cost at government health centres/accredited private institutions</p>
2.	<p>Rashtriya Swasthya Bima Yojana (RSBY) All India; Insurance scheme; Health Insurance Scheme - 75% of the annual premium (maximum Rs. 565/- per family) and the cost of smart cards is borne by Central Government and remaining 25% of annual premium, plus additional premium, if any, and administrative and other related costs are borne by the State Government; Insurance company is LIC</p>	<p>Cashless scheme which provides health coverage, including maternal health on registration</p>	<p>BPL families in unorganized sector</p>	<p>Provides insurance cover of Rs. 30000/- to the family members (a unit of five); transportation cost of a maximum of Rs. 10000/- is also covered; Smart cards are provided for cashless treatment for select diseases which require hospitalization; no provision for out-patient treatment</p>

Sl. No.	Law or Scheme/Geographic Coverage/Type of Scheme/Source of Funding	Objective	Eligibility/Exclusion (also provide info sectors it covers if it targets specific sectors)	Maternity Benefits including Cash Benefits, if any
3.	Handloom Weavers' Comprehensive Welfare Scheme Central Government and Beneficiary; Insurance scheme - 80% of the annual premium of Rs. 781.60/- is paid by the Central Government (Development Commissioner, Handlooms, Ministry of Textiles) and 20% with a minimum of Rs. 50/- is paid by the weaver; Insurance company ICICI Lombard General Insurance	Provides health insurance cover	All handloom weavers, their wives and maximum of 2 children	Rs. 2500/- per child is paid for 2 children; Rs. 4000/- towards AYUSH systems of medicine is also provided; Annual limit per family is Rs. 15000/-; limit for out-patient treatment and limit per illness is Rs. 7500/-; Covers preexisting and new diseases including out-patient treatment
4.	Handicrafts Artisans' Comprehensive Welfare Scheme - Rajiv Gandhi Shilpi Swasthya Bima Yojana All India; Majority of the annual premium is paid by Central Government (Development Commissioner, Handlooms, Ministry of Textiles) and the remaining part is paid by beneficiary; annual premium varies by caste, place of residence (whether belonging to northeastern states or not) and BPL status; Insurance company ICICI Lombard General Insurance		All handicraft artisans and 3 family members including spouse	Rs. 2500/- per child is paid for 2 children; Rs. 4000/- towards AYUSH systems of medicine is also provided; Annual limit per family is Rs. 15000/-; limit for out-patient treatment and limit per illness is Rs. 7500/-; Covers preexisting and new diseases including out-patient treatment
5.	Handicrafts Artisans' Comprehensive Welfare Scheme - Janshree Bima Yojana All India; Insurance scheme; Annual premium is Rs. 200/-: 50% of the annual premium by Central Government (Development Commissioner, Handlooms, Ministry of Textiles) and the other 50% is paid by Beneficiary/Nodal Agency/State Government; Insurance company LIC	Provides life insurance cover	BPL families and marginal APL families in 43 notified occupations	Rs. 30,000/- is paid on natural death; Rs. 75,000/- on accidental death; Rs. 75,000/- on total permanent disability and Rs. 37,500/- on partial permanent disability, Rs. 300/- per quarter per child also paid as scholarship for 2 children in IX to XII; NO MATERNITY BENEFIT

Sl. No.	Law or Scheme/Geographic Coverage/Type of Scheme/Source of Funding	Objective	Eligibility/Exclusion (also provide info sectors it covers if it targets specific sectors)	Maternity Benefits including Cash Benefits, if any
6.	Pension for Master Crafts Persons Central Government		Limited to recipients of national awards, merit certificates and state awards in handicrafts and whose annual income is less than Rs. 15000/- with no financial assistance from any other source	Pension of Rs. 1000/-; NO MATERNITY BENEFIT
7.	National Scheme on Welfare Programme for Fishermen, Fisheries, Training and Extension - Subdivided into two schemes (a) National Scheme on Welfare of Fishermen, (b) Scheme on Fisheries Training and Extension All India; State government	To provide financial assistance to fishermen for their welfare as well as provide training and extension of support to the fishery; the scheme mainly takes up the following issues - development of model fishermen villages, group accident insurance for active fishermen, saving-cum-relief; provide training and upgrade skills of the fishermen		
8.	Domestic Workers Welfare and Social Security Act 2010 YET TO BE IMPLEMENTED	Recommendation to recognize domestic workers also as workers and to register them under the State Labour Department; extend welfare schemes to the domestic workers including health, maternity benefit, death and disability benefit and old age benefits; RSBY should be the first welfare scheme to be extended to domestic workers		
9.	Beedi and Cigar Workers Act 1966 Beedi Workers Welfare Fund Act 1976 All India	Benefits vary by type of work and position; contract workers get the least benefit; after delivery can claim Rs. 1000 for first two live births	Beedi and cigar workers	Maternity benefit includes cash benefit of Rs. 1000/- for first two live births
10.	Building and Construction Workers' Welfare Cess Act 1996 All India			

Sl. No.	Law or Scheme/Geographic Coverage/Type of Scheme/Source of Funding	Objective	Eligibility/Exclusion (also provide info sectors it covers if it targets specific sectors)	Maternity Benefits including Cash Benefits, if any
11.	Indira Gandhi Matritva Sahyog Yojana/ 52 districts (pilot study); Conditional money transfer - centrally funded; YET TO BE IMPLEMENTED	To improve the health and nutritional status of infants and pregnant and lactating women; the main objective of the scheme, is to encourage women to pay attention to their health for six months, and make use of health care services.	Pregnant women age 19 and above and for their first two live births	Maternity benefits include conditional cash transfer of Rs. 12000 to mother and Rs. 300 to ASHA
12.	Subhagyawati Surakshit Matritva Yojana Uttar Pradesh; YET TO BE IMPLEMENTED	To promote institutional deliveries by involving private sector providers		
STATE AND INDUSTRY SPECIFIC SCHEMES				
17.	Welfare boards State and industry specific; State govt and employer/employee		Mainly cater to unorganized sector workers; to provide social welfare to several sections of the workers in the industry	Mostly one time cash benefit
18.	Welfare board - Fisheries sector Kerala		Women workers above 19 years of age for first two live births	Rs. 500/- for each of two live births
19.	Construction workers welfare board Tamil Nadu			
20.	Navsanjivani Yojana Launched in 1995-96; Maharashtra	To improve tribal nutrition, especially in children	Tribal Areas	Provision to provide basic health services and safe drinking water supply; appropriate medical treatment alongwith intensified food supplementation is given to all children
21.	Matrutva Anudan Yojana Uttar Pradesh		Tribal areas	Medicines worth Rs. 400/- and cheque for Rs. 400/- on discharge after delivery from a public health facility; To provide antenatal care and encourage institutional delivery

Sl. No.	Law or Scheme/Geographic Coverage/Type of Scheme/Source of Funding	Objective	Eligibility/Exclusion (also provide info sectors it covers if it targets specific sectors)	Maternity Benefits including Cash Benefits, if any
22.	Tamil Nadu Intergrated Nutritional Project Tamil Nadu - implemented in 19 districts	To improve the maternal and child health and nutrition and the total development of children under 5+ years		Providing antenatal care and supplementary food to the needy pregnant mothers from 6th month of pregnancy to 6th month after delivery.
23.	Muthulakshmi Reddy Scheme Started in 1988; Tamil Nadu	To compensate for the loss of wages during pregnancy and to enable the pregnant woman to have access to good food and nutrition.	BPL families	Rs.6000/- is given as financial assistance to pregnant women, i.e., Rs.3000/- is given to the poor mothers in the 7th month of pregnancy and Rs.3000/- at the time of delivery.
24.	Maternal Protection Scheme Gujarat	To provide nutritional and health care support		Provides cash support to pregnant woman in two instalments - Rs. 175/-
25.	Cheeranjeevi Yojana Scheme (CY) Launched in 2005; Gujarat; Public-private partnership voucher scheme; Government of Gujarat with support from Central Government under NRHM; Established by government of Gujarat with support from the Indian Institute of Management (IIM), Ahmedabad and Sewa Rural-Jhagadia and facilitation by GTZ;	Government organized, voucher programme to provide delivery services to women who live below the poverty line by contracting private gynaecologists and obstetricians	BPL families or families certified by designated village leader as poor; women living below poverty line who face social and economic hardships due to complications during delivery	Rs. 200/- is provided by doctor with whom the woman registers; Allows families living below poverty line to use either public or private facilities for free and covers other expenses like travel; also promotes follow-up during prenatal and postnatal period.
26.	Rajiv Arogyasri Community Health Insurance Scheme (RAS) Andhra Pradesh	Health insurance to seek advanced medical treatments of diseases involving hospitalization and surgery/therapy through an identified network of providers - public and private partnership	BPL families	Provides coverage for meeting expenses of hospitalization and surgical procedures of beneficiary members upto Rs. 1.50 lakhs per family per year subject to limits, in the network hospitals
27.	National Family Benefit Scheme All India; Ministry of Rural Development	Provides cash benefit in case of death of primary bread winner;	Death of primary breadwinner of BPL family aged between 18 and 65 years	Rs. 10,000/-; NO MATERNITY BENEFIT

**Percent Distribution of Women who gave Birth in the Past Year by
Caste, Education and Wealth Groups, NFHS-3, 2005–06**

Caste/Tribe	Education	Wealth index			
		Poor	Middle	Rich	Total
Scheduled caste	No education	7.6	3.1	0.5	11.3
	<10 years complete	2.6	3.0	1.7	7.2
	10+ years complete	0.2	0.7	1.4	2.3
	Total	10.4	6.8	3.6	20.8
Scheduled tribe	No education	5.4	0.9	0.1	6.4
	<10 years complete	1.6	1.0	0.3	2.9
	10+ years complete	0.1	0.2	0.2	0.6
	Total	7.1	2.1	0.7	9.9
Other backward caste	No education	11.6	7.0	1.2	19.8
	<10 years complete	3.4	6.7	3.8	13.9
	10+ years complete	0.4	1.8	4.6	6.9
	Total	15.4	15.5	9.6	40.5
Other	No education	4.5	3.1	1.2	8.8
	<10 years complete	2.4	4.4	4.0	10.8
	10+ years complete	0.1	1.3	7.2	8.5
	Total	6.9	8.8	12.3	28.1
Total		40.0	33.5	26.5	100.0
39.9%	All poor women irrespective of caste and education				
46.2%	All women with no education irrespective of caste and wealth				
30.7%	SC/ST women irrespective of education and wealth				
53.1%	All SC or ST or poor women				
65.5%	All SC or ST or poor or no education women				

Source: Secondary data analysis computation done by Ms. Vaidehi, Jan, 2011.

Estimation of pregnancies/year (excluding stillbirths, abortions, etc.) that needs to be provided maternal care:

- (a) Calculation of percentage of women who gave birth in the one year preceding NFHS-3 and percent distribution of these women:

NFHS-3 data shows that 9 per cent of women age 15–49 gave birth in the one year prior to the survey.

- (b) Estimation of number of women who gave birth in the years 2009-10 & 2011:

- i) The table given below gives details of the calculation to arrive at the total number of women age 15–49 & number of workers age 15–49 who gave birth in the years 2009-10 & 2011.

Estimation of Number of Women who gave Birth in the Past Year with the help of data from NFHS-3 and Population Projection Report for 2006 and 2011

Source		2009-10	2011*
<i>Population projection report; * Census 2011</i>	Total women population (in million)	570.2	586.5
	Percent female population age 15–49	53.1	54.5
	Number of women population age 15–49 (in million)	0.526*570.2	0.526*586.5
		300.4	308.9
<i>SRS 2010</i>	Percent of women age 15–49 who gave birth in the past year	8.39	8.39
<i>Population projection report and NFHS-3</i>	Number of women age 15–49 who gave birth in the past year (in millions)	0.0839*300.4	0.0839*308.9
		25.20	25.92
<i>Population Projection Report; * Census 2011</i>	Number of female workers age (UPSS) 15-49	98.87	100.8
<i>NFHS-3</i>	Percent of female workers age 15-49 who gave birth in the last year	7.0	7.0
	Number of female workers age 15-49 who gave birth in the last year (in million)	98.9*.07	100.8*.07
		6.92	7.05

Source: Secondary data analysis computation done by Ms. Vaidehi and Ms. Aruna Kanchi, Jan, 2011.

Women's Work and Employment

Women as bearers and nurturers of children shoulder the entire burden of generating future citizens for the nation and workers for the economy. Reproduction absorbs considerable time and energy in the life cycle of women and carries life long health implications. For a worker, pregnancy imposes an impossible choice: either to work until the very end of pregnancy, very often in poor and difficult conditions and to get back to work as soon as is physically⁷ possible, foregoing much needed rest and recuperation; or to take a long leave of absence from the job, leading to loss of wages and often to dismissal, during a period of special needs in terms of nutrition and medical care. Pregnancy and childbirth are for poor households a period of financial crisis (Sahayog, 2012). Financial vulnerability and morbidity and ill health for mother and child could follow as long-term effects. Children also lose out on exclusive breast-feeding which is considered essential in the first six months. Post delivery, the woman is not only forced to undertake the cost of a search for a fresh job but may also suffer deskilling during her period of absence from the labour market affecting her chances of upward professional mobility. Reproduction thus puts women at a definite disadvantage in the labour market.

Maternity benefit or work-linked maternity support, which encompasses several provisions including leave, wage compensation, nursing breaks as well as strictures against discrimination of women on account of reproduction, is an important tool that levels the playing field for women in the labour market. It reinforces the social and economic importance of women's reproductive role and recognizes the extra cost that women bear when they enter the labour market to do productive work in addition to reproductive work. In India, it is the constitutional right of working women.

The current instruments for providing maternity protection in India can be broadly classified into two categories: the first, meant exclusively for workers, guaranteed by the Constitution (Article 42) and mandated through legislations such as the Employees State Insurance Act (ESIA), the Maternity Benefit Act (MBA) and a few Welfare Acts for workers in specific industries. The second is in the form of budgetary assistance or support for women in general, increasingly available to BPL women only, through Central and State Schemes such as the Janani Suraksha Yojana (JSY) and the Indira Gandhi Matritva Sahayog Yojana (IGMSY). Since the two Acts cover only a minute segment of workers – the workers of the organized sector, all other workers are dependent upon the various general schemes of maternal support.

⁷ In the case of migrant cane cutters, for instance, the pregnant woman works until the very last moment, many a time giving birth on the field or under the cart while transporting the cut cane to the factory. She gets back to work within 3 days after delivery. The costs this imposes on the mother and child are undoubtedly enormous. See the case study on cane cutters in Maharashtra State Report for more details.

The aim of this chapter is to assess the adequacy and appropriateness of the current arrangements for maternity protection for workers against the basic nature of women's work, the current scenario and trends in women's employment.

3.1 NATURE OF WOMEN'S WORK

As in other aspects of life so also in the sphere of work there exist distinct gender roles. If work is defined as all activities except pertaining to self-maintenance and leisure, women's work can be classified into three broad categories:

- The first, known variously as domestic, reproductive or care work⁸, comprises of daily household duties at home such as cooking, cleaning, washing, serving, home maintenance, care of children, sick and elderly; or outside such as fetching water, fodder, fuel shopping, and so on. It also includes functions such as balancing the family budget as well as maintaining and servicing social networks that provide support in emergencies (Dasgupta 2013).
- The second, called non-market work, includes unpaid work - on the family farm or in the household enterprise that results in the production and processing of goods and services for exchange; production and processing of primary goods for self-consumption including free collection of uncultivated crops, firewood, hunting, fishing, and so on and the own-account production of fixed assets (the house, well and so on); and
- The third, called market work consists of paid work in the form of regular or salaried jobs, unskilled or skilled casual labour and self-employment ranging from street vending to professional and technical work.

Work defined in the sense of economic activity or productive work and counted in the gross domestic product (GDP) of the economy comprises only such activities as result in the production of goods and services for exchange or self-consumption.

Of the three categories of women's work listed above, the UN System of National Accounts (SNA) (1993), (the standard system of measuring GDP and workforce) includes under economic activity:

1. all market/paid work and
2. of the non-market work only work that results in
 - (a) the production of goods and services for exchange;
 - (b) production of primary goods and services for self-consumption;
 - (c) processing of primary goods for self consumption including free collection of goods, and
 - (d) own account production of fixed assets.

Domestic work is completely excluded from the definition of economic activity. Domestic work for one's own household is not economic activity but any activity falling in the domestic work domain when performed by non-family person for pay/wage is economic activity. Hence, men and women who contribute to work within the domestic sphere against a wage are recorded as workers.

Socially entrenched gender roles as well as the reproductive burden result in much of women's productive work being flexible, non-standard and an extension of domestic work. It is frequently unpaid and home based. Even market work is uncertain, sporadic, short-term, informal and often an add-on to male labour. The work especially of poor and uneducated women is seasonal, monotonous, repetitive, energy intensive, drudgery producing and arduous. Work that is usually carried out by women, even when requiring special skills is dubbed 'unskilled'. Lack of voice and bargaining power

⁸ Though men may also perform domestic work it is usually perceived as women's work.

ensure poor working conditions, discrimination and harassment at the workplace and low and gender differentiated wages – usually a fraction of a man’s wage.

3.2 DEFINING WORK AND COUNTING WORKERS IN INDIA

3.2.1 Definition of Work and Workers in the Census & NSS

The two major official statistical systems in India that provide comprehensive data on work/employment are the (decennial) Population Census and the (quinquennial) National Sample Survey (NSS)⁹. The two differ at two levels – in what they consider as work and the means they use for identification of a worker. According to the Population Census, ‘work’ is defined as any “productive activity for which remuneration is paid and is market oriented”, and ‘worker’ is a person who is engaged in ‘work’. If a person has worked for a major part of the year (more than 180 days) she/he is considered as main worker or else as marginal worker. By NSS definition, a person is a worker if he/she is engaged in any “economically meaningful activity.” The Census enumerator asks whether the respondent is a ‘worker’ or not, whereas the NSS investigator asks about the activity that the person/s are engaged in (Subramanyan, 1999). As a consequence the NSS is somewhat better able than the Census, to net workers especially women. Nevertheless, undercounting, especially of women persists even in the NSS.

A major reason for undercounting of women, especially poor women, in the NSS lies in the fact that it excludes from its definition of work, the processing of primary goods for self-consumption¹⁰, which is an integral part of the SNA definition. To the extent that the processing of primary goods for self-consumption and collection of free goods is a predominantly female activity, NSS under enumerates female compared to male workers. Pervasive social bias (even amongst women) that view men as earners and women as housewives, as well as difficulties in perceiving work in a differentiated manner as productive work or domestic work (for eg., cooking for labourers from cooking for the household) are other reasons for under counting of female workers. Self employed, migrant and home based workers as well as workers in the informal sector are most likely to remain invisible to the official systems (Hirway 2002; Kanchi 2010).

The extent of undercounting may be surmised by comparing the estimates of male and female workers based on a pilot Time Use Survey¹¹ (TUS) conducted in 1998-99 by the NSSO to the regular NSS results of 1999-2000. The TUS identified 62.2 per cent of men and 50.8 per cent of women as workers compared to the corresponding NSS (current weekly status) estimates of 51 per cent and 28.9 per cent respectively (Hirway 2012). Although under enumeration occurs in the case of both men and women, the under counting is higher in the case of the latter.

As this report uses NSS data to describe women’s employment scenario, some of the important concepts used in NSS are explained in the following section.

3.2.2 NSS Concepts of Work

The NSS classifies the population into those *in the labour force* and those *not in the labour force*. The labour force consists of all those who spent the major part of their time:

⁹ Others include the Annual Survey of Industries (ASI) that provide only employment in factories and the Economic Survey, which collects only employment in the organized sector. To this has been added recently the Labour Bureau’s annual Employment and Unemployment Survey, which is conducted on the lines of the NSS.

¹⁰ NSS also excludes the collection of free goods, sewing, weaving, etc., for household use when done in combination with domestic duties.

¹¹ A Time Use Survey identifies all the activities during a well-defined period, say 24 hours or a week, of the respondents and measures the proportion of time spent on each activity.

- (a) engaged in an economic activity or activities as defined earlier, also called *workers, employed or workforce*; or
- (b) seeking or being available for work, known as *the unemployed*.

Individuals not in the labour force are neither working nor are looking for work during the reference period. Students, housewives (classified under codes 92 and 93), pensioners, beggars, the disabled and the infirm, prostitutes and so on fall out of the labour force.

Thus the labour force is made up of the workforce and the unemployed. Viewed at another level, the labour force in effect denotes the supply of labour and the workforce denotes the demand for labour or employment.

The NSS calculates several measures of employment or *work participation rates (WPR)* based on different reference periods:

The **Principal Usual Status WPR** or **UPS**, is the proportion of the population that has been economically active or in the workforce during a major portion of the *year* preceding the survey. This section of the population is often referred to as *usually* employed.

The **Subsidiary Usual Status Rate** or **UPSS** refers to the section of the population that has been engaged in a *minor economic activity or activities* for 30 days or more during the year preceding the survey. This rate covers two kinds of persons: i) UPS workers who simultaneously pursued a minor economic activity or activities for 30 days or more; and ii) those who had no such principal occupation but indulged in minor economic activities for at least 30 days, not necessarily continuous.

The **Usual Status (principal + subsidiary) Rate** or **UPSS** gives the broadest measure of employment in the economy. It is a combination of the two measures mentioned above – it gives the proportion of population working *either* in the principal or subsidiary status. That is UPS workers plus non-workers who engaged in subsidiary work that is, (ii) above.

The usual status WPR thus gives us the *general or annual employment rate*.

The **Current Weekly Status Rate (cws)** gives the proportion of the population that was economically active or in the workforce during the week preceding the survey.

The **Current Daily Status Rate (cws)** gives the proportion of the population that was in the workforce, on an average, in a day during the week preceding the survey.

It must be pointed out that the NSS presents employment rates in terms of number per 1000 population. However, this report uses the more familiar percentages instead.

3.3 WOMEN'S EMPLOYMENT SCENARIO IN INDIA

3.3.1 Size of Women's Workforce

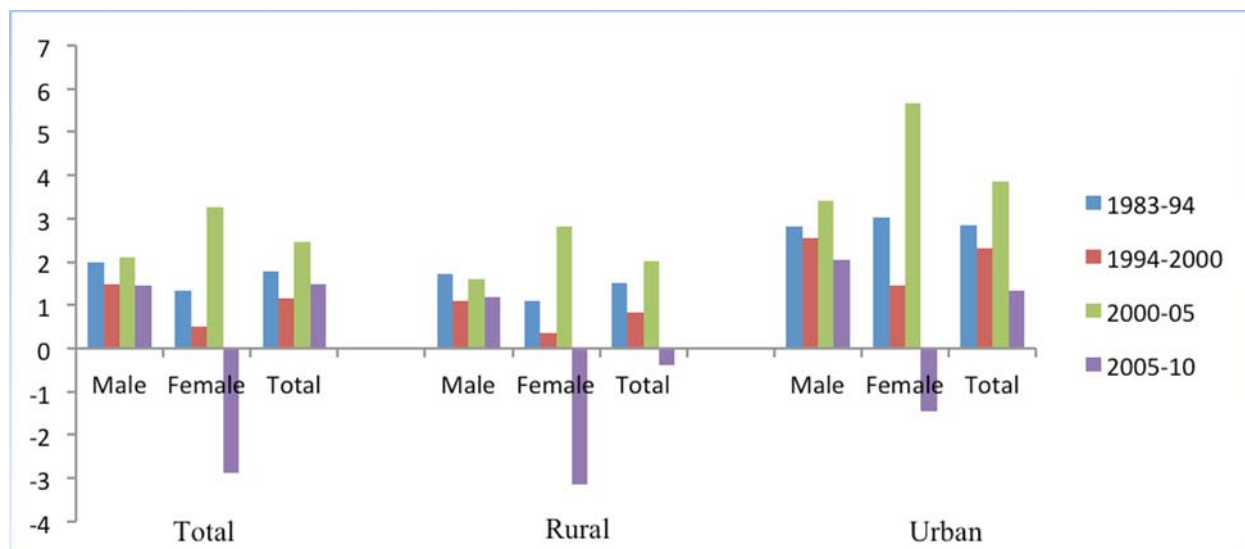
Indian women have a low presence in the labour market, compared to Indian men as well as to women in other countries¹². In a workforce of around 470 million in 2009-10, women numbered 128 million, a mere 28 per cent. In the period since the early 1990's when India's GDP recorded unprecedented growth rates, women's employment expanded, but very slowly compared to their population resulting in the decline of women's (UPSS) work participation rate (WPR)¹³ to a record low - from 28.6 per cent

¹² Women's WPR in Brazil and China for example, are respectively 71 and 74 per cent (Thomas 2011).

¹³ WPR or work participation rate or worker population ratio is the ratio of workers to the relevant population segment. Thus WPR of rural women = Number of rural women workers/population of rural women. The NSS expresses this ratio per thousand; we have adopted the more familiar percentage.

(1993-94) to 22.8 per cent (2009-10). The decline was sharper for rural women (from 32.8% to 26.1%) than for their urban counterparts (from 15.5% to 13.8%). In comparison, employment for men has more or less kept pace with population growth resulting in a more or less stable WPR of around 54 (Table A1). *In fact, the period 2005 to 2010 when GDP growth was fastest was also the time when women's employment recorded negative growth* (Fig 3.1).

FIGURE 3.1:
Compound Annual Growth Rate (%) of workforce by residence & sex 1983-2010



The only period since the 1990's when women's WPR rose was between 2000 and 2005 (NSSO 2006). It is now well established that this increase was distress employment in response to agricultural crisis, mostly in the form of a rise in subsidiary status (SS) and unpaid family labour (Himanshu *ibid*, Indrani and Neetha 2011), which quickly withdrew from the market when conditions returned somewhat to normal in 2010.

The more serious cause of concern however, is what happened during this period (1993-2010) to the **supply** of women's labour. In absolute terms, women's (UPSS) labour force expanded very slowly between 1993 and 2010, at a rate of growth of just 0.34 per cent per annum¹⁴ and labour participation rates declined, particularly sharply between 2005-2010 - more sharply for rural than urban women (Table A 1). The decline was across all age groups, but was especially large for women between 30 to 54 years – the cohort with the highest rate of participation.

Besides enrolment in educational institutions (Rangarajan, 2011; Chandrashekar & Ghosh, 2011; Choudhury 2011), several other reasons have been proffered for the withdrawal of women from the labour force such as decline in opportunities; social orthodoxy pushing women rather than men out of jobs in a tight job situation; and withdrawal of women in response to improving household incomes.

By tracing the change in number of women engaging in work, education and domestic duties between 2005 and 2010, Kannan and Raveendran (2012) reveal that 27%, of the decline is the result of a welcome increase of enrolment in educational institutions of the younger cohorts, that is, girls and women up to 25 years, especially in the rural areas. The balance is traced to the shift of women out of the labour force into domestic work - domestic work only (NSS Code 92) and domestic duties combined with free collection of goods, sewing, tailoring, weaving, etc. (Code 93). That is, the majority of the women who withdrew from the labour force were poor women. Although there was

¹⁴ Men's labour force, in contrast expanded steadily at the rate of 1.72 per cent per annum from 258 to 339 million (Himanshu 2011).

some reduction in participation for women in higher income classes as well, traceable to the income effect, this was small. *Neither increased enrolment nor increasing household incomes offer sufficient explanation for the bulk of the decline in women’s participation in the labour market.*

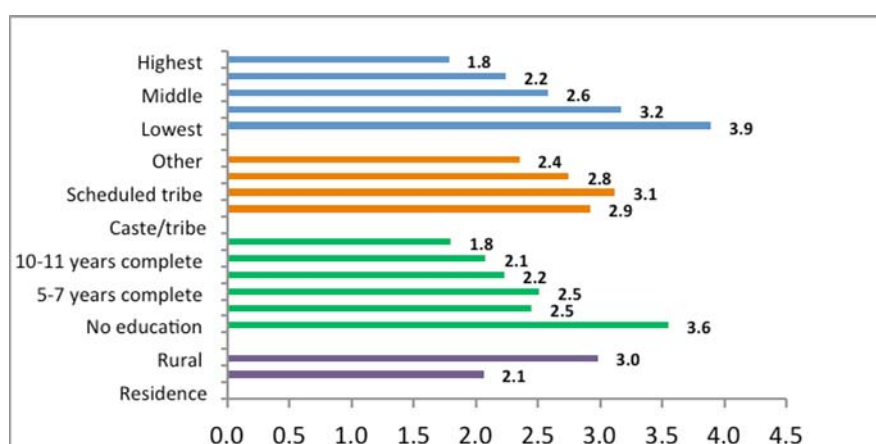
Summarizing, the last two decades of rapid GDP growth has not only failed to create significant employment opportunities for women but also led to the withdrawal of women from the labour force (into domestic work) – an issue that could emerge as a serious obstacle to sustained and inclusive economic growth. There is a strong possibility that women are withdrawing from the labour market due, on the one hand, to lack of opportunities (Choudhury op cit) and on the other, to the high costs of undertaking productive work in addition to reproductive work in comparison to the (low) expected returns from work. More research is called for.

A strong case exists for encouraging the participation of women in the economy. The positive contribution of greater gender equality in education and employment to economic growth is now fairly well established. Gender equality in education serves to expand the talent pool available and leads to gender equality in employment and maximisation of the human resource potential. Greater participation of women in employment leads in turn to positive effects on the “next generation of workers, parents and citizens” (Kabeer 2012). Many studies have shown that women more than men, tend to use resources available to them to improve nutrition, health and education of their children, particularly girl children, thus further narrowing the gender gap. *Provision of maternity benefits and child-care is one of the important ways of reducing the cost, to the woman and her household, of a woman’s entry into the labour force (and education) and of enabling increased participation of women in the labour market.*

3.3.2 Reproduction & Employment

In India early marriage and childbearing is common. According to the National Family Health Survey 2005-06 (NFHS-3), the median age at marriages for women is 17.2 years and the median age at first birth is 20 years. Going by the median age at sterilisation for women, 50 per cent of women complete their family size by age 25.5 years and 81 per cent by age 30, implying that prime childbearing age is 20-29 years. These averages however hide considerable variations amongst women across location, social identity, educational level and household wealth. According to NFHS-3, the greatest differences in fertility are by education and household wealth (Fig 3.2). Women in the poorest households have two more children than women in the richest households. The total fertility rate (TFR) is 3.1 for the scheduled tribes, 2.9 for the scheduled castes, and 2.8 for the other backward classes compared to 2.4 for ‘others’ and the overall average of 2.7 (IIPS, 2007).

FIGURE 3.2:
Total Fertility Rate by Background Characteristics NFHS

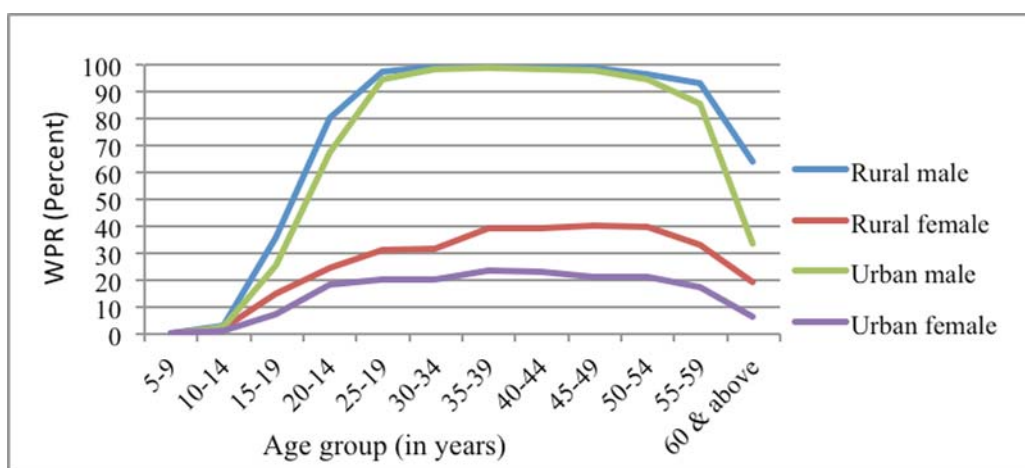


In 2009-10, only 38.4 per cent of rural and 19.6 per cent of urban women in the reproductive age bracket (15 to 49 years) were in the workforce. And in the prime reproductive age (20-29) only 34.2 per cent of rural and 17.8 per cent of urban women were workers. Peak participation is achieved by rural women (49%) aged 35 to 49 and urban women (27%) aged 35-39 years (Fig 3.3). Further, there has been a decline in the WPR of women in the reproductive cohort since 1993-94. The decline was sharpest (15.5 percentage points) for women 24 to 29 years in rural and 45 to 49 years (8.8 points) in urban India (Table A 2).

Data not only indicates that the majority of women in the reproductive age bracket, particularly in the prime childbearing age remain out of the labour market but also suggests that most of the women who do enter the workforce wait to complete family size before entering the labour market. Besides social orthodoxy and low levels of education and skills, lack of maternity benefits and childcare and elderly care facilities on the supply side and a general lack of opportunities and discrimination against younger women particularly newly wedded or potential mothers, on the demand side, could be some of the important reasons for the low participation of younger women in the labour market. The break up of joint family system could also be a contributory factor to the decline in the participation of younger women. More research is necessary in order to assess the significance of each of the contributing factors.

FIGURE 3.3:

Age-specific work participation rate according to Usual Principal Status during 2009-10



Since the attention in the context of maternity protection is on women workers in the reproductive cohort the discussion henceforth, will look at patterns in the work participation of women in the age bracket 15–49 years.

3.3.3 Participation Rates for Women aged 15 to 49

For women in the reproductive cohort (15–49 years) participation rates are much higher than the corresponding average for all ages. In 2004–05 the WPR (UPS) for women in the reproductive cohort was 37.5 per cent for rural and 19.5 for urban areas. In 2009-10 the corresponding rates were 29.5 and 16.9 per cent. In line with the general trend discussed earlier, participation rates declined for women in this cohort too, with rural women experiencing a sharper decline than urban women.

Engagement in subsidiary work is also higher for women aged 15 to 49 than for men of the same cohort as well as for women of all ages. In 2009-10, subsidiary status (SS) WPR was 8.9 per cent for rural and 2.5 per cent for urban women. That is, 23.2 per cent of rural and 13.8 per cent of urban workers were subsidiary workers. WPR (SS) also declined between 2004-05 and 2009-10 signalling the loss also of temporary and short-term work together with the loss of UPS work. Subsidiary status

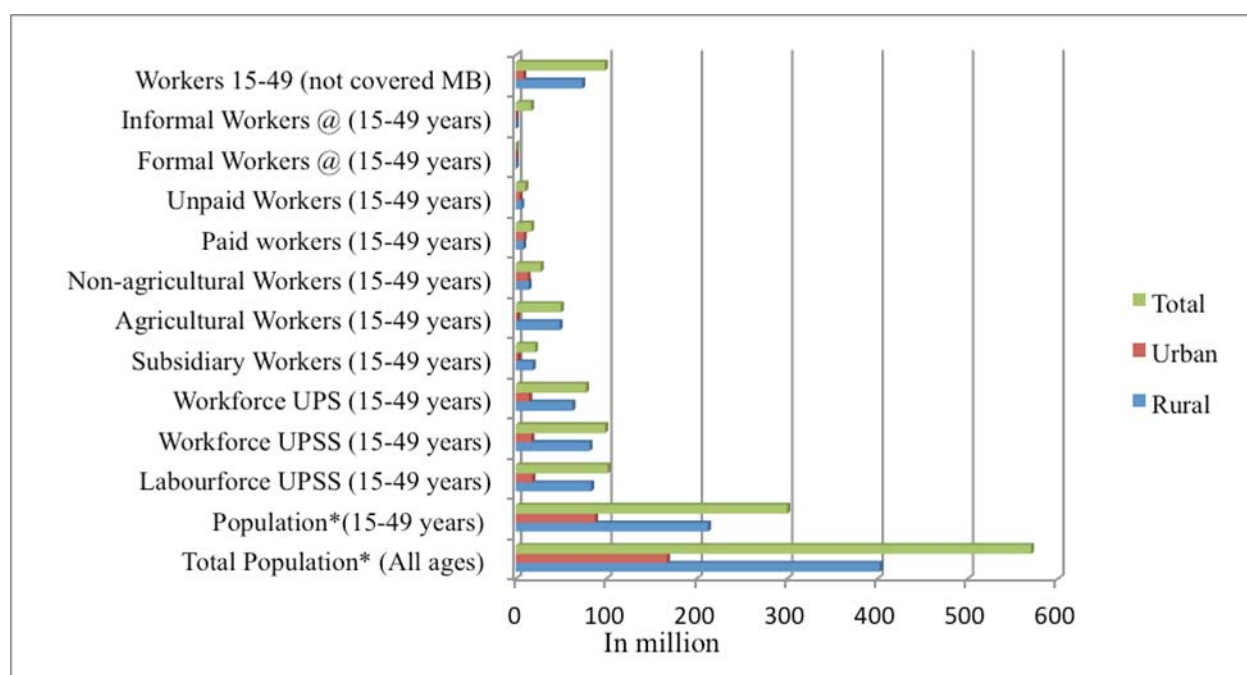
work is an important source of employment for women especially in rural areas. However, because of short-term, sporadic and uncertain nature of such work, subsidiary workers fall out of the ambit of present maternity benefit arrangements. While this report recognizes the need to provide maternity cover to subsidiary workers too, the following discussion, in the interests of clarity, will be confined to mainstream or principal status (UPS) workers. For an easy understanding of the size of the female workforce as well as the location of women in terms of residence and work characteristics Fig 3.4 (Table A 4) provides the numbers in millions.

TABLE 3.1:
LFPR and WPR (%) of Men and Women 15 to 49 Years and All Ages 2009–10

Category	LFPR(UPS)	LFPR (UPSS)	WPR (UPS)	WPR (UPSS)	WPR SS
15 to 49					
Rural Male	82.4	83.3	80.4	81.6	1.2
Rural Female	30.4	39.1	29.5	38.4	8.9
Urban Male	79.2	79.5	76.4	76.8	0.4
Urban Female	18.4	21.0	16.9	19.6	2.5
All Ages					
Rural Male	54.8	55.6	53.7	54.7	1
Rural Female	20.8	26.5	20.2	26.1	6.1
Urban Male	55.6	55.9	53.9	54.3	0.4
Urban Female	12.8	14.6	11.9	13.8	1.9

Source: Computed from unit level data of NSS 66th Round, 2009-2010

FIGURE 3.4:
The Magnitude and Location of Female Workers



3.3.4 Distribution Across Sectors, Industries and Occupations

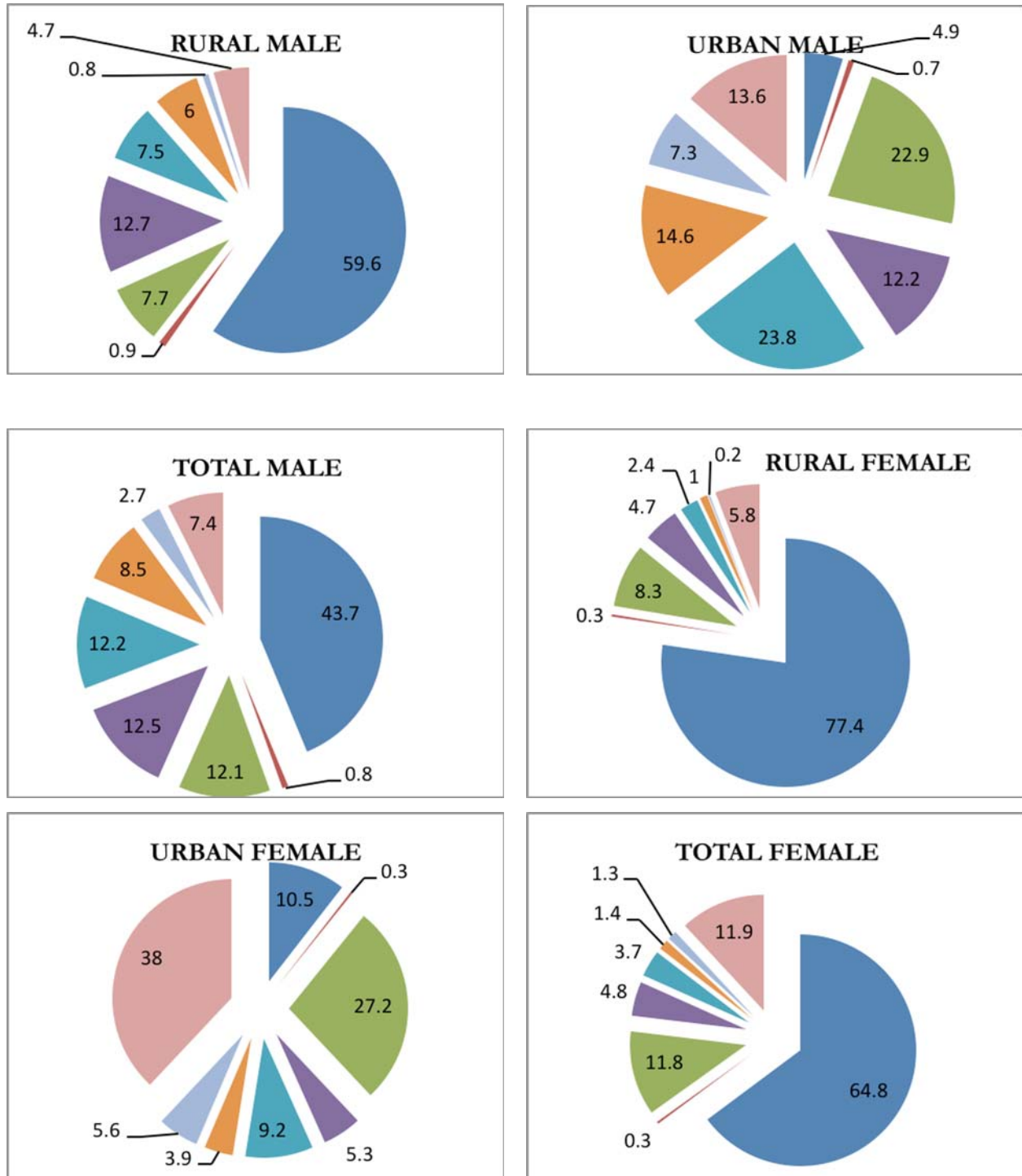
The patterns of sectoral and industrial distribution of employment are quite distinctive for rural and urban areas. Each segment is therefore discussed separately.

3.3.4.1 Rural India

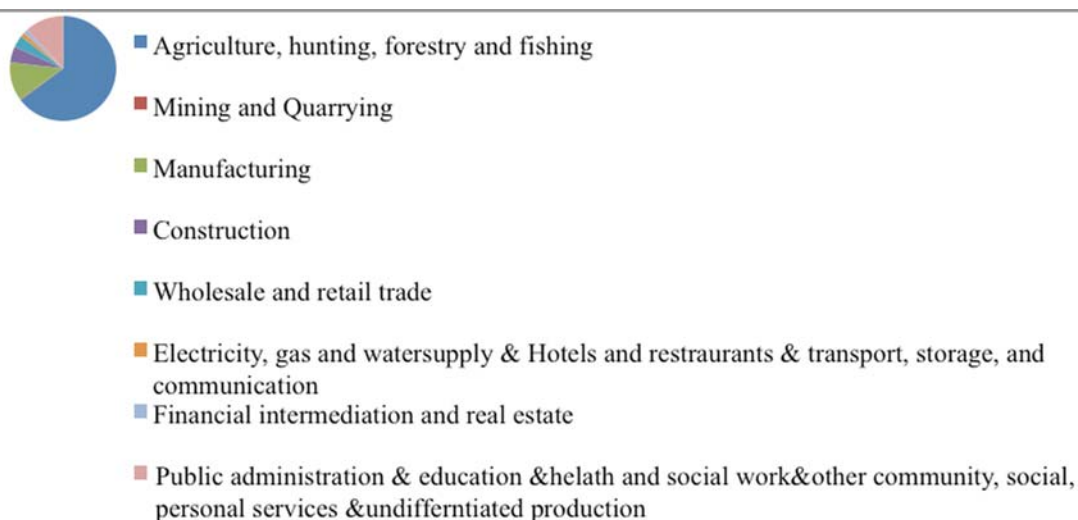
Agriculture remains the preponderant source of employment—it is in fact the single largest employer of women. As of 2009–10, 77.4 per cent of female workers remained in agriculture and allied

pursuits. Manufacturing engaged 8.3 per cent, and the service sector 14 per cent including construction (4.7 %) (Fig 3.5). In the last 5 years, there has been an increase in the proportion of women in agriculture and allied activities, manufacturing, education and health and social work and a decline in the proportion of women in construction¹⁵ (Table A 3).

FIGURE 3.5:
Industrial Distribution of workers (15 to 49 years) by Sex and Location: 2009-10



¹⁵ The much discussed increase in the share of UPSS female workers (all ages) in construction appears therefore to be due to the increase in subsidiary work.



The occupational pattern reflects the industrial and sectoral distribution (Table A 5): in rural India 44.3 per cent of female workers are in elementary occupations; another 39.5 per cent are skilled workers in agriculture and fisheries. No more than 16.2 per cent are distributed across all other professions of which only 5.6 per cent are in high end professions, as legislators, senior officials, managers; professionals, associate professionals and technicians. Women are thus concentrated in the lower end of the professional spectrum (Fig 3.6). This is not very different from the trend so far.

3.2.4.2 Urban India

In urban areas the service sector is the primary employer of women with 56.7 per cent of the workers in this sector. Within this sector, construction, trade, transport, storage and communication, education, health and social work and other community, social and personal services together accounted for 40.8 per cent. Manufacturing employed 27.2 per cent and agriculture 10.1 per cent (Fig. 3.5) (Table A 3). There has been a considerable increase over 2004-05, in the proportion of female workers in manufacturing, education, health and social work and other community, social and personal services.

FIGURE 3.6
Occupational Distribution of Women (aged 15–49 years) 2009-10



Although the proportion of women in elementary occupations and agriculture and fisheries in urban areas is far lower (31.2%) than in rural areas, it is still high. Nevertheless, distribution across various professions is more balanced in the urban than it is in the rural labour market. Professionals, associate professionals and technicians (24.1%) represent the next most numerous cadres of workers followed by craft and related trade workers (18.7%) and service and sales workers (10.5%) (Table A 5).

3.3.5 Women Workers and Type of Activity

As in the case of sectoral composition, in terms of types of activity too, rural and urban areas show distinctive patterns.

3.3.5.1 Rural India

In 2009-10, regular and salaried employees constituted 6.2 per cent of female workers while the rest were more or less equally divided between self-employment (48.7%) and casual labour (45.1%) (Table 3.2). The majority of the self employed (72.5%) were unpaid family workers. There was an increase in regular and salaried workers over 2004-05 (5.1%), a decline in self-employed and an increase in casual labour. In terms of income classes, a larger proportion of self- employed (63.7%) belonged to lower expenditure classes (quartiles 1 & 2) (Table A 6). Among the self-employed, employers were concentrated in the higher expenditure classes and own account workers and unpaid helpers in the lower expenditure classes. This pattern suggests that self-employment is probably the employment choice for survival of the poor working as small time professionals, petty traders, street vendors and so on.

TABLE 3.2:
Percentage Distribution of Female Workers (15-49 years) by activity Status 2009-10

Activity	UPS	UPSS
	Rural	
(1) Self-employed (<i>Constituents i-iii</i>)	48.7	54.4
(i) Workers in household enterprises as own-account workers	13.0	14.9
(ii) Workers in household enterprises as an employer	0.4	0.4
(iii) Unpaid family members	35.3	39.0
2. Regular/wage salaried employee	6.2	4.9
3. Casual Labour	45.1	40.8
Total	100	100
	Urban	
(1) Self-employed (<i>Constituents i-iii</i>)	33.8	39.7
(i) Workers in household enterprises as own-account workers	19.9	23.5
(ii) Workers in household enterprises as an employer	0.6	0.6
(iii) Unpaid family workers	13.3	15.7
(2) Regular/ wage salaried employee	46.6	41.2
(3) Casual Labour	19.4	19.0
Total	100	100

Source: Computed from unit level data of NSS 66th Round, 2009-2010

3.3.5.2 Urban India

The distribution is different in urban India. Here regular and salaried employees form the largest group of female workers. In 2009-10 salaried workers constituted 46.6 per cent of female workers,

self-employed formed 33.8% and casual labour only 19.4 per cent (Table 3.2). Here, unpaid family workers accounted for only 39.3 per cent of the self-employed. A much larger percentage (58.9%) was own account workers. As in rural areas there has been an increase in salaried workers, a decline in self-employed and an increase in casual labour. Again the pattern of distribution of self-employed in urban areas was different from that in the rural areas. Here the proportion of self-employed was concentrated in higher income classes, with own account workers and employers and unpaid family helpers concentrated among the well off (Table A 6).

Three points emerge out of the foregoing: first, permanent or salaried employees still form a small proportion of the employed despite the recent growth of this segment although they are in a larger proportion in the urban economy. These are the workers who have assured contracts and some social security cover within the existing arrangements. Second, it is a good sign that UPS waged workers (regular plus casual), or those who worked for an employer have increased over the last NSS round. In 2009-10 they formed 51.3 per cent in rural and 66 per cent in urban areas (of the female workforce) compared to 45.4 per cent in rural and 60.9 per cent in urban areas. However as seen in the next section most of these workers are in the informal sector. Finally the self-employed are an amorphous category – the quality of employment varying widely between the poor and rich – the street vendor at one end and the accountant or doctor at the other. For the poor self-employment is a strategy of survival and is fraught with risk and uncertainty.

3.3.6 Informalisation of Employment

Based on the availability of social security cover (any of pension, provident fund, gratuity, health care and maternity benefits) a worker may be defined as formal (with cover) or informal worker (without cover). Until the early 1990's, formal workers worked in the organised sector (public sector, public limited private companies with 10 or more workers) and informal workers were confined to the unorganised sector (defined as unorganised agriculture and unincorporated private enterprises in the non-agricultural sector owned by individuals or households, operated on a proprietary or partnership basis and with less than 10 workers¹⁶).

Since the mid-1990s, the unbundling of manufacturing processes and the outsourcing of sub-processes and services as well as an expansion in contract services in the manufacturing and service sectors has led to a greater degree of flexibilisation of employment. These changes have led to the growth not only in unorganised sector employment but also to the growth of informal employment within the organised sector (NCEUS 2009). Of particular interest is the growth of home-based workers (classified as self-employed by the NSS) (Raju 2013). Experts predict that even the structural transformation of the economy from agriculture to non-agriculture will be marked by the movement of *informal* workers from agriculture to the industrial and service sectors, where they will remain as *informal* workers. It is expected that the economy will experience a greater degree of informalisation of employment that will increase the already high share of informal workers (as opposed to workers in the informal sector) from 91.8 per cent to 93.9 per cent by 2016–17 (NCEUS 2009). These predictions appear particularly relevant for women.

In terms of location, as of March 31 2008, there were 5.5 million women in the organized sector of which 3 million (55%) were in the public sector. In comparison men in the organized sector numbered 22 million of which 14.6 million (66%) were in the public sector (GoI 2013). The majority of the women in the public sector (excepting informal workers) enjoy maternity benefit cover.

¹⁶ As defined by NCEUS, 2007

In 2009-10, 64.7 per cent of female and 43.3 per cent of male workers who were in agriculture, constituted the largest block of informal workers. In addition, in the non-agricultural sector, NSS estimates (2009-10) show that of paid female workers (regular/salaried workers and casual workers) only 1.6 per cent were formal workers that is, got some kind of social security; the overwhelming majority - 98.4 per cent were thus informal workers. In the case of males, 6.3 per cent of non-agricultural workers were formal and 93.7 per cent were informal workers. In 2004-05, these figures were respectively 4.1 per cent and 95.6 per cent in the case of women and 9.3 per cent and 90.7 per cent of men (see Table 3.8), implying an increase in the informalisation of women's employment.

In addition to the uncertainty, irregularity and impermanence of employment, informal workers are unable to secure even minimum wages rendering them vulnerable. The most vulnerable amongst informal workers are migrant workers, home-based workers, workers in private households and those such as street vendors who do not have a designated place of work. These workers are virtually invisible, being undercounted in our statistical systems and outside all labour laws.

3.4 WOMEN'S EMPLOYMENT AND SOCIAL DETERMINANTS

3.4.1 Poverty

Women's poverty is both the cause and result of vulnerabilities. Women face the cumulative brunt of poor or low education, lack of asset/property holding, reinforced by their social identity and gender. Poverty affects more women than men and impacts women more intensely. Poverty statistics based on household as a unit are inadequate measures of women's poverty. Nevertheless women workers' poverty status can be deduced to some extent from available data.

Women's WPR in rural India, where the large majority of women live and work is nearly double that in urban India. Agriculture dominates as an employer of women in India. A large proportion of subsidiary workers, predominance of self employed, low and gendered wages, below even the statutory minimum for casual labour (Chavan and Bedamatta 2006) all lay the foundation for poverty amongst workers in the country.

The pattern of employment by monthly expenditure quartiles and social groups serves to delineate the employment choices of the poor and marginalised. In 2009-10, work participation across monthly per capita expenditure (MPCE) quartiles for women in the reproductive age cohort varied widely across social groups. In rural areas the proportion of workers decreased across quartiles (from the lowest to the highest) for ST, SC and OBC (Table A7). In urban areas with a few exceptions, the proportion of workers increased from lowest to highest quartiles. The incidence of poorest workers (1st quartile) is highest for ST (55.6 %) in rural and SC in urban areas and lowest for 'others' (22.7% in rural and 7% in urban areas). Further, the incidence of casual labour is high across social groups for the poorest, but remains the highest for ST and SC in both rural and urban areas. Regular workers on the other hand are lowest amongst the poorest for all groups across location except in the case of rural SC. Self-employment is highest amongst the poorest quartiles for SC and ST in rural but not in urban areas. As already noted the quality of self-employment is likely to vary widely across class—while the poor take to petty trading linked to foraging and collection of forest produce and other low-capital, low-skill pursuits the rich are employers or professionals.

The proportion of poorest workers has increased for all groups between 2004-05 and 2009-10 in rural areas with sharpest increase for ST. In urban area this proportion has declined for all groups except SC.

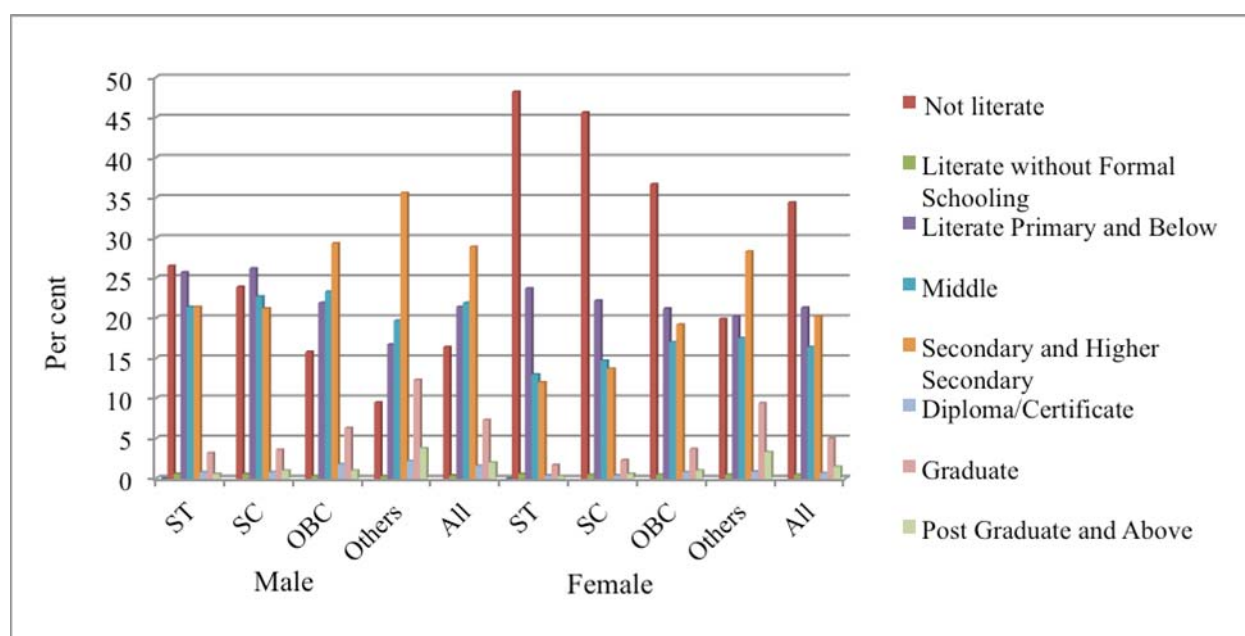
3.4.2 Educational Attainments

Over the years the proportion of illiterates among the labour force in all segments of population has been decreasing consistently as a consequence of government policies and programmes for achieving

universal primary education. The improvement, however, has not been uniform across all the segments of population. The gender difference in the average years of education is particularly striking. Women receive fewer years of schooling than men in all segments of the workforce and the educational attainments of female workers continue to be at low levels.

In 2009-10, amongst women workers of the reproductive cohort, 34.4 per cent (rural and urban) were illiterate. Despite considerable improvement since 2004-05, a little less than half the female ST (48.2%) and SC (45.6%) workers remained illiterate in 2009-10, the highest rates for any group (Fig 3.7) (Table A 8). However an unmistakable improvement can be seen in educational attainment across all groups reflecting the improvement in education for the female population as a whole in the country. However the improvement in education levels does not seem to have translated into work participation. As mentioned earlier, reasons for low participation of women in the labour market and the link between low participation and slow improvement in education levels need to be examined more closely.

FIGURE 3.7:
Percentage distribution of male and female workers 15-49 years by educational level & social group (2009-10)



Illiteracy and low levels of education attainments imposes severe disadvantages in terms of bargaining power in the labour market or with the government. The ST and SC women remain the most severely disadvantaged. Even membership in organisations such as labour unions or welfare boards requires literacy and the awareness that it engenders. Educational deprivation renders women workers acutely open to exploitation—circumvention by employers of maternity benefit laws in addition to low wages, job insecurity and even minimal conditions of decent work.

3.5 IMPLICATIONS OF THE PATTERN OF WOMEN’S EMPLOYMENT FOR MATERNITY BENEFIT

3.5.1 The Case for Maternity Protection Cover for All

The foregoing analysis has shown that only around 38.4 per cent of rural and 19.6 per cent of urban women aged 15–49 is in the workforce. In the prime childbearing age interval (20–29 years), even smaller percentages (34.2% of rural and 17.8% of urban) women are workers. This implies *that the greater share of women (61.6% of rural and 80.4% of urban) in the reproductive cohort remain*

out of the ambit of any employment-linked Maternity Benefit cover. Further, the data on prime childbearing age and the peak work participation age (34 plus years), also suggests that even amongst workers, most complete their family size before entering the labour force.

The only maternal support available to women out of the workforce, in the form of cash compensation through the JSY and similar schemes including support in kind through the ICDS, is too meagre and available only to below poverty line (BPL) women. The limitations of these schemes are well known. Of the most important is the exclusion of the poorest due to lack of awareness and high transaction costs (Lim et al 2009). Although it is true that in terms of vulnerability, rural scheduled tribe and scheduled caste women with no or low levels of education form the prime constituency of women requiring maternity protection, especially because they are also among the poorest, ***the persistently high infant (53) and maternal mortality rates (254 per 100000 live births) make a strong case for the universalization of maternity protection. That is, maternity protection/support should be demand-driven and based on self-selection.***

3.5.2 The Significance of Maternity Benefit for Workers

As regards workers, Maternity Benefit or work-linked maternity support, which encompasses several provisions including leave, wage compensation, nursing breaks as well as strictures against discrimination of women on account of reproduction, is an important tool that levels the playing field for women in the labour market. It reinforces the social and economic importance of women's reproductive role and recognizes the extra cost that women bear when they enter the labour market to do productive work in addition to reproductive work. Maternity Benefit moreover is the constitutional right of every working woman in India.

Further, Maternity Benefit could be an important means of increasing participation of women in the labour market. Although social mores and attitudes, lack of education and skill formation as well as lack of suitable opportunities have a role in keeping female work participation in India at abysmally low levels, there is a strong possibility that the provision of maternity protection and childcare facilities will increase the participation of younger women (20 to 30 years) in the labour force by reducing the costs to the woman and her family of entering the labour market. This will in turn increase their participation in education and skill formation, thus opening up avenues for empowerment.

Finally, NFHS-3 data clearly shows that employment does not necessarily ensure higher utilisation of maternal healthcare services. In fact, a higher proportion of non-working women receive maternal care than working women. Among women age 15–49, who had a birth in the 12 months preceding the survey, a lesser percentage of employed women received at least 3 antenatal care visits compared with non-working women (43 per cent and 58 per cent, respectively). Percentage of women who had institutional delivery and delivery by a health professional is also higher amongst non-working than amongst working women. This is contrary to expectations and could be due to several reasons: a) the large percentage of poorly paid unorganised sector workers are unable to afford maternity care services. b) The opportunity costs of utilising maternal care in terms of loss of work day and income may be high and c) lack of time is also likely to be a significant factor inhibiting use of medical services amongst the employed, particularly from public health facilities. ***The low utilisation of maternity care services amongst employed women makes an additional argument for the provision of work-linked Maternity Benefit coverage—leave as well as wage compensation- to all working women.***

Since poor women cannot remain idle and need engage in labour, they bear a double burden due to low nutritional and poor health status. They also experience poverty and its effects more intensely than male members of their households. Moreover, even women of non-poor households experience multiple deprivations. ***Hence, availability of Maternity Benefit ought not be used to exclude***

workers from other maternal support programmes. Employed women must be eligible for both Maternity Benefit coverage and maternal support programmes. While the former preserves their income and basic nutritional levels, the latter provides the additional care and supplementary nutrition so essential during pregnancy and childbirth that may otherwise be unaffordable.

The latest central maternity support programme, namely the Indira Gandhi Matritva Sahayog Yojana is a case in point. Not only is this targeted scheme shackled by conditionalities which result in the exclusion of a considerable segment of women (Lingam and Yelamanchili 2011) it also deliberately excludes those covered by the ESIC. Following the arguments above, this scheme needs to be made universal, including women under ESIC or any other employment-linked cover. Since only women earning below Rs. 15,000 are eligible for ESI cover, these women are likely to need additional maternal support. Further, given the low level of cash support and the transaction costs involved, it is highly probable that only women in need are likely select themselves under the scheme.

It is important to note that failure to provide maternity support may imply high economic costs to the country in terms of poor health of mothers, children and citizens of the country as well as in terms of non-maternal health care necessitated due to high morbidity levels in the population (health-poor children grow up to be health-poor adults). In the case female workers, lack of Maternity Benefit may cost the economy in terms of low participation, low productivity, absenteeism due to frequent or chronic ill health on account of mothers giving up recuperation time to join work earlier than warranted after child birth.

3.6 SUITABILITY & ADEQUACY OF CURRENT PROVISIONS FOR MATERNITY BENEFIT

3.6.1 Organised Sector and Maternity Benefit

In the light of the composition and trends in women's employment discussed so far, what does this mean in terms of the appropriateness and adequacy of the ESI and MB Acts—the two prime instruments for maternity protection for workers?

The most fortunate in terms of maternity benefit provisions are the government employees. As per the recommendations of the Sixth Central Pay Commission (2008) Central Government employees and the employees of a large number of State Governments as well as those in Central and State Government undertakings are eligible for 180 days of maternity leave for up to 2 children and an additional leave of up to 2 years for taking care of minor children. This leave can be availed of as need arises, whether for rearing the children or looking after any of their needs like examination, sickness, etc until the child reaches 18 years of age. A leave of 45 days is also granted in case of miscarriage (GoI 2008). The commission has also recommended setting up of crèches.

Private sector employees are covered under either ESI or the MB Acts. The ESI Act (1948) covers employees earning less than Rs.15000 per month, of power using factories (other than seasonal factories) with over 10 and non-power using establishments with over 20 workers. The MB Act (1961) basically meant to cover all those not covered by the ESI¹⁷, seeks to apply to factories, mines, plantations, including those belonging to the government; to circus and to shops and commercial establishment in which 10 or more persons are employed. ***The Acts are clearly designed to cover workers in the organised sector only despite the constitutional guarantee extended to all women workers.*** Further, the Acts are biased in favour of permanent, full-time workers, workers with identifiable employers and/or a designated place of work, who form a tiny segment of the workforce

¹⁷ Including those earning over Rs15000 in ESI registered establishments.

especially in rural India. Finally, the Acts, as they are applied have an urban bias since they cover only women in the manufacturing and service sectors, which are primarily urban. Published data on ESI and MB Acts do not allow an assessment of the number of women having de jure maternity cover leave alone its rural-urban composition. The urban bias leaves large parts of the rural non-agricultural sector—which has a larger number of female workers aged 15–49 than the urban non-agricultural sector—out of the ambit of these Acts.

As shown in the foregoing analysis, female workers in the organised sector form small fraction—less than 4 per cent of the total female workforce. ESI and MBA coverage of even the organised sector workers is segmented and incomplete. Among the reasons are –

- (a) The growing proportion of informal workers employed by this sector—directly recruited subsidiary (temporary) regular and casual workers and those employed through sub-contracting, outsourcing and so on — are not covered. Although both Acts include ‘contract workers’ within the ambit, in the absence of an effective monitoring system, there is no way to ensure coverage. More often than not employers avoid showing such workers on their books¹⁸, especially in the service sector where women are increasingly concentrated. The itinerant nature of these workers also poses a problem.
- (b) The ESI covers only those earning less than Rs. 15000 per annum. Although workers earning more than Rs.15000 in establishments covered by the ESI are in principle, eligible for coverage under MB Act they are rarely covered in practice. There is no such wage ceiling under MB Act but it has its own problems arising from the fact that the employer is solely and completely liable for payment of maternity benefit under this Act. Monitoring of the MB Act has proved exceedingly difficult. Labour Departments of the state governments, which are responsible for monitoring implementation of the labour acts including those pertaining to maternity are one of the most neglected of departments in terms of allocation of funds and personnel on account of their not being a revenue generating department (personal interview with an assistant labour commissioner).
- (c) The eligibility of the sector or class of establishments¹⁹ under the purview of the two Acts (except those specifically mentioned in the Acts) is for all practical purposes determined by state governments and is variable across states, as is geographical coverage²⁰. State governments have also been vested with the power to exempt any sector or class of establishments²¹. There is thus a great deal of confusion and lack of uniformity as to the sections of workers to which the current maternity benefit legislations apply. Coverage is partial, fragmented and patchy. Whether an eligible woman gets maternity cover depends on where she lives—rural or urban as well as the state.
- (d) As is discussed in the State sections of this report, implementation is poor.

¹⁸ Informal discussions that the author had with employers suggest that almost 50 per cent of low-wage workers in even ESIC registered service sector establishments such as hotels, restaurants and private hospitals/clinics are not shown on the books.

¹⁹ The types of establishments covered under the two Acts thus vary from state to state. In Rajasthan, for instance, educational institutions are covered by the ESI, while they are not in Maharashtra. Similarly the MBA covers residential hotels, restaurants and eating houses; cotton ginning establishments (since February 22,1980) as well as all hospitals except those run by the government or Zilla Parishad or Panchayat Samiti (since May 17, 1978) in Maharashtra but not in states such as Orissa or Uttar Pradesh.

²⁰ In Maharashtra, the geographical and sectoral expansion of ESIC has been slow due to the tardiness in notification by the state government of fresh areas for implementation in the last decade. No new areas have in fact been notified since October 2004 (data collected from the ESIC, Mumbai).

²¹ Small establishments (SMSE) with power employing up to 25 workers and employing 50 workers without power are exempt from the Factories Act in Maharashtra (vide notification of the Directorate of Industries, Government of Maharashtra, June 200²¹) and thus fallen out of the organised sector.

The challenge with regard to this segment of workers—workers already in the purview of the two Acts—is to

1. make the existing arrangements more uniformly and comprehensively applicable to all sections of the organised sector including contract workers;
2. rationalise/modify eligibility conditions so that every worker of this sector has maternity cover and
3. ensure that women workers know their rights
4. Make sure that exemptions and exceptions cannot be made by State governments to deprive women of their maternity benefits and
5. More systematic and comprehensive data collection is also required to aid enforcement and monitoring.

3.6.2 Unorganised Sector and Informal Workers

The overwhelming majority of workers (more than 95%), as the foregoing analysis has revealed, are informal workers with no maternity benefit cover under the ESI or MB Acts. All workers in the agricultural sector are informal workers. In addition, according to the NSSO (66th Round) only 0.10 per cent of non-agricultural female workers aged 15–49 years have access to health care and maternity benefits (Table 3.3). Those who are not eligible by this estimate account for 99.9 per cent of the non-agricultural workforce.

TABLE 3.3:
Percentage of Male and Female (Non-agricultural) Workers 15–49 Years
Eligible for Various Levels of Social Security (2009–10)

Availability of Social Security benefits	Male	Female	Total
Only PF/pension (i.e., GPF, CPF, PPF, pension, etc.)	1.6	0.3	1.0
Only gratuity	0.2	0.0	0.1
Only health care and maternity benefits	0.3	0.1	0.2
Only PF/pension and gratuity	0.4	0.1	0.2
Only PF/pension and health care and maternity benefits	0.4	0.1	0.3
Only gratuity and health care and maternity benefits	0.3	0.1	0.2
PF/pension, gratuity, health care and maternity benefits	3.2	0.8	2.0
<i>Not eligible for any of above social security benefits (Informal Employment)</i>	93.7	98.4	96.0
Total	100.0	100.0	100.0

Source: Computed from unit level data of NSS 66st Round, 2009-2010

In terms of their ease of inclusion under a system of maternal benefit, these workers can be classified into three segments:

First, the segment that can be most easily brought into the purview of the current Acts consists of workers in the unorganised non-agricultural establishments (proprietary, partnership, private limited companies and co-operatives, associations and trusts) where workers have a designated site of work and an identifiable employer. The pattern of employment described above reveals that a larger proportion of workers in this segment are rural casual including home-based workers. In the urban segment, since a larger proportion of the regular workers are from the well educated and economically well off sections of society it is the poor casual workers who need priority maternity cover. A demand driven system will be better equipped to net all those who require cover.

The second segment, more difficult to include within the existing arrangements, consists of workers in the monetised agricultural sector that is, the self-employed or cultivators belonging to landed households, regular or salaried workers and casual labour. Although workers in the

agricultural sector too have an identifiable work site and employer, the nature of work in this sector makes it more difficult to bring them into the ambit of the present arrangements. Some of these factors pertain to the cyclical and seasonal nature of agricultural activity, the high agro-climatic risks involved, the large proportion of self-employed and subsidiary workers and the large number of enterprises/employers. Workers in the agricultural sector form the single largest block of those out of the ambit of present arrangements for Maternity Benefit. Their maternity protection needs are, for reasons already discussed only partially and inadequately met by the JSY, ICDS and the NREGS.

Last but the most in need of maternity protection are the self-employed in subsistence (or non-monetised) agriculture; subsidiary workers and unpaid family workers both in urban and rural India; self-employed in non-agricultural pursuits such as petty traders and rag pickers; home-based workers; workers in private households (cooks, domestic workers/maids/helpers); and migrant casual workers within the agricultural sector and outside it (such as cane cutters and construction workers). A large proportion of these workers do not have a fixed/permanent site of work and/or an identifiable employer. They are in fact an army of invisible workers, not recognised as workers, under-enumerated by even our statistical systems and out of the net of the most basic public provisions such as the public distribution system and the NREGS. Clearly the current statistical system has serious limitations, making the policies based on it incapable of reaching these most marginalised of workers. Given the abject poverty of these workers and the poor state of and access to medical care, such workers are likely to not only deny themselves the necessary care during pregnancy and lactation but may also be forced to get back to work earlier than warranted without maternity support, with implications for the health and welfare of children and the household. Hence this group is most in need of public provision of maternity protection.

Summarizing, the defining characteristics of women of the reproductive cohort – their low work participation, especially in prime childbearing age and almost complete dependence on informal employment together with alarming rates of infant and maternal death - argue for, first, a universal system of maternal support to all women, workers and non-workers alike, on the basis of self-selection; and second and additionally, the expansion and modification of present arrangements for Maternity Benefit to cover all workers. The costs to the economy of a failure to provide maternity cover to all are bound to be high.

**TABLE A 1:
Labour Force Participation & Work Participation Rates (LFPR & WPR) 1993-2010**

	1993-94	1999-2000	2004-05	2009-10	1993-94	1999-2000	2004-05	2009-10
	1	2	3	4	5	6	7	8
	Rural Female				Rural Male			
UPSS LFPR	33.1	30.2	33.3	26.5	56.1	54.0	55.5	55.6
UPSS WPR	32.8	29.9	32.7	26.1	55.3	53.1	54.6	54.7
UPS WPR	23.4	23.1	24.2	20.2	53.8	52.2	53.5	53.7
	Urban Female				Urban Male			
UPSS LFPR	16.5	14.7	17.8	14.6	54.3	54.2	57.1	55.9
UPSS WPR	15.5	13.9	16.6	13.8	52.1	51.8	54.9	54.3
UPS WPR	12.1	11.7	13.5	11.9	51.3	51.3	54.1	53.9
	All Female				All Male			
UPSS LFPR	29.0	na	29.4	23.3	55.6	na	55.9	55.7
UPSS WPR	28.6	25.9	28.7	22.8	54.5	52.7	54.7	54.6
UPS WPR	20.6	20.3	21.5	18.0	53.2	52.0	53.6	53.8

Source: NSS Report on Employment & Unemployment, 66th Round (2009-10)

TABLE A 2:
Age-Specific WPR (%) for male and female 1993-94, 1999-2000, 2004-05 and 2009-10 (UPSS)

	Male				Female			
	1993-94	1999-00	2004-05	2009-10	1993-94	1999-00	2004-05	2009-10
		Rural						
5-9	0.1	0.6	0.3	0.4	1.4	0.7	0.3	0.4
10-14	13.8	9.1	6.8	4.4	14.1	9.6	7.4	3.5
15-19	57.7	50.3	49.7	35.8	36.4	30.4	31.9	18.6
20-24	85.9	84.4	84.9	76.8	45.6	40.9	41.0	29.5
25-29	95.7	95.0	96.6	95.7	52.5	49.1	51.3	39.1
30-34	98.3	97.9	98.1	98.8	58.5	55.5	58.4	43.0
35-39	98.9	98.4	98.9	99.1	60.8	57.9	63.9	49.6
40-44	98.7	98.3	98.3	99.3	60.6	58.6	62.5	49.8
45-49	98.3	98.0	98.1	98.4	59.4	56.6	61.5	49.2
50-54	97.0	95.3	96.3	96.7	54.2	51.5	56.1	48.5
55-59	94.2	92.9	93.0	93.3	46.7	45.0	50.9	41.1
60+	69.9	63.9	64.4	64.6	24.1	21.8	25.3	22.6
20-29	90.6	78.7	90.4	85.8	49.1	44.9	45.9	34.2
15-49	88.0	85.6	86.0	81.6	51.9	48.2	51.2	38.4
all (0+)	55.0	53.1	54.6	54.7	32.8	29.9	32.7	26.1
		Urban						
5-9	0.5	0.3	0.2	0.1	0.5	0.2	0.3	0.1
10-14	6.6	4.9	4.8	2.8	4.5	3.6	3.3	1.2
15-19	35.6	31.4	33.5	23.1	12.3	10.5	12.8	7.6
20-24	67.4	65.8	68.4	61.7	18.0	15.5	20.1	16
25-29	90.4	88.3	90.9	90.6	22.4	19.4	22.9	19.6
30-34	96.4	96.0	96.9	97.3	27.2	23.5	29.0	23.1
35-39	98.3	97.5	97.7	98.4	30.1	28.5	32.8	27.3
40-44	98.1	97.4	98.0	98.4	32.0	28.3	31.2	25.3
45-49	97.3	96.9	96.8	97.7	31.7	26.7	26.7	22.9
50-54	94.2	93.5	93.1	94.6	28.6	26.2	25.8	22.7
55-59	85.6	80.9	83.0	94.8	22.6	20.7	21.8	19.1
60+	44.2	40.2	36.6	34.1	11.3	9.4	10.0	7.0
20-29	78.0	76.4	53.1	75.4	20.1	17.4	21.4	17.8
15-49	79.3	77.3	79.1	76.8	23.4	20.5	24.3	19.6
all (0+)	52.1	51.8	54.9	54.3	15.5	13.9	16.6	13.8

Source: NSS Report No. 537: Employment and Unemployment Situation in India, 2009-10

TABLE A 3:
Percentage Distribution of UPS Workers 15–49 Years by industry divisions 2009–10

Industry divisions (National Industry Classification 1-Digit level)	Male			Female		
	Rural	Urban	Total	Rural	Urban	Total
Agriculture, Hunting and Forestry	59.1	4.6	43.3	77.2	10.5	64.7
Fishing	0.5	0.3	0.4	0.2	0.0	0.1
Mining and Quarrying	0.9	0.7	0.8	0.3	0.3	0.3
Manufacturing	7.7	22.9	12.1	8.3	27.2	11.8
Electricity, Gas and Water Supply	0.2	0.6	0.3	0.1	0.3	0.1
Construction	12.7	12.2	12.5	4.7	5.3	4.8
Wholesale and retail trade	7.5	23.8	12.2	2.4	9.2	3.7
Hotels and Restaurants	1.0	3.1	1.6	0.6	2.0	0.8
Transport, Storage and Communication	4.8	10.9	6.6	0.3	1.6	0.5
Financial Intermediation	0.3	2.6	1.0	0.1	2.4	0.6
Real Estate, renting and business activities	0.5	4.7	1.7	0.1	3.2	0.7
Public Administration and defence	1.1	4.8	2.2	0.6	4.4	1.4
Education	1.6	3.6	2.2	2.9	14.6	5.1
Health and Social Work	0.3	1.5	0.7	0.8	4.9	1.5
Other Community, Social and Personal Services	1.4	2.8	1.8	0.9	6.8	2.0
Undifferentiated Production activities	0.3	0.9	0.5	0.6	7.3	1.9
Total	100.0	100.0	100.0	100.0	100.0	100.0

Source: Computed from unit level data of NSS 66th Round, 2009-2010

TABLE A 4:
The Magnitude & Location Characteristics of Women Workers Aged 15-49 (million)

	2004-05			2009-10			2011		
	Rural	Urban	Total	Rural	Urban	Total	Rural	Urban	Total
	1	2	3	4	5	6	7	8	9
Population* (as on July 1)	198	78	276	213	88	300	214	95	309
Labourforce UPSS	104	21	124	83	18	102	84	20	104
Workforce UPSS	101	19	120	82	17	99	82	19	101
Workforce UPS	74	15	89	63	15	78	63	16	79
Subsidiary Workers	27	4	31	19	2	21	19	3	22
Agricultural Workers	56	2	57	48	2	50	49	2	50
Non-agricultural Workers	19	14	32	14	13	28	14	14	29
Paid Workers (Regular/Salaried + Casual Labour)	8	9	17	8	9	17	8	10	18
Unpaid Workers (Self employed)	10	5	15	6	4	10	6	5	11
Formal Workers @	..	..	4	..	..	0.3	..	..	0.3

	2004-05			2009-10			2011		
	Rural	Urban	Total	Rural	Urban	Total	Rural	Urban	Total
	1	2	3	4	5	6	7	8	9
Informal Workers @	86	..	..	17	..	..	18
Workers not covered under present MB arrangements\$	93	10	120	73	8	99	74	9	100
Illiterate Workers	39	..	..	27	..	..	27
SC/ST Workers**	31	..	..	27	..	..	27
Poor Workers**	37	..	..	32	..	..	33
SC/ST/Poor Workers**	64	..	..	55	..	..	56
Workers not eligible for health care/maternity benefits	17	..	..	17	..	..	18

Notes: * Population figures are derived from total population estimates in GoI (2006) except for 2011 from the Provisional Population Totals, Census 2011 and SRS ratios for 15-49 population.

Labourforce, Workforce obtained by applying NSS Ratios to population figures

Informal workers are that segment of the paid non-agricultural workers who do not receive maternity benefits and health care

\$ Total of Subsidiary, agricultural, Unpaid non-agricultural workers and informal segment of paid non-agricultural workers.

** obtained by applying NFHS-3 ratios on population figures

.. Not calculated

TABLE A 5:
Occupational Distribution (%) of men and women aged 15 to 49 for 2009–10 (UPS)

Occupational division (NCO-2004)	Rural			Urban			Rural + Urban		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Legislators, senior officials and managers	3.5	2.0	3.1	13.5	6.6	12.4	6.5	2.9	5.6
Professionals	1.9	1.3	1.8	9.3	11.7	9.7	4.1	3.3	3.9
Technicians and Associate Professionals	1.7	2.3	1.8	6.1	12.4	7.2	3.0	4.2	3.3
Clerks	0.9	0.3	0.7	5.3	6.5	5.5	2.2	1.5	2.0
Service workers and shop and market sales workers	5.6	2.5	4.8	15.7	10.5	14.8	8.5	4.0	7.4
Skilled agricultural and fishery workers	34.4	39.5	35.7	3.2	4.6	3.4	25.3	32.9	27.1
Craft and related trade workers	10.8	7.1	9.8	20.2	18.7	20.0	13.6	9.3	12.5
Plant and machine operators and assemblers	3.9	0.6	3.0	9.5	2.4	8.3	5.5	0.9	4.4
Elementary occupations	37.3	44.3	39.2	17.2	26.6	18.8	31.5	41.0	33.7
Total	100	100	100	100	100	100	100	100	100

Source: Computed from unit level data of NSS 66th Round, 2009-2010

TABLE A 6:
Composition of Self-Employed (%) of Men and Women 15–49 Years
by Monthly Expenditure Quartiles (2009–10)

Category	MPCE Quartiles: Female														
	1st	2nd	3rd	4th	Total	1st	2nd	3rd	4th	Total	1st	2nd	3rd	4th	Total
	Rural					Urban					Total				
worked in HH enterprise self-employed own account worker	26.0	28.9	28.3	16.8	100	12.9	20.5	26.2	40.4	100	22.6	26.7	27.7	23.0	100
employer	11.7	19.3	32.2	36.8	100	0.3	0.1	15.2	84.5	100	8.5	14.0	27.5	49.9	100
worked as helper in h.h. enterprise	33.6	29.4	26.5	10.5	100	20.8	24.7	31.5	23.0	100	32.6	29.0	26.9	11.5	100
All	31.4	29.2	27.0	12.4	100.0	15.8	21.8	28.1	34.3	100	29.3	28.2	27.1	15.4	100
MPCE Quartiles: Male															
worked in HH enterprise self-employed own account worker	30.1	32.3	26.4	11.2	100	12.1	17.8	28.8	41.3	100	25.4	28.5	27.0	19.1	100
employer	9.3	17.6	30.0	43.2	100	0.8	2.6	12.6	84.0	100	4.6	9.3	20.4	65.6	100
worked as helper in h.h. enterprise	35.4	32.6	23.0	9.1	100	14.7	23.8	26.2	35.3	100	31.9	31.1	23.5	13.5	100
All	31.5	32.2	25.4	10.9	100.0	12.1	18.2	27.2	42.3	100	26.8	28.8	25.9	18.5	100

Source: Computed from unit level data of NSS 66th Round, 2009-2010

TABLE A 7:
Percentage Distribution by Activity Status of Female Workers 15–49 Years of
Social Groups across Expenditure Class 2009–10

Social Group	Activity Status	Rural MPCEQUARTILE				Total	Urban MPCEQUARTILE				Total
		1st	2nd	3rd	4th		1st	2nd	3rd	4th	
Scheduled Tribe	Self Employed	48.0	25.6	22.3	4.1	100	11.9	21.1	25.1	41.8	100
	Regular Salaried and Wage	12.3	34.5	25.7	27.5	100	11.0	16.8	24.1	48.1	100
	Casual Wage Labour	66.4	24.5	7.3	1.8	100	44.7	37.7	14.0	3.6	100
	All	55.6	25.3	15.4	3.6	100	22.0	24.7	21.2	32.2	100
Scheduled Caste	Self Employed	38.3	31.1	23.3	7.3	100	24.9	28.2	31.8	15.0	100
	Regular Salaried and Wage	28.3	26.8	26.5	18.5	100	12.4	17.6	29.0	41.0	100
	Casual Wage Labour	51.7	29.0	15.0	4.2	100	39.5	28.7	21.4	10.4	100
	All	46.1	29.5	18.3	6.1	100	24.7	24.1	27.1	24.1	100
Other Backward Castes	Self Employed	27.9	30.9	28.1	13.1	100	17.7	25.7	31.8	24.8	100
	Regular Salaried and Wage	15.7	25.7	26.2	32.4	100	6.0	14.3	24.4	55.2	100
	Casual Wage Labour	46.3	30.5	18.1	5.2	100	25.8	32.2	29.7	12.3	100
	All	35.0	30.4	23.7	10.8	100	15.1	22.8	28.5	33.6	100
Others	Self Employed	20.6	27.3	31.0	21.2	100	9.6	13.6	21.4	55.4	100
	Regular Salaried and Wage	15.8	14.8	32.2	37.2	100	2.3	5.5	15.7	76.5	100
	Casual Wage Labour	30.4	35.5	25.3	8.7	100	34.8	28.4	25.4	11.4	100
	All	22.7	28.1	29.6	19.6	100	7.0	9.7	18.3	65.0	100

Source: Computed from unit level data of NSS 66th Round, 2009-2010

TABLE A 8:
Percentage Distribution of Male and Female Workers 15–49 Years by Educational Level and Social Group (2009–10)

Educational Level	Social Group									
	ST	SC	OBC	Others	All	ST	SC	OBC	Others	All
	Male					Female				
Not literate	26.5	23.9	15.8	9.5	16.4	48.2	45.6	36.7	19.9	34.4
Literate without Formal Schooling	0.6	0.6	0.3	0.3	0.4	0.6	0.5	0.5	0.5	0.5
Literate Primary and Below	25.7	26.2	21.9	16.7	21.4	23.7	22.2	21.2	20.2	21.3
Middle	21.4	22.7	23.3	19.7	21.9	13.0	14.7	17.0	17.5	16.4
Secondary and Higher Secondary	21.4	21.2	29.3	35.6	28.9	12.0	13.7	19.2	28.3	20.2
Diploma/Certificate	0.8	0.8	1.8	2.2	1.6	0.4	0.4	0.8	0.9	0.7
Graduate	3.2	3.6	6.3	12.3	7.3	1.7	2.3	3.7	9.4	5.0
Post Graduate and Above	0.6	1.0	1.0	3.8	2.0	0.3	0.6	1.0	3.3	1.5
All	100	100	100	100	100	100	100	100	100	100

Source: Computed from unit level data of NSS 66th Round, 2009-2010

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Employment and Maternity Protection: Content Analysis of Some Judgments

4.1 BACKGROUND

One of the objectives of this report is to bring to light incidences/signs of evasion tactics deployed by employers to avoid paying maternity protection [for example hiring less women, hiring women on casual and contract basis] under the MB and ESI Acts in particular and in other schemes, and assess whether the evasion is aggravated in the case of an employer liability scheme. With the help of content analysis of judgments on maternity related cases in India, this chapter attempts to throw light on major areas of contestation and continued evasion of progressive legislation such as the Maternity Benefit Act.

Post-Independence, the country has put in place a number of measures ostensibly to ensure that workers are employed under just and humane conditions and are provided with maternity relief, among others. An important piece of legislation in post-Independent India is The Maternity Benefit [MB] Act, 1961. Over the years, the Courts have had to deal with several cases from aggrieved women workers who have alleged denial of benefits under this Act despite, according to them, being eligible for the benefits. This study has undertaken a content analysis of a few cases filed for relief under this Act, to help comprehend, among other things:

- Categories of workers who have been denied, or, given less than entitled benefit.
- Nature of establishments that deny such benefits.
- Reasons cited by establishments for denying benefits.
- Reasons for Courts' acceptance or rejection of arguments by employers/petitioners.

The larger question on which, we hope, this exercise will throw light on, is in enabling us to evaluate the oft-repeated argument that, this country has the necessary laws but that the problem lies largely in their poor implementation [see Box 1]. Analysing the arguments of employers [whether private or public] for example, for denying benefits, should, in our opinion, be able to explicate how 'rules of operation' drafted to operationalise benefits under this Act actually work towards rendering workers ineligible for benefits legally due to them. Put differently, the significance of this exercise lays in unravelling policy practices that shift the policy away [in this case the policy as espoused in the Maternity Benefit Act, 1961] from its stated objectives.

BOX 1

"... the most common criticisms made by analysts commenting on different sets of policies are: [i] A weak nexus between policy and instruments; [ii] the large degree to which administrative discretion has been retained and used to dilute or defeat policy objectives... On a technical plane, critics of policy have dealt with such inconsistencies as faults or fissures in policy formation. But I would suggest that the Freudian insight that traces lapses to intention may be highly relevant in understanding policy contradiction. The model of reference could be Freud's treatment of lapses or errors as symptoms of conflicts; that is, as results of the mutual interference of two different intentions, the intention interfered with and the interfering tendency" [Guhan, 1985:259].

We have referred to around twenty judgments among the cases filed under this Act [Details in **Appendix 2**]. Several of these cases also refer to other similar cases/judgments by way of precedent in the text of the judgment itself. Such cross-references are crucial since, among other things, they point to the following: notwithstanding the fact that a particular judgment may have dealt with an issue of interpretation of law/Constitutional provision/particular Clause under the MB Act, 1961, this by itself does not preclude filing of similar cases using similar arguments necessitating reinforcing an earlier judgment.

The cases have been thematically ordered to highlight different aspects as well as the many ways in which the beneficial purpose for which this Act was enacted has been less than what it should have been. A point that we will note but not labour because of the very nature of litigation process in this country [and which is not unique to cases filed under the Act under consideration] is the enormous time, patience, not to mention, financial resources, that have been expended, in the quest for justice. Suffice it to mention, in this context, the fact that, even as it takes the aggrieved woman worker almost a decade in getting justice, the interim period was one of unemployment, since, in a few cases the application of the worker for maternal leave *with* benefit was answered by employers with termination notices. The route that the litigation process has involved, all the way from a local Labour Court/Industrial Tribunal to the Apex Court of the country, namely, the Supreme Court, has taken upwards of a decade in several cases. Since this exercise is confined to content analysis of judgments, there is no way of ascertaining whether the Apex Court's directives, be it reinstatement of retrenched workers with back wages or any other, have been complied with within the time stipulated.

4.2 THEMES COVERED IN THE JUDGMENTS STUDIED

4.2.1 Questioning of Constitutional Validity of Acts enacted for the benefit of workers, a recurring example of an Act constantly under litigation being the Beedi and Cigar Workers [Conditions of Employment] Act, 1966

Private, Non-State Bodies have time and again raised issues relating to Constitutional validity of imposition of whole Acts and/or parts of Acts. As we have noted in a few of the cases, the Apex Court has had to come to the rescue of workers, however torturous and time-consuming the process of adjudicating on such issues have been. It is significant that in one of the important legislations in this country, namely, the Beedi and Cigar Workers [Conditions of Employment] Act, 1966, the Apex Court has not only upheld the Constitutional validity of the Act but has also pleaded with the Legislature to amend the act suitably to make it workable.

That the apprehensions expressed by Justice Alagiriswami way back in 1974 are not unfounded is very evident from the subsequent and continuing cases being filed under the Beedi and Cigar Workers [Conditions of Employment] Act, 1966, by women beedi workers denied maternity benefits legitimately due to them under the Act. For example: in a judgment delivered on **24/03/1995** [on a case initially filed before a Labour Court in Maharashtra on **24/10/1986**], the Constitutional validity of a particular section of the Beedi and Cigar Workers [Conditions of Employment] Act, 1966, was again called into question. What needs to be underlined in such cases is that, the employers through their Counsel do not address substantive issues such as non-recognition and/or termination of the women workers [consequent to their application for maternity leave with benefit] that the Asst. Labour Commissioner had pointed out to be bad in law; rather by questioning the authority of the Asst. Labour Commissioner to pass an order, they attempted to convert the case into one of violation of Article 14 of the Constitution. Once again, the Apex Court was called upon to uphold the Constitutional validity of the Beedi Act, 1966, so that the women beedi workers could get their legitimate due.

BOX 2

Additional noting by Justice Alagiriswami in the Supreme Court Judgment dated 31/01/1974 relating to Mangalore Ganesh Beedi Works vs. Union of India

The Act is a compromise between the original intentions of the Government and the modifications they had to make in the proposed measure as a result of concessions intended to bring the home workers within the scope of the Act. The original intention was not to permit beedi rolling in private homes which will involve thousands of labourers in thousands of far-flung homes and the difficulty of applying the provisions of the measures to them. The result is an act that is likely to give rise to many difficulties in its actual working. It is obvious on a reading of the measure that its purpose is to rope in every possible person who could be brought in as an employer. But the result of the definitions of the Act is that everybody would be a principal employer, employer and contractor and every labour will be contract labour....

The difficulty of applying the provisions of the Maternity Benefits Act is... apparent. The very purpose of allowing the home workers to work in their homes being that the work of rolling beedis is light work, which men and women can do in their homes during their spare hours, the provision of the Maternity Benefits Act regarding women not being allowed to do arduous labour for a certain period before and after delivery is not apparent. And how can the provision be applied to women who cannot be said to be, so to say, employed continuously for a certain period before the confinement.

I must make it clear that my objection is not to any of the provisions on the ground of their unreasonableness or constitutionality... But good intentions should not result in a legislation which would become ineffective and lead to a lot of fruitless litigation over the years... I think it would be good in the interest of all concerned if the Act is amended as early as possible to remove all the lacunae and the difficulties pointed out above. These difficulties have arisen because of an attempt blindly to apply the provisions, which would be quite workable if they are applied to conditions where the Factories Act would be applicable, where the labour is regular in its attendance—every day as well as over a period, to conditions of work which are vastly different as well as to people who work at home without a conscious attempt to mould them to suit those conditions. The sooner that is done the better for all concerned.

Notwithstanding the above, the denial of maternity benefits for woman beedi workers under some clause or the other of the Beedi Act, 1966, continues unabated. We will refer to some of these other cases under appropriate heads.

4.2.2 Lack of clarity regarding how the Maternity Benefit Act, 1961, is expected to interface with other Acts and/or Service Rules of different establishments governing conditions of employment

A general but important theme for resolution that emerges from this exercise is the insufficient attention that has been paid all along to the interface, or rather the lack of it, between the Maternity Benefit Act, 1961, and other laws, Acts, etc., governing conditions of employment in particular sectors, industries within sectors, specific establishments, specific modes of employment, etc. The larger question that this raises is the following: given the importance of the Maternity Benefit Act should not the Legislative Bodies of this country have followed up the enactment of this Act with 'rules of operation' clearly specifying how the provisions of this Act needed to be incorporated, even if it required amendments to other laws/Acts, so that the beneficial purpose for which the Maternity Benefit Act, 1961 was passed served that purpose? Unfortunately, while to some extent the Apex Court of this country has performed this task, this redressal has been achieved at great personal cost in terms of time and money to those few tenacious individuals who, along with those who supported them in this endeavour, have been able to withstand the ordeal that has taken almost upwards of a decade. Notwithstanding the landmark pronouncements by the Apex Court on very many issues of law, interpretations of laws, etc., in the course of its examination of the cases and subsequent judgments, the reach of these pronouncements have been minimal given that these pronouncements by themselves have not led to changes/amendments in other Acts/Laws governing conditions of employment as far as women workers' access to maternity benefit is concerned.

4.2.3 Quantum of Benefit: Definition of ‘week’ and should Sundays be included in calculation of Maternity Leave Wages

A theme that is linked to the issue of non-interface of MB Act, 1961, with other Acts/Laws in operation is the quantum of maternity benefit, be it number of days of leave, before and after delivery, and/or monetary compensation during the period of leave. Whether State or the private sector, the attempt always is to pay the woman employee a lesser [than would have admissible under the Maternity Benefit Act, 1961] quantum of benefit, be it leave or money. The manner in which lesser quantum of benefit is justified by employers and subsequently dealt with by Courts is revealing. The elaborate discussions relating to what constitutes a ‘week’, which service rules govern a particular employment and what is admissible under those service rules [even if the latter goes contrary to the provisions of the Maternity Benefit Act, 1961], is the establishment covered by the Act, etc., these are a few of the several themes that have engaged the Courts in deciding eligibility and quantum of benefit.

BOX 3

The Apex Court judgment delivered on 12/10/1977 relating to ‘week’ and wageless holidays for calculation of maternity leave wages

[Thus] we are of the opinion that computation of maternity benefit has to be made for all the days including Sundays and rest days which may be wageless holidays comprised in the actual period of absence of the woman extending up to six weeks preceding and including the day of delivery as also for all the days falling within the six weeks immediately following the day of delivery thereby ensuring that the woman worker gets for the said period not only the amount equalling 100% of the wages which she was previously earning in terms of section 3[n] of the Act but also the benefit of the wages for all the Sundays and rest days falling within the aforesaid two periods which would ultimately be conducive to the interests of both the woman worker and her employer.

[1978 AIR 12 1978 SCR [1] 701

4.2.4 Provisions of MB Act, 1961, vis-à-vis Service Rules of Establishments: How many Births qualify for Maternity Protection?

It is interesting to note that, while the MB Act, 1961, itself ‘does not fix any ceiling on the number of deliveries made by a female worker’ as ruled by the learned Judge of the Madras High Court in a judgment delivered on **09/06/2008** [see BOX 4] there are several cases where Service Rules of Establishments, including those of certain state governments explicitly deny maternity benefit beyond two living children citing GOI’s population control policy.

What needs to be emphasised at this juncture is the following: In the absence of an Apex Court ruling on the important point, namely, whether provisions of the Maternity Benefit Act, 1961, over rule service conditions of establishments that may contradict or be at variance with the provisions of the MB Act, 1961, judgments of High Courts dealing with similar issues have been contradictory, some upholding the supremacy of the provisions of the MB Act, 1961, over service rules of individual establishments [whether public or private], while a few judgments have ruled that as long as service rules have not been amended, the provisions of the MB Act, 1961 cannot be deemed to be automatically applicable.

For example, in the case of Parkasho Devi vs. Uttar Haryana Bijli Vitran Nigam Limited and Others delivered at the Punjab High Court on 9/5/2008, it was averred that, since the Service Rules of the establishment expressly denied provision of maternity benefit beyond two living children, the same was being upheld by the High Court of Punjab and Haryana.

BOX 4

In writ petitions filed by two owners of beedi establishments, against the Deputy Commissioner of Labour [Inspection, Beedi and Cigar Establishments] Chief Inspector, Appellate Authority under the Maternity Benefit Act, 1961 [Respondent 1], Inspector of Labour [Women], Under Maternity Benefit Act, 1961, Tirunelveli, [Respondent 2], and Ms. Bhadrakali and Ms. Santhammal, both beedi workers and Respondents 3, *'the short question that arises in these two writ petitions is whether the third respondent in each of the writ petitions are entitled to get maternity benefit in respect of the maternity leave availed by them for delivering their third child'*.

Learned counsel for Bhadrakali and Santhammal, the third respondents in both the writ petitions submitted that... *the M B Act does not provide any restriction on the benefit to be received by a woman worker if she delivers more than two times. He also submitted that the policy of the Government in having a two-child norm cannot be read in to the Act and whatever applies to a Govt servant need not be made applicable to the Beedi workers, who are governed by the provisions of M B Act. To show the difference between government servants and other workers, he also submitted that in respect of government servants, no Maternity Leave will be given if marriage does not precede delivery but whereas in the case of workers governed by the M B Act, even an unmarried female worker is entitled for the maternity benefit if she delivers a child... The allegations made by the third respondents before the appellate authority that undertakings have been taken from female workers that they will not claim any maternity benefit beyond two deliveries, is a serious allegation, and if proved, the petitioners are liable for prosecution under the provisions of the MB Act, 1961, read with Beedi and Cigar Act 1996. [Emphasis added]*

What is not clear to us, however, is why the judgment in Box 4 did not also deal with the theme of allegation referred to above, wherein, the women beedi workers were made to give an undertaking that they will not claim any maternity benefit beyond two deliveries.

4.2.5 Status of Employment Impinging on Eligibility to avail of Maternity Leave and Benefit

In a landmark judgment [delivered on 08/03/2000] that touched the core of the nature of employment of large numbers of women in this country, the Supreme Court ruled that the Maternity Benefit Act, 1961, was applicable to daily wage earners and women employed, temporarily, casually and/or on contract. [See Box 5]. Once again, while the process of achieving justice through this judgment has been arduous and time consuming, this judgment by no less a Body than the Apex.

BOX 5

Municipal Corporation of Delhi vs. Female Workers [Muster Roll]: Judgment delivered on 08/03/2000 [Summary of Case and Judgment]

Female workers [muster roll] engaged by the MCD [Corporation] raised a demand for grant of maternity leave which was made available only to regular female workers but was denied to them on the ground that their services were not regularised and, therefore they were not entitled to any maternity leave. Their case was espoused by the Delhi Municipal Workers Union and consequently the following question was referred by the Secretary [Labour] Delhi Administration to the Industrial Tribunal for adjudication: Whether the female workers working on Muster Roll should be given any maternity benefit? If so, what directions are necessary in this regard?

The Industrial Tribunal, which has given an award in favour of the women employees, has noticed that women employees have been engaged by the Corporation on muster roll, that is to say on daily wage basis for doing various works in projects like construction of buildings, digging of trenches, making of roads, etc., but have been denied the benefit of maternity leave. The Tribunal has found that though the women employees were on muster roll and had been working for the Corporation for more than 10 years, they were not regularised. The Tribunal, however came to the conclusion that the provisions of the Maternity Benefit Act had not been applied to the Corporation and, therefore, it felt that there was a lacuna in the Act. It further felt that having regard to the activities of the Corporation, which had employed more than a thousand women employees, it should have been brought within the purview of the Act so that the maternity benefits contemplated by the Act could be extended to the women employees of the Corporation. It felt that this lacuna could be removed by the State Govt. by issuing the necessary notification under the Proviso to Section 2 of the Act... It consequently issued a direction to the management of the Municipal Corporation, Delhi to extend the benefits of the Maternity benefit Act, 1961, to such muster roll female employees who were in continuous service of the management for three years or more and who fulfilled the conditions set out in Section 5 of the Act...

Learned Counsel for the Corporation contended that since the provisions of the Act have not been applied to the Corporation, such a direction could not have been issued by the Tribunal.

The Apex Court however felt that, "This is a narrow way of looking at the problem which is human in nature and anyone acquainted with the working of the Constitution, which aims at providing social and economic justice to the citizens of this country, would out rightly reject the contention"...

Next, it was contended that therefore the benefits contemplated by the MB Act, 1961 can be extended only to workmen in an 'industry' and not to muster roll employees of the Corporation.

Again the Apex Court felt that "This is too stale an argument to be heard. Learned Counsel also forgets that Municipal Corporation was treated to be an 'industry' and, therefore, a reference was made to the Industrial Tribunal, which answered the reference against the Corporation, and it is this matter which is being agitated before us... Now it is to be remembered that the Municipal Corporations or Boards have already been held to be 'industry' within the meaning of 'Industrial Disputes Act'...

We conclude our discussion by providing that the direction issued by the Industrial Tribunal shall be complied with by the MCD by approaching the State Govt. as also the Central Govt. for issuing necessary Notification under the Proviso to Sub-section [1] of Section 2 of the MB Act 1961, if it has not already been issued. In the meantime, the benefits under the Act shall be provided to the women [muster roll] employees of the Corporation who have been working with them on daily wages.

Court itself has not put paid to further litigation arising out of linking woman's nature of employment to her being eligible for maternity leave/benefit. Subsequent to the Supreme Court ruling in the Delhi Muster Roll case, several judgments thereafter reinforced the point that status of employment cannot be made the basis for denial of maternity benefit [See, for example, Anima Goel vs. Haryana State Marketing Board judgment delivered on 17.11.2006 by the Punjab and Haryana Court, Mrs. Bharti Gupta vs. Rail India Technical and Economical Services Ltd. [RITES] and Others judgment delivered on 09/08/2005, etc.

4.2.6 Circumventing Application of Beneficiary Legislation through Enactment of Government Resolutions

The case of *Bhartiben Babulal Joshi vs. Administrative Officer* [judgment delivered on 23/12/2003] reveals how Government Resolutions aiding ad hoc and temporary appointments become handy for even government establishments to deny maternity benefit to personnel thus appointed. *Bharatiben Joshi* was appointed as *Vidya Sahayak* {Assistant Teacher} and it was contended by her employer that while she could take maternity leave it would be without pay. Learned Assistant Govt. Pleader appearing for the respondents submitted that according to the Govt. Resolution, *Vidya Sahayaks* who are not regularly appointed are not entitled for such benefit and therefore the respondents were right in not granting such benefit to the petitioner.

However the Judge ruled thus: *Considering the provisions of the MB Act, 1961, and also considering the observations made by the Apex Court in the Delhi Muster Roll case and also considering the facts of the present petition, according to my opinion, the ratio of the decision of the apex court would also apply to the facts of the present case because here also, benefit of maternity leave has been in substance denied to the petitioner only on the ground that she is not regularly appointed on the post of Vidya Sahayak and therefore, she is not entitled for such benefit on the basis of the GR, though maternity leave has been sanctioned by the respondents but without wages... I am therefore of the opinion that the petitioner is entitled for the maternity leave...*

4.2.7 Truncating Quantum of Maternity Leave and Terminating Service

Seema Gupta vs. Guru Nanak Institute of Management [judgment delivered on 20/11/2006]. This judgment is interesting in that the Judge, among other things, widens the scope of discussion on implications of denial of maternity leave by establishments on the plea of 'exigencies of service'.

BOX 6

Summary of Case and Judgment, Seema Gupta vs. Guru Nanak, 20/11/2006

The petitioner [Seema Gupta] was appointed as commerce lecturer in response to an advertisement by the respondent college. She joined the College on 1st May 2001. The appointee was to be on probation for one year which could be extended for another year... The petitioner was blessed with a child on 28.12.2003 and was sanctioned maternity leave for 135 days w.e.f. 29.12.2003. She had requested for maternity leave of 180 days as per the Guru Nanak Dev University Rules [GNDU Rules] which, it is averred, allowed maternity leave for that period. The Petitioner was informed that as the Central Civil Service Rules were applicable to her service the provisions of GNDU were inapplicable... By letter dated 15.09.2004 Seema Gupta referred to Rule 43[4][b] of CCS Leave Rules whereby she was entitled to continuation of maternity leave up to a maximum period of one year and requested for extension of maternity leave. It is stated that despite the request, petitioner was terminated on the basis of unauthorised leave/absence, on 14th Oct 2004 that is within two months of the extended maternity leave.

It is alleged that undisputedly the CCS Leave Rules were applicable to the petitioner and those Rules clearly stipulate that maternity leave can be extended up to one year. In case of maternity leave even the requirement of producing medical certificate has been waived off...

According to the Judge: *This is not a traditional case of an employee seeking enforcement of her contract of service, but her lament that in spite of protective provisions, relating to maternity, and in spite of her request for extended leave, which was permissible, the employer in disdain of those norms, terminated her from service. I am also not impressed with the submission that the petitioner was an employee with lesser rights, since she was on ad-hoc basis. As per the version of the respondent, she was entitled to benefits under Rule 43.*

The respondent, in my considered opinion treated the request for extension of leave by five months as a normal request, without applying its mind to the peculiarities of the case. It has not furnished any reasons or justification as to why the right to claim the extended period of one years' leave, a valuable one at that, had to be rejected. Exigencies of service bind all employers; that reason would be available in all cases where a request for extended maternity leave is sought. If such reasons given in a routine manner are to be upheld, the right for extended maternity leave of up to one year would be meaningless, as every employer can cite that as a ground for denial. The special nature of the right then would exist only on paper, in negation.

For the foregoing reasons, the impugned termination letter cannot be sustained; it is illegal and is hereby quashed. The respondent is directed to reinstate the petitioner to her post; the petitioner shall also be entitled to full arrears of salary...

4.2.8 Addressing Dismissal and Stigma along with Denial of Maternity Protection

The judgment in the case relating to **Yamini J. Dave vs The Director, IUCAA and Another** delivered on **06.04.2004**, brings out the many connected issues that had to be dealt with *along* with securing justice on the issue of maternity benefits.

The several interlinked issues raised by this case and judgment are worth recapitulating: one, the initial appointment on probation was arbitrarily closed after a year and employee placed on year by year extension—a provision not indicated in advertisement for the post; two, despite employee having given due notice and thereafter proceeded on maternity leave, she was issued with termination order; three, termination order was premised on a committee's allegation of misconduct by employee; four, management's acceptance of committee's recommendation of dismissal of employee with no chance for employee to present her case; five, dismissal order issued during maternity leave period, which itself is illegal.

Above all, the tortuous process of litigation, that began in 1994 and ended in 2004, also brings to the fore a crucial legal aspect of the trajectory of the case; namely, the fact that Yamini Dave's initial petition challenging her termination was dismissed by a Single Judge, which forced her to approach the Apex Court. Before the Apex Court went into the merits of the case, it had to deal with 'preliminary objection' raised by IUCAA, the respondents; the latter argued that the Dave's petition

was not maintainable since IUCAA is not State/other authority within the meaning of Article 12 of the Constitution. Only after taking a decision on the maintainability of the petition did the Apex Court go into the details of the case. These procedural aspects speak volumes about the near impossibility of accessing beneficial legislation even when employed by a State authority.

4.2.9 Using Mode of Payment of Salary as a Factor to Deny Maternity Benefits

In his judgment delivered on 29/01/2008 in the case of Dr. Hemlata Saraswat vs. State of Rajasthan, the Judge has come down very heavily on the Government of Rajasthan and its Department of Medical and Health Services in particular on several counts, not least being the State's doublespeak on gender justice, where, on the one hand, as the Judge put it, "The government at all forums is speaking about gender equality, gender justice and betterment of status of women" and, on the other hand, "it is denying the benefit of maternity leave to its own employees under the guise that appointment is not under the regular rules, forgetting that appointment in the first place was given after due selection by following regular process of selection". The annoyance of the Judge is also very palpable in the directions it has issued to the State to recover costs "from person/persons responsible for this unnecessary litigation". We reproduce in some detail the judgment on this case [see BOX 6] to reveal the continued manner in which government bureaucracies collude to make such appointment orders that denial of benefits appears as legitimate and as per law!

BOX 7

Dr. Smt. Hemlata Saraswat vs. State of Rajasthan and Others on 29/01/2008

In her writ petition, Dr. Hemlata Saraswat has questioned a communication dated 27.04.2006 denying her maternity leave on the ground that she is working as Medical Officer on consolidated salary and there is no provision in the Rules for granting her maternity leave.

The petitioner has averred that on the recommendations of the Selection Committee, she came to be appointed on the post of Medical Officer on a consolidated salary of Rs. 8000/per month with issuance of appointment order on 15.09.2003 putting her engagement on contract basis... According to the petitioner, she proceeded on medical leave on 29.08.2005 by submitting a leave application, and after delivering a male child, resumed duties on 11.01.2006 with fitness certificate.

The petitioner's grievance is that, though entitled, she has been denied maternity leave by the impugned communication dated 27.04.2006 on the ground that under the service rules, there was no provision for allowing maternity leave to persons working on consolidated salary; and she has not been allowed maternity leave despite submitting a representation on 17.02.2006 and serving a notice through lawyer on 17.04.2006.

The petitioner has referred to the decisions rendered in Neetu Choudhary vs. State of Rajasthan and others. 2005 [2] DNJ [Raj] 676; and Smt. Sumitra Choudhary and Others vs. State of Rajasthan and Others, SB Civil Writ petition No. 3295/2005 decided on 19.09.2005 wherein this Court has directed grant of benefit of maternity leave to temporary workers. It is contended that there is no rationale behind refusal of maternity leave to some of the female employees while granting the same to the others. No reply to the writ petition has been filed; and the core and essential facts as stated by the petitioner in her writ petition have not been denied...

Having heard learned Counsel for the parties and having perused the material placed on record with reference to the law applicable to the case, this court is clearly of opinion that the communication dated 27.04.2006 emanating from the Directorate of Medical and Health Services, Rajasthan denying maternity leave to the petitioner with cryptic observation that the rules do not mention about grant of such leave to the Medical Officer working on consolidated salary cannot be said to be justified nor appears bona fide, particularly for having been issued even after the decisions of this Court in the case of Neetu Chowdhary [decided on 19.04.2005] and Smt. Sumitra Chowdhary [decided on 19.09.2005]; and this writ petition deserves to be allowed with costs.

The present one was clearly an avoidable litigation if the authorities concerned would have dealt with the matter with due regard to their constitutional duties and sadly enough they have chosen to proceed in utter disregard of their duties, without regard to the requirements of the rules and even in disregard to the decisions rendered by this Court. The petition thus deserves to be allowed with costs.

This petition for writ is therefore allowed and the impugned communication dated 27.04.2006 stands quashed. The respondents shall take up for consideration sanctioning of maternity leave to the petitioner as applied; and all consequential benefits thereto shall be accorded within a period of 30 days from today. The petitioner shall be accorded within a period of 30 days from today. The petitioner shall also be entitled to costs quantified at Rs. 5,500. It shall be permissible for the respondents, if so desired, but only after making payment to the petitioner, to recover the amount of costs, strictly in accordance with law, from the person/persons responsible for this unnecessary litigation.

4.3 BY WAY OF CONCLUSION

This study of judgments relating to cases under the Maternity Benefit Act, 1961, has been an eye-opener in more ways than one. To some extent it throws light on why the coverage of the Act has been abysmal including and even in the government sector; in fact the latter has time and again proved itself to be the worst employer as far as record of women workers being able to access beneficial legislation is concerned. Each of the themes into which the cases have been grouped themselves highlight several inter-connected issues. Suffice it to reiterate some of the more important themes that this exercise has thrown up for the tremendous implications for policy that they contain.

What the judgments also bring out starkly is the poor record of State as Employer. The manner in which women employed by State have been excluded from provisions of the Maternity Benefit Act, 1961, have been several and varied: one, contrary to all norms of justice, the State has employed women workers but used nomenclatures such as daily, ad hoc, casual, etc., and then justified denial of maternity benefit on the ground that even the amended Maternity Benefit Act, 1961, applies only to regular and temporary workers, not casual, daily or ad hoc. Two, while recruitments have followed a set procedure, appointment letters have been arbitrarily changed to render the woman employee ineligible for any benefit, maternity or otherwise. Three, when the Apex Court has come down heavily on state governments for denying maternity benefits to women employees kept for years on contract or daily basis, the bureaucracy has come up with other ways of making woman employees ineligible, namely, by citing, for example, that women employees on consolidated mode of payment of salary are not eligible for benefit under the MB Act, 1961. The Government's own Resolutions have become handy for other establishments to deny maternity benefit altogether and/or allow maternity leave but without any monetary benefit. To top it all, in a few of the cases, application for maternity leave has been answered with termination notices, an aspect that the Apex Court has specifically underlined as being illegal and bad in law.

From a feminist perspective, this exercise has been a learning exercise in several ways. An important learning is the realisation that mere enactments of more laws to address specific feminist demands need to be backed by 'rules of operation' that also specify how binding these provisions are and whether existing laws governing establishments need to be amended in the light of these new women-friendly laws. The few cases dealt with above relating to operation of the Maternity Benefit Act, 1961, has revealed how and why the coverage of the Act even in the organised sector remains abysmal. Hence, while struggle for extending the coverage of the Act to establishments and women workers outside the purview of the Act needs to be strengthened, equally important is the need to struggle to unravel ways and means by which organised sector women workers get excluded from provisions of such beneficial legislation. Further, despite feminist opposition to population control policies, service rules of organisations, including some state governments, deny maternity benefit to women who already have two living children. While the Maternity Benefit Act, 1961, itself does not state anything on the number of times a woman worker can avail of benefit under the rule, service rules of organisations incorporating GOI's population control policies have taken precedence over the MB Act, 1961, to the detriment of women workers.

In short, this exercise, taking the operation of the Maternity Benefit Act 1961, has revealed how institutional arrangements have contributed to making the Act largely dysfunctional. Viewing the theme from a feminist perspective and ‘Asking the Woman Question’ [a la Bartlett, 1991] reveals how the position of women workers reflects the organisation of workplaces rather than the inherent characteristics of women as workers. This exposition of the effects of laws, such as the MB Act, 1961, has enabled us to demonstrate how structures, social and legal, embody norms that inherently render women workers different so that legislations directly aimed at facilitating woman worker’s maternity role instead become instruments not only for their subordination but also for their dismissal from work.

NOTES AND REFERENCES

Guhan, S. (1985): ‘Towards a Policy for Analysis’ in R. S. Ganapathy, S. R. Ganesh, Rushikesh M. Maru, Samuel Paul and Ram Mohan Rao [eds.] *Public Policy and Policy Analysis in India*. Sage Publications, New Delhi, p255—263.

Bartlett, Katherine, T. (1991): “Feminist Legal Methods” in Katherine T. Bartlett and Rosanne Kennedy [eds.] *Feminist Legal Theory: Readings in Law and Gender*, Westview Press, Boulder, Colorado, p370–403. Explicating on what ‘Asking the Woman Question’ is all about, Bartlett states a follows:

“The woman question asks about the gender implications of a social practice or rule: have women been left out of consideration? If so, in what way: how might that omission be corrected? What difference would it make to do so? In law, asking the woman question means examining how the law fails to take into account the experiences and values that seem more typical of women than of men, for whatever reason, or how existing legal standards and concepts might disadvantage women. The question assumes that some features of the law may be not only non-neutral in a general sense, but also ‘male’ in a specific sense. The purpose of the woman question is to expose those features and how they operate and to suggest how they might be corrected” [p371].

Cases Covered in the Study:

[Note: All cases listed below were downloaded from <http://indiankanoon.org> in January 2010].

1. Manager, Vidarbha Tobacco Products [P] Ltd. Vs. Fulwantabai Ishwardas Meshram [Smt.] and others. Judgment delivered by Justice R.M. Lodha on 24/03/1995. Equivalent citations: 1995 [4] BomCr 565 [1996] ILLJ 101 Bom.
2. Anima Goel, Ms. Vs. Haryana State Agricultural Marketing Board. Judgment delivered by Justice M.M. Kumar on 17/11/2006. Equivalent citations: [2007] IILLJ 64 P H, 2008 [1] SLJ 121 P H.
3. Yamini J Dave Vs. The Director, IUCAA and Another. Judgment delivered by Justice K. Rathod on 06/04/2004.
4. N. Mohammed Mohideen and Another, Vs. The Dy. Commissioner of Labour, Inspector of Labour, Bhadrakali and Santhammal, Judgment delivered on 09/06/2008 by Justice K. Chandru in High Court of Madras.
5. Mangalore Ganesh Beedi Works and another Vs. Union of India. Judgment delivered on 31/01/1974 by Justice A N Ray. Equivalent citations: 1974 AIR 832, 1974 SCR [3].
6. Seema Gupta vs. Guru Nanak Institute of Management. Judgment delivered on 20/11/2006 by Justice S. Ravindra Bhat.
7. Municipal Corporation of Delhi vs. Female Workers [Muster Roll] and another. Judgment delivered on 08/03/2000 by Justice Saghir Ahmad.
8. Mrs. Bharti Gupta Vs. Rail India Technical and Economical Services Ltd. [RITES] and others. Judgment delivered on 09/08/2005 by Justice S. Ravindra Bhat.
9. Tata Tea Ltd. Vs. Inspector of Plantations. Judgment delivered on 11/12/1990 by Justice Radhakrishna Menon.
10. Mrs. Pramila Rawat Vs. District Judge, Lucknow, and another. Judgment delivered on 10/05/2000 by Justice Pradeep Kant.
11. Bhartiben Babulal Joshi vs. Administrative Officer. Judgment delivered on 23/12/2003 by Justice H.K. Rathod.
12. B. Shah Vs. Presiding Officer, Labour Court, Coimbatore and others. Date of Judgment, 12/10/1977. Bench: Jaswant Singh and V.R. Krishna Iyer. Equivalent citations: 1978 AIR 12 1978 SCR [1] 701.
13. Dr. Hemlata Saraswat Vs. State of Rajasthan and others. Judgment delivered on 29/01/2008 by Justice Dinesh Maheswari.
14. Durgesh Sharma Vs. State of Rajasthan and others. Judgment delivered on 24/09/2007 by Justice P.S. Asopa.
15. Aruna S. Pardeshi [Dr.] Vs. Dean, swami Ramanand Tirth Medical College and others. Judgment delivered on 22/01/1987 by Justice G.H. Guttal. Equivalent citations 1987 [2] BomCr 311.
16. Ram Bahadur Thakur [P] Ltd. Vs. Chief Inspector of Plantations. Judgment delivered on 09/2/1989 by Justice Sreedharan. Equivalent citations: [1989] ILLJ 20 Ker.
17. Dr. Thomas Eapen Vs. Asst. Labour Officer and others. Judgment delivered on 17/03/1993 by Justice P.K. Shamsuddin. Equivalent citations: [1993] ILLJ 847 Ker.
18. Parkasho Devi Vs. Uttar Haryana Bijli Vitran Nigam Ltd. and Others. Judgment delivered on 09/05/2008 by Justice Mohinder Pal. Equivalent citations: [2008] 3 PLR 248.
19. Chairman, Punjab National Bank Vs. Astamija Dash, 2008 AIR [SC] 3182: 2008 [7] SCR 365: 2008 [7] SC Ale 726: 2008 [3] LLJ 584. Justices S. Vs. Astamija Dash, 2008 AIR [SC] 3182: 2008 [7] SCR 365: 2008 [7] SC Ale 726: 2008 [3] LLJ 584. Justices S.B. Sinha and V.S. Sirpurkar.
20. Arulin Ajitha Rani Vs. The Principal, Film and Television Institute, Chennai. Judgment delivered on 27/06/2008 by Justice P.K. Misra, writ appeal no. 875 of 2006 in the High Court of Judicature at Madras.

STATE STUDIES

Prelude to the State Studies

The states of Kerala (from Southern India), Maharashtra (from Western India), Orissa (Eastern India) and Uttar Pradesh (Northern India), were chosen to broadly represent four regions of the country. A choice of these States by no means can represent a diverse county like India, but would provide broad pointers to the employment situation, context of employment, work and labour; and implementation of various schemes and programmes and women's experiences. Kerala provides a picture of State with a history of labour movements, left party politics, left party rule for several decades and high performing State in terms of human development indicators. Maharashtra provides a picture of a State that represents commercial and finance capital growth orientation, with high social inequalities and middle range human development indicators. The labour movement is on the downward slide, however, women's movements and dalit movements are on an upswing. Orissa and Uttar Pradesh rank very low in order both economically and on the human development indicators scale. While Orissa has a large tribal population and a process of industrialisation that is linked to its mineral wealth, Uttar Pradesh is predominantly agrarian and also has several traditional labour intensive industries. All the four States also have a segment of global off-shore and export oriented industries.

The four partner institutions that conducted the study covered the public, private organised sectors and industries in the informal sector to address the objectives of this report.

GENDER, HEALTH AND NUTRITION: A QUICK OVERVIEW

Gender equality is an important element in the achievement of human progress and development. Achieving gender equality is one of the millennium development goals, however, achieving all other goals are closely tied to the gender equality goal. A natural corollary of ensuring gender equality is the elimination of gender discrimination. Inequalities between males and females in access to schooling, health care, employment, income generating activities, food and nutrition, political participation and so on, prove to be disadvantageous to women.

Women's health observed through a life cycle approach shows that various health problems persist right from the time she is conceived till her old age. The saga of missing daughters is vividly depicted in the growing incidence of female foeticide as a result of which the child sex ratio has declined from 945 in 1991 to 927 in 2001. While the literacy rates have shown an improvement from 39.3% to 54.3% for the total female population between 1991 and 2001, yet much more needs to be done especially for socially and economically backward regions and groups.

It is acknowledged that the underlying reasons for poor health of women as well as high rates of infant and maternal mortality are the persisting problems of malnutrition and anaemia. Nutrition is one of the key social determinants of health. Malnutrition in women can result in reduced productivity, slow recovery from illnesses, increased susceptibility to infections, and a heightened risk of adverse pregnancy outcomes. A woman's nutritional status has important implications for her health as well as the health of her children. A woman with poor nutritional status, as indicated by a

low body mass index (BMI), short stature, anaemia, or other micronutrient deficiencies, has a greater risk of obstructed labour, having a baby with a low birth weight, having adverse pregnancy outcomes, death due to postpartum haemorrhage, and illness for herself and her baby (IIPS and Macro International 2007).

The existence of widespread malnutrition across various sections of the population in the country also manifests itself in regional differentials across the states.

DEMOGRAPHIC INDICATORS

Comparative Performance of Various Indicators across the Four States

	Kerala	Maharashtra	Orissa	Uttar Pradesh	India
Total Fertility Rate (TFR)	1.93	2.11	2.37	3.82	2.68
Crude Birth Rate	16.4	18.8	22.1	29.1	23.1
Infant Mortality Rate	15.3	37.5	64.7	72.7	57.0
Child Mortality	1.0	9.5	27.6	25.6	18.4
Under-five mortality	16.3	46.7	90.6	96.4	74.3
Maternal Mortality Ratio ¹	110	149	358	517	301
Any anaemia ²	32.8	48.4	61.2	49.9	55.3
Mean BMI ³	22.6	20.6	19.7	20.1	20.5

¹ SRS (1997–2003).
² Haemoglobin level (<12.0grams/decilitre)² among women aged 15–49 years.
³ Body Mass Index.

Health indicators highlight the considerable disadvantages women face. All such differences are further aggravated on account of disparities by caste/tribe in less developed and poor performance states compared to better-off states showing consistently good overall performance. Infant mortality differentials for example, are accounted for not only by education of mother, residence (urban-rural) or place of delivery (health facility or home) but also by the fact of belonging to particular social groups. The mortality differentials between children of SC, ST and “others” are striking. Human Development indicators of these groups and communities tend to be much lower than that of the ‘general’ population. Again, within these groups, women tend to do much more poorly. Unless focused attention is paid to gender and caste (or religion, tribe, region, race, etc., as the case may be) in plans and programmes, the progress achieved will be one-sided. Regional and within state inequalities also needs to be addressed with respect to poverty incidences, as there is little indication that regional gaps in human development indicators are being bridged.

The next four sub-Chapters unfold the State specific observations and throw light on understanding the Maternity Protection Act, the ESI and several state and central schemes and programmes.

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Industries and Locations of Workers Covered for the Study

State (Period of Field Study)	Organised Sector		Unorganised Sector/Informal Workers (Social Security Schemes including Welfare Boards)
	Public Sector	Private Sector	
Kerala	<ul style="list-style-type: none"> • IT industry • Big establishment – Nationalised Bank • Health sector—Government Hospitals, Trivandrum • Education sector 	<ul style="list-style-type: none"> • Small Scale Industries Association • Private Hospitals, Trivandrum • Organised segments of- • Fisheries (ESIC) • Coir (ESIC) • Cashew industries ((ESIC/MBA) 	<ul style="list-style-type: none"> • Fisheries sector—Trivandrum, Alleppey, Ernakulam districts (Kerala Fishermen’s Welfare Fund Board/ Shops and Establishment Welfare Board) • Coir industry – Trivandrum and Alleppey (Coir Welfare Board) • Cashew industry—Quilon, Kottayam (Cashew Workers Welfare Board) • Commercial establishments like shops, fuel pumps, etc.(Shops and Establishment Welfare Board)
Maha-rashtra	<ul style="list-style-type: none"> • Sugar industry (co-operatives) • RCFL Public Sector Unit, Mumbai and Thane (MBA) • Health sector – Nurses and para-medical professionals, Public Hospital, Mumbai 	<ul style="list-style-type: none"> • Two MSME units, Nasik Packaging Unit and • Iron Foundry Unit 	<ul style="list-style-type: none"> • Cane Cutters, Kolhapur • Waste pickers, Pune • Leather, garment and recycling industry, Dharavi, Mumbai • Domestic workers (Welfare Board)
Orissa	<ul style="list-style-type: none"> • NALCO Public Sector Unit – Corporate Office, Bhubaneshwar (MBA) 	<ul style="list-style-type: none"> • Jyoti Chemical Laboratories, Bhubaneshwar (ESIC) 	<ul style="list-style-type: none"> • Public Sector Unit—Plant site, Damanjodi, Koraput • Beedi workers, Sambalpur (Beedi Workers Welfare Act)
Uttar Pradesh	<ul style="list-style-type: none"> • Public Sector Unit – Telephone Industry, Rae Bareilly, Mankapur • Insurance Company • Chemical and Pharmaceutical Industry, Saharanpur 	<ul style="list-style-type: none"> • Chemical and • Pharmaceutical units in Ferozabad and Saharanpur 	<ul style="list-style-type: none"> • Glass and Bangle Industry, Firozabad

Note: Field survey period was between mid-September 2009 and March 2010. The organised sector is in general covered under the Maternity Benefit Act (MBA) or the Employees State Insurance Act (ESI). However, some public sector units have their own scheme in place and some otherwise organised private sector units are not covered by the ESIC or MBA as in the case of MSME units in Maharashtra.

The case study on Kerala provides:

1. A background of the state with information from secondary data and studies relating to the various social and development indicators, women's health and employment.
2. A review of various state specific programmes meeting needs of maternity care and health.
3. A primary study of some public, private and informal sector industries to assess the access that women have to maternity benefits.

5.1 THE CONTEXT

Kerala is a state that has won international acclaim for its forward-looking social welfare measures. It has been acknowledged for its significant social indicators like the high rate of female literacy, low infant mortality, high levels of life expectancy, and falling fertility rates. The crude birth rate has been gradually falling and institutional births are the norm (99.4%) as indicated in the Tables 1–5 below. It is widely believed that public spending on health and education infrastructure backed by historically enlightened leadership, an active labour movement and general public awareness of worker's rights has helped the small and comparatively less industrialised state of Kerala achieve high ranking in terms of human development indicators.

5.2 DEMOGRAPHIC DATA

Kerala indeed has achieved a positive demographic profile when compared to the rest of the country.

TABLE 5.1:
Demographic Indicators for Kerala and India, 2000

2000						
Rate	Kerala			India		
	Total	Rural	Urban	Total	Rural	Urban
CBR	17.9	18	17.5	25.8	27.6	20.7
TFR	1.9	1.9	1.8	3.2	3.5	2.3
CDR	6.4	6.3	6.2	8.5	9.3	6.3
IMR	14	14	14	68	74	44

CBR = Number of births per 1000 population; TFR = Total fertility rate per woman; CDR = Number of deaths per 1000 population; IMR = Infant mortality rate.

Source: Statistical Report (2001), Sample registration System, RGI, Govt. of India; Fertility and Mortality Indicators (1991) by the same organisation.

In this present decade too the positive profile in Kerala continues:

TABLE 5.2:
Demographic Indicators in Kerala

Year	2001	2002	2003	2004	2005
CBR	17.3	16.8	15.2	14.9	14.7
TFR	1.8	1.7	1.7	1.7	1.7
IMR	10	11	12	14	15

Source: Prashant and Raymus CEHAT Database.

TABLE 5.3:
Number of Births in Kerala

Year	2004	2005	2006	2007
Kerala	563153	559082	556324	545154

Source: Prashant and Raymus CEHAT Database.

TABLE 5.4:
Percentage of Institutional Births in Kerala

Year	1981	1986	1991	1996	1998	1999	2008
Kerala	52.7	78.10	91.50	97.10	97.10	97.10	99.4

Source: Prashant and Raymus CEHAT Database.

With an average of 550,000 births a year, almost all of them are in hospitals. So be they in the organised or unorganised sectors or just of women who are at home, they are in the institutional framework and therefore can be monitored and assisted monetarily. As maternity benefits presently accrue to women only in their status as workers, the employment data indicates where these women are located in the workforce.

5.3 WORK FORCE PARTICIPATION AND STATUS

In a society that is acknowledged for important social achievements, the participation of women in the labour force does not seem to be commensurate with its other indicators. Census 2001 reveals that Kerala has the lowest workforce participation rate among females among all the major states in India. It is widely acknowledged that women's work participation in India is higher at the lower and higher ends of women's educational achievement and is lowest in the middle ranges of education. Culturally across many parts of the country including Kerala, wage work carries low prestige and as a corollary withdrawal of women from public domain wage work is a mark of upward mobility.

According to the 2001 Census:

- The total workforce in Kerala is estimated to be around 10.3 million out of which 7.8 million are males and only 2.5 million are females.
- The difference between the male and female participation rate has widened. In 2001 it was about 34 percentage points while it was around 32 in 1991.²²
- The percentage of main workers among women has declined quite substantially implying that female labour is being increasingly marginalised.
- The overall trends for the state indicate that women are losing long-term employment and their employment as casual labour is on the rise. Women are moving increasingly into either home based work or into retail outlets and establishments on daily wages. This is evident in the increase in female work force participation rate in the 'other worker' category, especially in the urban areas.

²² Women's Portal, GOK.

TABLE 5.5:
Work Participation Rates in Kerala and India (%)

	1971			1981			1991			2001		
	T	M	F	T	M	F	T	M	F	T	M	F
Kerala	29.1	45.0	13.5	30.5	44.9	16.6	31.4	47.6	15.6	32.3	50.0	15.3
India	32.9	52.5	11.9	36.8	52.7	19.8	37.5	51.6	22.3	39.3	52.0	25.7

Source: Census Reports.

The demographic transition in Kerala has had a two-fold effect on female labour force participation, the lagged effect of fertility decline has caused a shift in the age structure of the population in favour of the working ages, and simultaneously, decline in mortality levels, particularly maternal mortality also has contributed in the same direction. Similar evidences emerge from the pattern of changes in the 'dependency ratio' (Eapen, 1992)²³. Such a pattern of demographic change, which, above all, had led to a growth in the population among the job seekers, offers an explanation for depressed economic activity rate, the female labour force being more affected in the process.

Whereas the work participation rate of women in Kerala is lower than the national level, the percentage of working women in the organised sector is higher in Kerala than at the all India level. Hence, the coverage of women with social security measures would be higher in Kerala than elsewhere. In 2007 the total workforce in Kerala was 11,10,980 of which 54.36% was in the public sector and 45.64% in the private sector. Interestingly the major sector for employment in the public sector was community services (53.70%) where as manufacturing and mining together engaged 9.16% of the workforce. In the private sector, manufacturing engaged 37.87% of the workforce and community services 37.51% with 0.09% in mining. Although the public sector is the largest employer in Kerala, the employment in this sector has been falling as also in the organised private sector.²⁴

The tables presented below indicate:

- A larger number of women, in the private sector, are employed in larger establishments as indicated in Table 5.6.
- Within small-scale industries there is a higher presence of women in unregistered units (Table 5.7).
- The proportion of workers ineligible for social security is high, however, lack of unions in the enterprises that women work, make them vulnerable and lacking in any bargaining power (Tables 5.8 and 5.9).
- According to this data 30% of these workers do not belong to trade unions.
- All this implies that a large number of women that work gainfully are not covered by any social security and therefore do not get any maternity benefit.

TABLE 5.6:
Women Employed in Organised Private Sector by Size of Establishment, 2002 (in Thousands)

State	Larger Establishment (more than 25)	Smaller Establishments (10–24 Women)	Total
Kerala	231.4	50.9	282.3

Source: Ministry of Statistics and Programme implementation GOI.

²³ Eapen, Mridul. 1992. "Fertility and Female Labour Force Participation in Kerala", Economic and Political Weekly, October 3, pp. 2179–88.

²⁴ Directorate of Employment.

According to the Ministry of Small Scale Industries, GOI in 2001–2002, the female employment in small-scale industries of the total employment is 37.15 per cent in Kerala state.

TABLE 5.7:
Number of Women Employed in Small-scale Industries (2001–2002)

State	Registered Units	Unregistered Units	Total
Kerala	1,89,640	2,24,491	4,14,131
Tamil Nadu	2,70,936	2,23,050	4,93,986
India	9,74,713	23,42,783	33,17,496

Source: Ministry of Small scale Industries, Govt. of India.

According to labour norms all women in the above sectors should be eligible to maternity benefits.

TABLE 5.8:
Proportion per 1000 of Rural and Urban Employees Not Eligible to any Social Security Benefit according to Usual Status Engaged in Non-agriculture and Agricultural Workers General Category (AGWGC) Enterprises

Area	Male			Female			Persons		
	Regular Wage	Casual Labour	All	Regular Wage	Casual Labour	All	Regular Wage	Casual Labour	All
2005–2006									
Kerala	555	964	819	522	905	674	543	953	780
2009-10									
Kerala	526	988	809	526	960	703	526	982	779

Source: NSS Report No.519 (2005–2006) and 539 (2009-10).

TABLE 5.9
Proportion (per 1000) of rural and urban Workers with Non-existence of Unions in their activity among Workers according to Usual Status of 15+ Age Group in Non-agriculture and AGWGC Enterprises

Category	Status of Employment			
	Self-Employed	Regular Wage	Casual Labour	All
2005-06				
Male	281	342	350	323
Female	501	349	424	438
Persons	365	345	363	359
2009-10				
Male	351	412	388	379
Female	475	431	527	478
Persons	389	419	420	408

Source: NSS Report No.519 (2005–2006) and 539 (2009-10).

TABLE 5.10:
Proportion per 1000 of Rural and Urban Workers with Non-existence of Unions in their activity among Workers according to Usual Status of 15+ Age Group in Non-agriculture and AGWGC Enterprises

Category	Status of Employment			
	Self Employed	Regular Wage	Casual Labour	All
Male	281	342	350	323
Female	501	349	424	438
Persons	365	345	363	359

Source: NSS No. 519, 3.28.1 (2005–2006).

5.4 THE UNORGANISED SECTOR

There are over 7 million workers in the unorganised workforce in Kerala comprising different categories of workers. Data from the NSSO and other sources indicate:

- Higher proportion of households is dependent on self-employment (Table 5.10).
- The percentage of females engaged in the unorganised manufacturing sector is slightly higher than the males (5.11).

TABLE 5.11:
Distribution of Households by Employment Type for 1000 Households 2005–06

Area	Household Type				Total
	Self-Employed	Regular Wage	Casual Labour	Others	
Rural					
Kerala	336	293	260	110	1,000
All India	357	420	124	99	1,000
Urban					
Kerala	268	283	280	66	1,000
All India	418	404	124	54	1,000

Source: NSS Report No. 522—2005–2006.

Though statistics reveal the increase in women's employment in Kerala, this employment is more in the nature of casual and irregular, contractual labour in the informal sector. Women, especially from the lower classes and the lower castes are in this sector. They not only have to cope with physical hardships that impact their health, they continue to be paid much lower wages than men in the same category.²⁵

The percentage of females engaged in the unorganised manufacturing sector is slightly higher than the males. This is also borne out in the case studies, which highlight that all the labour intensive work like in the coir, cashew and shrimp peeling sectors are relegated to women.²⁶

TABLE 5.12:
Workers by Sex in the Unorganised Manufacturing Sector in the Rural and Urban Areas

Area	Total (Number)	Female (%)	Male (%)
Rural	10,08,614	51.2	48.8
Urban	3,82,393	47.6	52.4
Total	13,91,007	50.2	49.8

Source: NSS report No. 525 2005–2006.

In this scenario, we now turn to the access that women have to maternity protection through primary studies of various industrial enterprises.

METHODOLOGY FOLLOWED:

The study was launched through a Round Table discussion with Government personnel from the Labour and Women and Child Departments, some of the Welfare Boards, the ESIC, the NRHM, together with trade union workers and academics.

Subsequently data was collected from the field through visits to concerned departments and offices, discussion with trade union leaders and panchayat leaders. Written submissions were received from all the Welfare Boards.

²⁵ Eapen, Mridul; EPW June 30, 2001.

²⁶ Gulati, Leela, S. Irudaya Rajan and A. Ramalingam. 1997. "Women and Work in Kerala: A Comparison of 1981 and 1991 Censuses", Indian Journal of Gender Studies, 4(2), pp.231–52.

Rapid surveys were conducted to get data from the schools and hospitals in a third of Trivandrum District.

The draft reports were sent to the ESI Regional Director and comments received.

Two meetings were conducted at the office of the Labour Commissioner with around 15 Labour officers prior to the draft report and for comments on the draft report.

The study commenced in mid September 2009 and was completed by March 2010 and report submitted in May 2010.

5.5 ORGANISED SECTOR: IMPLEMENTATION OF MATERNITY BENEFITS

Maternity benefits vary between sectors in Kerala. The workers in the organised sector are covered either by the provisions of the Maternity Benefit Act or the ESI. But in the organised sector, depending on whether the institution falls within the public or private sector, the access to the Maternity Benefit Act differs in that the period for leave with pay is still three months in the private sector where as it is now six months for the public sector for those employees covered by the MBA. The contract labour in the organised public sector is generally not given the same privileges as the permanent workers if at all they get a benefit, as per the law.

In the unorganised sector, there are one time cash benefits accessible from the various Welfare Boards that have been created by the State. But for this the worker has to have registered in the Board for at least one year before availing the benefit and has to pay the annual contribution that some boards demand.

Poor women, irrespective of work status, may have access to various government schemes fully sponsored by the Central government like the ICDS programme which is a nutrition programme with some medical assistance. But with the network of government facilities all over the state, a normal delivery and at district headquarters even caesarean section can be availed free of cost but with no cash benefit. Today, under the NRHM, a pregnant mother can avail of both medical care and a minimal cash benefit for the delivery.

TABLE 5.13:
Maternity Benefits Paid in Factories, Plantations and Mines by Kerala during the year 1995–2003

State/Union Territory	Year	Number of Establishments Covered Under the Maternity Benefit Act	Number of Establishments Submitting Returns	Average Daily Number of Women Employed in Establishments Submitting Returns	Number of Women who Claimed Maternity Benefit During the Year	Number of Claims Accepted and Paid Either Fully or Partially During the Year		Number of Cases in Which Special Bonuses were Paid	Total Amount of Maternity Benefits Paid (in Rs.)
						Claims Accepted	Claims Paid		
1	2	3	4	5	6	7	8	9	10
Kerala	1995	934	934	20,553	47	47	47	-	321,232
	1996	1,023	1,022	66,504	53	53	53	-	282,891
	1997	784	784	22,823	42	42	42	-	497,493
	1998	1,593	1,593	49,172	76	76	76	4	982,353
	1999	822	822	21,767	37	37	-	-	361,541
	2000	1,042	1,042	52,700	35	35	35	-	688,271
	2001	739	739	49,520	11	11	11	-	119,736
	2002	981	981	50,730	1,193	1,193	1,193	1	529,268
	2003	707	705	31,163	177	177	171	173	769,373

The link is <http://labourbureau.nic.in/WL%20K5-6%20Contents.htm>.

In Kerala few women workers who participated in this study complained about granting of the benefits under the MBA (please refer to the case studies presented). Their main problem is regarding the time lag in receiving the payments. Nurses particularly say that the time lag is the longest as they do not have the time to run behind papers and can be anywhere between one to seven years. In the organised private sector, women recruited on a permanent basis are covered by the MB Act. In this case maternity benefit is accessed in terms of leave as well as pay. But in the private sector the leave period is strictly three months.

Discussions with female workers in the IT sector revealed that there are a variety of social security measures in vogue. For example at an IT company in Trivandrum the company has a contributory Medical Plan that also covers maternity. The employee also gets 90 days leave with salary. No crèche facilities are provided. But this facility is not uniformly available to all the industries. In some of the companies, there is no facility for extension of leave without pay. The employee loses employment if leave needs to be extended. No crèche facilities are offered.

It is evident that even big establishments resent the paying of maternity benefit and accommodating the absence of a women employee. Even a huge public sector bank had no scruples in formulating a recruitment policy which stipulated that women who are pregnant or likely to become pregnant at the time of recruitment shall not be given immediate posting (Source: April 7, 2009, The Hindu, Appendix I).

5.6 BENEFITS FROM THE ESIC FOR MATERNITY

Workers in the small scale sector, who earn less than Rs. 10,000 a month, are eligible for ESI regardless of the number of employees in the establishment. In Kerala, even establishments with less than 5 workers are covered under ESI.

Discussions with eligible women in the course of field work revealed that employees get medical attention from the nearest ESI dispensary from where they are referred to the ESI hospital when necessary. They are entitled to whatever care, investigations and medicines that they may require for as many children as they conceive. There is no difference in quality of medical care based on the salary received. However, cash benefits are made according to a slab system on the basis of the salaries, which means that workers earning between certain levels of wages get a particular amount as cash benefit. For a period of 84 days the employee gets the cash benefit, which is according to the slab that is double the rate of the standard benefit rate. Rs. 90 is the lowest and Rs. 193 is the highest per day benefits that the employees receive.

Discussions with some workers, who are registered under the ESI, revealed that they have no complaints about availing of their benefits although it is a time consuming process as they have to go to the ESI offices to submit forms, etc. Not all employers grant them time and they have to take leave to do this. Some of them complained that the workers contribution is too high and that the procedure to avail of treatment is laborious.

TABLE 5.14:
Maternity Benefit Claims Preferred During the Years 1999–2000 to 2003–2004 under the ESI Act

Area	Period	No. of Insured Women Employees Exposed to Risk of Maternity	No. of Confinements	No. of Confinements Per 1000 Insured Women Employees Exposed	No. of Benefit Days	Amount Paid (Rs.)	Average Amount Paid per Confinement
Kerala and Mahe	1999–00	168,150	2,972	17.67	262,370	19,442,836	6,542
	2000–01	177,850	3,269	18.38	285,733	24,337,417	7,445
	2001–02	162,150	3,033	18.70	266,787	26,336,954	8,683
	2002–03	149,650	2,759	18.44	253,205	24,713,657	8,957
	2003–04	136,950	2,501	NA	NA	NA	

Source: DES.

TABLE 5.15:
Maternity Benefit Paid under ESI Act in Kerala

Year	Amount Disbursed in Rupees	Number of Beneficiaries
2004–2005	2,22,09,839	136950
2005–2006	2,36,88,019	140300

Discussion with the president of the Kerala Small Scale Industries Association in Trivandrum highlighted some problems that the SSI units have in dealing with the ESIC. The problems from the employees' point of view are:

- The process is laborious and time consuming putting the patient through a lot of stress. Hence employees are reluctant to make their contributions to the ESI.
- In case of establishments where the workers earn less than Rs. 75 a day, the employee does not have to make the 1.75% contribution. This is borne by the state while the employer has to make the 4.75% contribution. Where employees are better off, he felt that ESI is an expensive premium because for a person who earns around Rs. 5000 a month, the total contribution works out to Rs. 3900 a year to the ESI. Good private insurance covers can be taken for Rs. 2000 annual premium and the employee can go to good multi specialty hospitals directly. Nevertheless there is no compensation for the wages lost for days without work in such cases.

Problems on the part of the employers are:

- The major one is not the payment of the contribution but the harassment from the ESI officials. Not only does the establishment have to submit detailed accounts every six months but there are detailed checks from the officials who demand to browse through all the accounts to see what benefits are given **in kind** to the workers. And if so, they demand this to be calculated in cash terms on the total basis of which the 4.75% contribution of the employer is calculated. So the employers are not even able to give a free tea, meal or even a festival allowance to the workers. He says this leads to all kinds of corrupt practices and very often the ESI inspectors are happy to receive some money and turn a blind eye to the details.
- Enterprises now prefer to take a private group insurance for workers and avoid the hassle of the ESI.

The employers and the employees recommended that some assessment should be done in order to improve the facilities in hospitals while also reducing the contributions. He also felt that for very small establishments, the six months maternity leave becomes a burden as not only does a double salary have to be paid but work can also pile up as there are no others to share the work and

newcomers take a few months to pick up the work. He felt that employers could do better in providing crèches in areas where there are a concentration of small production units. Even day care centres for older children are a requirement as mothers often stop work because there are no such support facilities.

Whereas these are the benefits provided to the organised sector, there are some categories of workers even in the organised sectors who do not have access to these benefits. For instance, the contract labour in the organised sector does not have access. There are also a substantial number of private hospitals in which the workers do not have access. Moreover, in the private education sector, in which a large number of women are employed, the access to these facilities is limited. A couple of case studies highlight these facts below.

5.6.1 Maternity Cover in the Health Sector

The health sector is booming in Kerala and one in which a large number of women are employed. There are both government and private hospitals that are big and small. A quick appraisal of a cross section of these hospitals was undertaken to understand the problems women face in accessing maternity benefits. At a government hospital in Trivandrum the permanent employment pattern is as follows:

TABLE 5.16:
Distribution of (Permanent) Medical Staff 2010

	Male	Female	Total
Medical	43	38	81
Paramedical	29	23	52
Nurses	20	227	247
Administrative	28	17	45
Total	120	305	425

Only 14 women staff availed of maternity benefits in 2009. The permanent staff say they have no difficulty in availing their maternity leave but the reimbursements take a very long time and this can be from 7 months to 7 years.

There were 6 nurses on temporary appointment and also a substantial number of grade 3 and 4 staff. Temporary staff are not entitled to any benefits. **All the staff on the NRHM are on contract. Interestingly, they, who are in charge of managing the JSY programme, have no right to maternity benefit themselves.**

In a major private multi-speciality hospital of Trivandrum city the employment pattern is as follows:

TABLE 5.17:
Distribution of Staff in a Private Hospital 2009

	Male	Female	Total
Medical	200	106	306
Paramedical	34	51	85
Nurses	115	382	497
Administrative	7	17	24
Total	356	556	912

Data collected for the PRO of the hospital.

Divisions like the security, canteens, cleaning are on contract and the strength is around 415. In the year 2009, 45 women had availed maternity of which 44 were under ESI and 1 who was in the managerial post availed the benefit with three months leave—under the MBA provision.

Discussions with some nurses revealed that a large number of them were on one year contract and that they were on a consolidated salary and had no access to benefits and were not registered in the ESI. The administration says that the young nursing staff are not keen to work for long periods and hence they are on contract.

Among the smaller hospitals, the cover for maternity is extremely limited. A quick survey in Trivandrum district revealed the following:

TABLE 5.18:
Details of some Hospitals in Trivandrum District, 2009

Name of Hospital	Panchayat	Total Staff	Female	Male	Contract/Daily Wage	Maternity Benefit	
Rugmini Memorial Devi Hospital, Vellarada	”	28	20	8	All are trainees from nursing college. Prefer unmarried	-	
Alpha Medical Mission Hospital, Kuttichal	Kuttichal	4	3	1	-	(no such situation occurred)	
High Care Clinic, Kuttichal	Kuttichal	4	3	1	Not permanent	(no such situation occurred)	
G.C. Hospital, Melemukku	Kuttichal	4	3	1	“”	(no such situation occurred)	
Kripa Clinic, Peyad	”	12	11	1	2	(no such situation occurred)	
S.R. Hospital	Pothencode	12	12	6	6 trainees	Registered in welfare board	
Karunya Hospital	“	18	14	4	7		No

Data collected as part of the study from the hospitals.

Of the 7 institutions surveyed, all of them do not provide maternity benefits to their female workers. Of the four institutions that say that 'no such situation has arisen' this means that their staff are all on contract and will automatically resign if they plan to have a child as no such leave is granted. One of the institutions has registered in the Shops and Establishments Welfare Board. While talking to the staff, they complain that it is not only the wages that are meagre, but that they all have to resign when pregnant. One of the clinics stated that they are interested in registering with the ESI but that the staff are not willing to make the contribution as they get medical benefits at the clinic itself. As stated earlier, the staff who are already receiving a small wage find it difficult to make the ESI contributions.

5.6.2 Maternity Cover in the Education Sector

The education sector is out of the ambit of laws as this is not considered an industry. But this sector engages a large number of women—especially in the schools—and they are not protected. The school sector is divided between government schools, government aided privately managed schools and, totally, private schools.

TABLE 5.19:
Distribution of Teachers by Type of School

Year	Govt	Aided	Private	Total	Male Teachers	Female Teachers
2004-05	57,425	1,06,717	11,102	1,75,244		
2005-06	56,056	1,07,047	13,436	1,76,569		
2006-07	55,130	1,06,936	14,060	1,76,126	53,812	1,22,757
2007-08	54,300	1,06,143	14,535	1,74,978	51,242	1,23,736

Source: Directorate of Education 2009.

The table shows a gradual fall in the number of government and aided schools and a gradual rise in the number of private schools. But the female teachers are double those of the male.

All teachers in government and aided schools now eligible for six months maternity leave with pay. Some private schools give their permanent teachers three months maternity leave with pay and some of them give an additional three months leave without pay. But this is rare. A large number of private schools have teachers on contract basis and none of the teachers on contract are eligible to maternity benefit. They are obliged to resign and it is left to the discretion of the management to reemploy them after delivery.

TABLE 5.20:
Details of some Schools in Trivandrum District

Name of School	Panchayat	Total Staff	Female	Male	Daily Wage/ Contract	Maternity Benefit	
						Yes	No
7 th Day Adventist High School	Vellarada	26	22	4	8	Three months leave	
Mother Theresa English medium U.P.school	”	17	16	1	17 (all are in 1 year contract)		
Rajan Memmorial Vrindavan Public School	Kuttichal	24	20	4	8	Yes (no such situation occurred)	
St. Antony’s L.P.S, Kuttichal	”	6	6	0	1	Yes (no such situation occurred)	
G.S.N. U.P. Public School	Vilappil	16	14	2	-	(no such situation occurred)	
St. Mary’s U.P. Puliyyarakkonam	”	12	10	2	3	(no such situation occurred)	
Mary Matha English medium U.P.school	Pothencode	26	25	1	1	Yes (Leave without pay)	
Nissamia Public School(HS)	”	40	30	10	All permanent	Yes	
Vidhy Mount Public School, Edavilakom	Mangalapuram	27	22	5	--	No such situation occurred Recently gave one year leave to a staff, not maternity leave	
Sree Krishna Public School	Andoorkonam	7	5	2	--	Yes, loss of pay leave	
Sagar Public School	Vattiyookavu	9	8	1	3		No

Name of School	Panchayat	Total Staff	Female	Male	Daily Wage/ Contract	Maternity Benefit	
						Yes	No
Jawahar Public School	„	18	17	1	5	Yes, loss of pay leave	
Holy Angels Convent	Tvm Corp	110	100	10	10	Yes, three months leave with half salary	
Nirmala Bhavan	„	160	145	15	30	Yes, for permanent staff, three months leave with full salary, staff of 12 years experience—3 months leave with Rs. 1500 allowance	

Of the 14 institutions surveyed, 9 of them say that they provide maternity benefit but of these not all grant the three months with full pay. Four say although there is supposed to be a benefit, the situation has not occurred. This is because the staff was on contract. One of these institutions only gives leave but without pay, which only means that, the job security is granted. Two institutions openly say that this facility does not exist. The female staff knows that this is an injustice but they seem willing to accept these conditions because they at least have a job, they feel they get their holidays and in practice they make their money giving tuitions. In none of these institutions do teachers belong to trade unions. Nevertheless, there are complaints from women who say this should be their right as seen in the newspaper cutting dated 25.11.2009 in the Malayalam Manorama Daily (Appendix 2).

5.7 THE UNORGANISED SECTOR

As stated earlier, the majority of the workforce is in the unorganised sector. With its history of pro-labour policies and the organisation of labour, Kerala has been a leading state vis-à-vis protective legislation for labour. Hence, Kerala has organised a series of Welfare Boards that cater to the social welfare of several sections of workers. There are now 24 Welfare Boards and most of them also provide for a one time maternity benefit, which ranges from Rs. 500–2000. Over the last 30 years, around 4.9 million workers are covered by social security.

The Kerala Shops and Commercial establishments Workers Welfare Fund was probably the last to be launched in 2007. All workers in the State's unorganised sector can benefit from the welfare fund including employees working at shops, hospitals, medical stores, fuel pumps, meat stalls, hotels, telephone booths and similar commercial establishments. These are sectors in which a large number of young women work and until now had no security cover. The scheme is a very generous one and includes a provision for pension, from the age of 60 years for all workers who contribute to the fund for a minimum period of 10 years. Those who contribute to the fund for a minimum term of 15 years are also eligible for family pension after the employee's death. Women workers going on maternity leave get maternity benefits till they return on similar terms to the ESI. As this payment is made on the basis of the minimum wages principle, a woman can get up to a maximum of Rs. 17,041 as maternity benefit for three months. Wages for miscarriage will be given for 6 weeks. So far 53,992 establishments have been registered with a total of 279,670 workers of which 87,045 are female. 24 of them received maternity benefits in this short period.²⁷

²⁷ Information provided by the Kerala Shops and Establishments Welfare Board, Trivandrum.

Despite the hurdles in implementation, like the honest declaration of workers regarding their actual work or the delay in payment of benefits, this welfare board model of providing a modicum of social security for the workers in the informal sector is quite remarkable. This model should be seen in the larger context as complementary to the basic social security provided by the state while also guaranteeing a sense of dignity to workers in the informal sector.

There are also several issues of policy and performance that can be improved upon with a view to enhancing the benefits to the workers in the informal sector like for instance the criteria for contributions as well as benefits shows wide variations as between the different Funds. The present government is trying to rectify this through a review committee that will come up with policy recommendations to equalise the benefits of the Boards.

Employers in Kerala have been contributing to the different Welfare Boards not out of philanthropy or concern for fellow countrymen who are workers, but because this has become a statutory requirement in most cases. The general hostility towards working class is evident in the agricultural sector where the legislation for a Welfare Board has been challenged at each stage in civil courts since 1974. In the fisheries sector, exporters resorted to a two-week strike in the year 2000 against a one-percent levy on their turnover towards the Welfare fund.

Another important aspect is that it is precisely the Funds created for the relatively weaker sections among the workforce and sectors which are predominated by women that are still struggling for financial viability (e.g. cashew, handloom, coir) whereas the more powerful and vociferous male sections of the workers seem to have ensured a better deal for themselves. (e.g. toddy, head-load and autorickshaw workers). Maternity benefits receive a very small proportion of the funds even in the otherwise well endowed construction workers board.

According to the official estimate of the Construction Workers' Welfare Board, there are 1.5 million workers engaged in construction activities in the state. Over 70% of construction workers register in the board and according to a study by Nair (2004), in some areas like Alleppey, over 36 per cent of the workers registered is women.²⁸ Yet the amount of maternity benefit disbursed by the Board is less than 2 per cent of the total welfare benefits disbursed each year.

5.8 REVIEW OF SCHEMES AND PROGRAMMES THAT TAKE CARE OF MATERNITY

Besides the workers who are covered by the welfare boards, the government also invests a substantial amount of money in women's reproductive care and health through various other programmes that exist under the Social Welfare Department. One of these programmes that is centrally sponsored and covers the entire country is the **Integrated Child Development Scheme (ICDS)** that was started in October 1975.

The concept of providing a package of services, like immunization, health check-up, nutrition, prophylaxis against vitamin A deficiency and control of nutritional anaemia, is based primarily on the consideration that the overall impact will be much larger if the different services develop in an integrated manner as the efficacy of a particular service depends upon the support it receives from related services.

The ICDS budget in Kerala for 2008–2009 was Rs. 1900 million.

²⁸ Nair, R.P; The Kerala Construction Labour Welfare Fund, Working Paper 219, International Labour Office, Geneva, 2004.

TABLE 5.21:
ICDS Beneficiaries and Expenditure in Kerala

Year	Pregnant and Lactating Women Covered	Nutrition Provided	Expenditure
2003–2004	379371	153137	
2004–2005	380268	153937	Rs. 71,05,94,103
2005–2006	382943	162478	Rs. 76,47,63,583
2006–2007	386985	167386	Rs. 115,15,09,192
2007–2008	406178	217779	Rs. 154,09,23,470
2008–2009	377447		Rs. 184,20,44,424

Source: Social Welfare Department.

In a case study in Vatiyoorkave Panchayat in Trivandrum District with a population of 45,114 people there were 22 anganwadis. The anganwadi teachers are in close contact with the population in the ward. They keep a monthly record of the number of pregnant women in the ward. They also make a socio-economic assessment of all the women who are pregnant and then finally decide on which particular women will be integrated into the nutritional programme as **each anganwadi programme provides nutritional food for only two and in some larger areas, three women**. The anganwadi teacher then uses her discretion to enrol the mothers and to divide the provisions among those who come. The SC women are given preference. They all get iron folic tablets and some of them come for awareness classes too. The teachers inquire with the mothers personally and see that they have taken their tetanus shots.

Food quantity in the ICDS programme: In August 2009 for a pregnant woman 500 calories energy and 30 grams protein a total of 120 grams rava and 16 grams oil daily was calculated and supplied. Earlier cooked food was supplied—uppumavu with vegetables sometimes with groundnut, soya bean oil and in some the women got an egg. Today uncooked food is distributed so that women need not come on a daily basis to the anganwadi.

Discussions with some of the women in the panchayat revealed that they appreciate the assistance although they complain that accessing cooked food is difficult as it takes up a good part of their working time. Moreover, poor pregnant women actually work for 7–8 months of their pregnancies, so uncooked food is a better option as it can be carried home.

Whereas the ICDS aims at reaching out to the poor women, it is not taken as seriously as it should. According to the Finance and Appropriation Accounts of GOK for 2006–07 nearly 63 per cent (Rs. 784.5 million) of funds released by GOI during 2002–07 for various ICDS programmes remained unutilised. More than half the number of anganwadi centres (AWCs) functioning did not have basic minimum facilities like own buildings, toilets, drinking water and weighing scales. The food items chosen for Supplementary Nutrition did not have stipulated nutritive value and also did not take care of the micro nutrient needs of the beneficiaries.²⁹

So it is clear that the infrastructure developed by the ICDS programme over the years is a good framework to reach out to the pregnant women from the informal sector. Nevertheless, there is still much that can be done by the State to utilise the funds available. There are also incidences in which the money and the supplementary food is also misappropriated but if there are modifications made to the programme, in that there can be local monitoring committees made up of women representatives, this programme could be a great boon for poor pregnant women.

²⁹ Audit report (Civil) for the year ended 31 March 2007.

5.8.1 The Janani Suraksha Yojana (JSY)

The National Maternity Benefit Scheme (NMBS) was introduced in 2001 to provide nutrition support to pregnant women. Under this scheme BPL pregnant women are given a one time payment of Rs. 500/- 8–12 weeks prior to delivery. In the year 2005, the Government of India launched the Janani Suraksha Yojana under the National Rural Health Mission to provide cash incentives for women to have an institutional delivery. The NMBS was merged into the JSY and with the intervention of the Supreme Court the benefits under the NMBS retained, irrespective of place of delivery.

National Rural Health Mission (NRHM) was inaugurated in April 2005. But the project was set rolling in Kerala in September 2006. Kerala took another year before the District H&FW Societies were registered and a State Mission Director appointed. It was only in April 2007 that NRHM District Programme Managers (DPMs) were appointed. Funds in this scheme are distributed by the Medical Officer, Rs. 300 for referral and transport to the hospital for ASHA and the pregnant woman.

TABLE 5.22:
Release of Funds Under National Maternity Benefit Scheme for Kerala (in Lakhs)

1999–2000	2001–2002	2002–2003	2003–2004
71.61	96.9	78.38	135.82

Source: Department of Statistics, GOK.

TABLE 5.23:
Number of Beneficiaries under National Maternity Benefit Scheme in Kerala

2000–2001	2001–2002	2002–2003	2003–2004	2004–2005
15,144	14,895	14,17	9,587	4,844

Source: Department of Statistics, GOK.

TABLE 5.24:
Amount in Rupees Paid to Beneficiaries Under National Maternity Benefit Scheme in Kerala

2000–2001	2001–2002	2002–2003	2003–2004
243,37,417	263,36,954	247,13,657	230,11,588

Source: Department of Statistics, GOK.

The Janani Suraksha Yojana (JSY) is aimed at reducing maternal and infant mortality rates and increasing institutional deliveries in below poverty line (BPL) families. The JSY, which falls under the overall umbrella of National Rural Health Mission covers all pregnant women belonging to households below the poverty line, above 19 years of age and up to two live births.

TABLE 5.25:
Number of Beneficiaries under JSY in Kerala

Year	No. of Beneficiaries	Amount Approved	Amount Expended in Lakhs
2005–2006	19,603		124.5
2006–2007	58,296	890.49	424.14
2007–2008	1,93,417	635.24	1486.26
2008–2009	1,08,816	935.96	1283.97

Source: NRHM Mission Trivandrum.

5.8.2 General Comments

Initially there seemed to have been difficulties in the execution of the scheme as seen in some newspaper reports. The NRHM blames this on the bureaucratic functioning of the health-care delivery system. NRHM has now set in motion many initiatives aimed at strengthening the public health system, such as filling the vacancies of doctors and nurses, upgrading of primary and

community health centres and setting the district action plan in progress. But the Panchayati Raj institutions and the district health officials have little awareness of and orientation on NRHM. There is also the duplication of structures—the Reproductive and Child Health Officers and DMOs of the health service and the DPMs have similar roles (As it is perceived as a duplication of roles it creates resistance and a certain degree of animosity and hence affects efficient delivery of service.)

The State should therefore ensure quality of care for pregnant women at public healthcare institutions by ensuring: (there are no studies, only newspaper reports)³⁰

- adequate number of trained staff and doctors,
- improved physical infrastructure of the facility,
- post-delivery stay of 48 hours,
- provision/assured linkage of blood storage unit at the FRUs,
- up-gradation of PHCs and CHCs into 24/7, and
- A system should be developed for holistic monitoring of the Project Implementation Plan based on outcomes, costs and activities.

In Kerala there are around 0.54 million births a year and this is falling gradually. 99% of the births are institutionalised but only 15% receive JSY (mainly because of the BPL factor)

It is evident therefore that although Kerala is one state in which efforts have been made to offer some social security measures to all sections of the working population and the poor, this is insufficient and particularly so in the area of maternity benefits.

CASE STUDIES OF VARIOUS INDUSTRIES

5.9 THE FISHERIES SECTOR

5.9.1 Background of the Sector

The coastal waters off Kerala’s 600–km coastline (10 per cent of India’s mainland coastline) are the most productive in the country. This high productivity is one of the important factors behind the concentration of marine fishermen in Kerala. Numbering over 170,000 (i.e., the active workers at sea), they form a fifth of the Indian total. It is the lower quality of life (on the average) and the higher occupational risk (both to human life and productive assets), which set marine fishing communities apart from the other occupational groupings in Kerala. It is also for this very reason that social security measures attain paramount importance for them.

TABLE 5.26:
Gender-wise Division in Fishing Allied Activities

2005	Sectors						
	Fish Marketing	Net making	Processing	Peeling	Labourer	Other	Total
Male	4,964	5,500	590	416	15,705	8,447	35,622
Female	13,012	4,060	3,291	7,641	1,537	5,911	35,452
Total	17,976	9,560	3,881	8,057	17,242	14,358	71,074
Total fisher-folk population: 602,234.							

Source: Central Marine Fisheries Research Institute Census 2005.

The production is divided into pre harvest, harvest and post harvest activities. Among the fishers, the majority is self-employed or earns a share of the catch, while some belong to cooperatives. In the

³⁰ C. Maya, The Hindu, June 18, 2007, Critical gaps in existing health care system.

pre- and post-harvest activity, a substantial number of women are also engaged. In the post harvest activity there is also a big organised sector doing the processing of export fish. The workers in this sector if on a permanent basis are covered by ESI. But even in this sector, certain stages of the activity like peeling of shrimp are done in the unorganised sector, and the chunk of employees is women. None of the production stages is in the public sector and the government brought the self employed sector under the cooperative domain by an act of parliament.³¹ This facilitated the registration of all workers in the marine sector.

Initially, the Fisheries Department was the sole agency engaged in the implementation of social security for fishermen. Later, newly created agencies like the Kerala Fishermen's Welfare Corporation, Kerala State Co-operative Federation for Fisheries Development (more commonly known as Matsyafed), and the Kerala Fishermen's Welfare Fund Board (known as Matsyaboard), have also entered the arena for supplementing the social security initiatives.

Resources from various central government schemes, a variety of financial institutions, as well as the various participants in the fishery have contributed to the funds. Concomitantly, both the protective and promotional social security schemes were on the increase over the years as a result of the organisation of the fisher-people that made such demands.³²

Welfare schemes of different nature have been implemented for the benefit of fishermen who are the members of welfare fund. The wives of fishermen and the fisherwomen who are above 19 years are eligible for financial assistance of Rs. 500/- for each of the two live births for pre/post maternity care.

5.9.2 Case Studies among the Women in Fishing Allied Work

Women in fishing communities are engaged either in assisting their husbands who go to fish by preparing for the fishing trip, sorting and auctioning the fish when it is landed, or selling fish either door to door or in markets. All this is self employed work. There is another group that works for wages sorting, loading, drying fish or shelling shrimp for small and large agents. This is piece rate work paid on a daily basis. There are others who work in the fish processing factories and among them they either work on a daily basis or on monthly salaries.

Focused group discussions were conducted with the women fish workers in Trivandrum, Alleppey and Ernakulam Districts covering women who work in all the sectors.

In Aroor and Eramaloor areas which fall in Alleppey and neighbouring Ernakulam Districts, the coastal villages are dotted with shrimp peeling sheds and fish processing factories. In the shrimp peeling sheds which are of varying sizes that are attached to family homes or just standing by themselves one sees from 50 to 100 women squatted on their haunches all busily engaged in shelling shrimp. The floor is wet as water drains off. It is cold when the shrimp is supplied from a cold storage or warm when the shrimp is fresh from the harbour. So women also have to cope with this, as they peel with their bare fingers. These are the unregistered peeling sheds, which supply the processing plants with shrimp. Women are paid on a piece rate for the number of basins they clean and earn from between Rs. 60 and Rs. 80 a day depending on their speed. On occasions when there are large catches, women are called to work round the clock to clear the stocks. But they get work when shrimp is landed and for the most part this is for 9 months in the year. In some of the bigger

³¹ The Kerala State Welfare Societies Act of 1981, defined a fisherman and procedures for a listing, and set the rules for registration into societies. The Kerala State Fishermans Welfare Fund Act of 1981 created the framework for registrating the cooperation societies.

³² Kurien, John; Antonyto Paul; 'Social Security Nets for Marine Fisheries', Working Paper 318, October 2001, Centre for Development Studies, Trivandrum, India.

sheds linked to bigger companies having big storage capacity, the women get work for 10 months a year. Besides their wages, the women get no other benefit from the owners as none of the small and medium size sheds are registered with the ESI and not yet with the Shops and Establishments Welfare Board. In one of the larger sheds that operated under a company, the women explained that the owner had promised them that they would soon be eligible to ESI benefits but they had not availed of it till then.

In Aroor these women have been peeling shrimp for the last 20–30 years and they are of all ages from 25–60 years, castes and religion. These women are organised into self help groups and belong to the Women's network called the WIN Society. Except for two women who worked in factories, the rest of them worked in peeling sheds. 60% of them had three children, 2% had more than three, and the rest of them had 2 children. Half of them had daughters who were presently bearing children. Hence, the discussion on maternity covered a long period. 60% of these women had BPL cards.

80% of the women or their daughters, who had borne children in the last decade, had availed of the ICDS food supplement and also got the iron tablets. For those that had not, it was only because the anganwadi was at some distance from their place of residence. They had all received the Rs. 500 for the delivery of a girl child, some of them had received the Rs. 1000 or Rs. 700 of the JSY component. Fifty percent of those that participated in the discussions had been enrolled in the Rashtriya Swasthya Bima Yojna (RSBY) programme but from what they reported, it looked as if the designated private hospitals were exploiting them as they were made to remain in hospital for 5 days for no valid reason (even when patients recovered, they were not discharged so that the hospital could collect charges from the insurance). Most of these women had stopped work for a whole year when they had borne children in which time they had no income of their own. For the really poor, they had got back to work after 5 months, running home in between to nurse the baby or tying the baby in a cradle near the shed. These hanging cradles are visible outside some sheds.

Those that worked in larger peeling sheds which in principal should be covered by the ESI, there was no ESI cover. The owners had only just begun to talk about ESI registration. All of them had the right to be registered in the Fishermen's Welfare Board. Only a third of them were registered but none of them had made an up to date contribution. Some of them had got some benefits like the lump sum educational grant for school children, but no one had received the maternity benefit or the assistance of the famine cum relief scheme in the off season. For those who had not registered, some of them seemed ignorant of the facility while others felt it was too difficult to make the contacts and register.

In Poonthura, of Trivandrum District, 40 women participated in the group discussion all between 25–65 years of age. These women were all members of the SEWA Union. While the husbands of all these women are fishers, 40% of them were fish vendors, 25% were tailors, 30% were domestic workers and 5% petty street vendors. And 80% of them had BPL cards. 5% of the women who were older had 4 children and above, 40% of the women had three children and 55% had one or two children being among the younger group. While around 45% of the women had given birth at home to some of their children, some of the younger women also reported that they had given birth at home because they had a very good midwife in the village. Since she had passed away recently, they feel now obliged to go to the government hospital. All of them go to the district government hospital where they have good facilities. Nevertheless all of them said that they have had to pay the doctors before delivery and if there was a complication that needed some special attention. Medicines also had to be bought outside but they did get the bread, milk and eggs while they were in hospital. None of the women had received Rs. 500 that was available for the delivery of the girl child. Since three years they had received Rs. 500 under the JSY programme for delivery in hospital. There are 4

ASHA workers in Poonthura and according to the group only two of these four actually worked as per the rules.

Regarding their benefits, 2% of the group had received the nutritional substitute from the ICDS programme. They said there was provision only for 5 women to receive this facility at a time in the village. They felt that this facility should be available to all pregnant and lactating mothers. There is a government health centre in Poonthura with a regular nurse and there the prenatal health check-ups, injections and folic tablets are given free. All the BPL cardholders had already received the RSBY cards and several had benefited from this programme. Of the fish vendors, all of them had registered in the fisheries welfare fund and had received the educational grant for the children.

Broad observations from the study of the fishing industry is:

- The majority of women in the fishing sector and community belong to the unorganised sector.
- Those who fall into the category of workers in fishing allied work can be registered in the welfare board, however they are not.
- A substantial number who work for wages in the peeling sheds could be covered by the ESI or register in the Shops and Establishments Welfare Board, but they are not and only a very few that work in the processing industry on a regular basis with a salary are covered by the ESI.
- A few women of the community get the benefit of the ICDS pre and post natal care. Most of them who fall in the BPL category have been registered in the RSBY. But due to the wide spread of public health facilities, a large number of these women get maternity care free of charge from this system.
- The loss of days of work while lactating is not really compensated.

5.10 THE COIR INDUSTRY

Kerala is the home of Indian coir industry. Although there have been over 5.5 lakh persons employed in this industry earlier on, in 2008 there were only 3.83 lakh workers of which 76% were women.

The industry is organised into five different sectors, the household, cooperative, private, export and public sectors, with the household sector being the major one. It took a lot of struggle to ensure a minimum wage for the workers, which is now Rs. 100. Even now, however, it can be quite a struggle to keep the minimum wage going and sometimes the workers get as little as Rs. 60 and Rs. 70. Irregular employment is a major problem in this industry, which is one reason why coir workers are keen to belong to a union. In 2006 most of the 400,000 workers in the coir industry were organised under the Coir Workers' Centre, a CPI (M) union. According to CITU State secretary P.K. Gurudasan, only 8 per cent of the total coir workforce, around 32,000 workers, is employed in big factories. The rest are employed by small-scale entrepreneurs. Nearly 250,000 workers are organised in cooperatives.³³ In the early 1990s, state support to these societies was reduced as a result of neo-liberal policies.

The production process consists of various stages: soaking the husks, which is done by men, beating the soaked husks, sorting the fibre, making/spinning the rope, developing the products. Although some aspects of the coir production process is now mechanised women are employed in the stages that involve the manual labour and are paid on a piece rate basis and they get no other benefits unless registered in the Welfare board. Now over the past decade, the *raats* (spinning wheels) have been motorised in the cooperative sector and gradually self help groups begin to motorise the *raats* with

³³ T.K. Rajalakshmi, Frontline, Vol 23, Issue 09, May 06.2006.

loans from the banks. This has increased the productivity of women. None of these women are covered by ESI as even the coir cooperatives have approached the court on the grounds that they are unable to contribute towards the ESI as the cooperatives are not viable.

In order to get a first hand feedback regarding maternity benefits from the workers themselves a few focus group discussions were conducted in Trivandrum and Alleppey districts covering women in home, large private sheds and cooperative sectors.

In Panathura, Trivandrum District (south) 20 women coir workers gathered. These women were between the ages of 35–60 years. They had all borne 2 children and more. They stated that there were about 300 families in the village where women from around 250 families work in homestead coir units. Families that can afford to invest the money into getting machine-extracted fiber in bulk organise these units. They then employ 5–8 women from the neighbourhood who come and work on a daily basis from 8 am–12 noon and could be for another two hours in the evening. These women work in unison using hand-operated *raats* which means they have to be two in order to be productive. They earn around Rs. 40–45 a day but find it convenient as it is near their homes and they can get back in the afternoon to cook and feed the children. They have been doing this for generations.

All these workers' families are in the BPL list and are all members of the Coir Welfare Board. But they have received no benefits as they do not seem to know much about the functioning of the boards and do not pay their monthly contribution. They all benefit from the ICDS anganwadi programme for the education and nutrition of their children. Half of them had received assistance during pregnancy from the ANM and nutrition during pregnancy. Only one of these women had received Rs. 900 in the last year for delivery in the government hospital, but she did not know too much about the scheme. None of them knew anything about the other schemes and they had not seen any ASHA worker. They are also too busy to go to the Kutumbashree and hence also do not get much information. They were all members of the coir society but that is no longer functional.

In Kadinankulam-Chanankara, Trivandrum District (central) there is a big Coir society building in this village but without any work. Over 500 women in the area eke out a living in coir work in privately owned family sheds. The sheds are of different sizes employing between 10–100 workers. In one big shed where there are around 100 women workers they work more systematically for a full 8 hours and earn Rs. 80 a day. The women workers are not included in the ESI, but the regular employees in the larger sheds who are mainly men, get the ESI benefit. This is because the Small Scale Producers Cooperatives are obliged to register with the ESI. Such units engage only the males as permanent workers—who will be very few—2–3 men for around 50 women. The men collect and roll the fibre made by the women into larger bales, store and manage it.

The women in the group were between the ages of 35–65 years. All of them had borne between 2–4 children. The older ones had delivered at home and some had delivered in the government health centre 5 kilometres away. Some of the women had been to a private hospital where they had paid Rs. 1000 for a normal delivery. All these women are in the BPL category but none of them had heard about the RSBY or JSY although all of them had benefited from the ICDS nutrition programme and all their children had been in the anganwadi.

Another FGD was organised in Kadakarapally, Aroor in Alleppey District. These women belonged to a self help group called Shrishti, linked to the WINS society. These women had got assistance from the Coir Board to modernise their production process collectively in a shed. They received a loan of Rs. 41,000 of which Rs. 30,000 is a subsidy and they have 8 motorised *raats*. 11 women belong to this self help group and work collectively in the shed. They buy the raw material collectively and get their payment according to the amount of coir rope they produce. If they work for 8 hours a day, they earn Rs. 100–110. Since the shed is close to their homes, this makes work easier for them.

These 11 women were between 40 and 60 years of age and the majority had 2 children while three had three. None of them had received any maternity benefits as lump sum payments. 6 of these women had BPL cards. Only one of the women had benefited from the ICDS nutritional and medical support during pregnancy as she lived close to an anganwadi. None of them seemed to know anything about the JSY and the Rs. 500 for the delivery of a girl child. Presently, 6 of these women, the BPL group, had received RSBY cards. They know that this makes them eligible for medical benefits but they feel they are being exploited by the hospital that makes them inpatients for 5 days saying that the benefit is permissible only after that. This keeps them unnecessarily away from work.

All the women said they had to work to feed themselves and the family. They had all had a difficult time after the delivery as some of them had taken their children to the work shed very soon after delivery. Subsequently we met the Anganwadi teacher of the area and she explained that between 1995 and 1996 the panchayat provided Rs. 750 at the delivery time for two deliveries. Later in 1997 the Vishva Arogya Padathi programme commenced and the woman got Rs. 500 in the form of a Vikas Patra that would mature into Rs. 20,000 when the girl child was 18 years old. Subsequently the JSY has been introduced.

The Anjengo Coir Society, in Cheriyankil Taluk of Trivandrum District is a very long standing coir cooperative that has a membership of over 700 workers. But not all of them work in the society now as work decreased over the years and some of the women are too old to work. In the group discussion with these women (20 working in the coop and 15 working in small sheds for individual owners), 30% of them were below 40 years of age and all of them had worked in the cooperative or otherwise for more than 15 years. 25% had BPL cards although all of them said they should be on the BPL list. 4% of the women were over the age of 60 years.

All the members, working or not in the cooperative, are members of the Coir Welfare Board but they are eligible to benefits only if they pay their annual contribution of Rs. 60. They were not very sure about what and from where they got certain benefits like grants of Rs. 2000 for marriage of girls without a father, Rs. 1000 for serious illness, Rs. 1000 at the time of delivery, Rs. 1000 for educational grant for the children. This was normally secured through the cooperative secretary.

All of the women knew of the ICDS and the anganwadi programme. Many of them had sent their children to the anganwadi. But very few of them (20%) had benefited from the ICDS maternity nutrition programme as this benefit was only for a few women and mainly for those who were really poor. But a large number had received iron tablets and the tetanus shot during pregnancy, and in the earlier days, there was a check up at the primary health centre. Except for a small percentage of births that had taken place in the home of the older women, the majority of them had given birth to their children in the government Taluk hospital. They all said that this was a very good hospital where there was even a 'coir ward' with 9 beds for women which functioned very well earlier. In recent years this is defunct and they were beginning to have to pay for medicines, as there was limited stock of medicines in the hospital. Three women had received Rs. 500 at the birth of a girl child and some of them said that they knew others who were also given Vikas Patras that would mature after 18 years for Rs. 20,000 but none of them had received one. None of them had met an ASHA worker but they had heard about one. They did not know about her role. Three of these women had RSBY cards which they had received recently and knew about the medical insurance cover.

The broad observations emerging from a close examination of the coir industry is:

- The coir industry provides work for poor women but not on a regular basis and at wages below the minimum wage.
- Despite working long years in this sector, the workers still live in extremely poor conditions.

- Only a very small proportion are covered by the ESI and even those establishments that should register are not doing so as they report that the industry is not viable. It appears that the industry survives in its present state as it exploits the labour of these poor women.
- Even the cooperatives are requesting an exemption from the ESI.
- Many of the workers are registered in the Coir Workers Welfare Board but they do not seem to know much about its benefits. It is the unions that register them but there seems to be no follow-up in several areas. As their subscriptions are not up to date, they will not receive the benefits.
- It is apparent that they are most familiar with the ICDS programme from which they have benefited and got most information from the anganwadi teacher.
- In the cooperative sector the women had also better information of their rights and access to welfare.
- The ASHA workers do not seem very active in this sector.
- The existing public health facilities have been to their advantage and the new RSBY programme provides protection for health and receiving maternity benefit.

5.11 THE CASHEW INDUSTRY

The economic and political importance of the cashew industry is based on the great number of workers it employs and the amount of foreign currency it brings into the country. In 1941 cashew workers accounted for 45% of the registered factory workforce in erstwhile Travancore. Since then the number has fluctuated reaching 60% at its peak but never declining below 30%.

Since the 1960s, an overwhelming majority of all cashew workers are women. Cashew workers have been organised in trade unions since 1939 and women have used their bargaining power to demand their rights. Nevertheless studies show that 80% of the cashew workers live below the poverty line—a figure much larger to the general population in Kerala.³⁴

The production process from the raw kernels to the processed nut has several stages: roasting, shelling, drying, peeling, grading and packing. Not much change or improvement has taken place in this production process except for improved roasting drums. Roasting is the monopoly of men today although it was a joint effort earlier. The sexual division of labour has largely remained as follows: Shellers—constituting 42% of workers are all women Peelers—45% (of workers) are all women, Graders-8% (of workers) are all women, Roasters and packers-5% (of workers) are all men.

Since 1970, the cashew industry has had two distinct sectors: public (Kerala State Cashew Development Corporation and Cashew APEX the apex of the cooperatives) and private. The private sector is further split into large concerns and small companies. Workers and trade unions have declared that without exception that minimum wages and all other benefits (such as sick leave, vacations, maternity benefit, bonus and contributions to welfare funds) have to be paid in all private factories. Fringe benefits have grown to where they constitute about 45% of basic wages. In her study in 2000, Anna Lindberg states that many women acknowledged they had received bonuses and remuneration from welfare funds. But many others testified that these benefits had been withheld after they were told their annual working days were too few, or that they were not registered workers.³⁵

³⁴ Anna Lindberg's interviews with The Kerala Cashew Workers Welfare Board in Quilon: in *Experience and Identity, a historical account of class, caste and gender among the cashew workers of Kerala 1930–2000*, Studia Historica Lundensia, Malmö, 2001, p. 26.

³⁵ Lindberg, Anna 'Experience and Identity, a historical account of class, caste and gender among the cashew workers of Kerala 1930–2000', *Studia Historica Lundensia*, Malmö, 2001 pp. 242.

When minimum wages were introduced in 1953, a putting out system also evolved—called *kudivarappu* in which case the workers are permitted to take the shelled nuts home for peeling. Initially the women earned only half the minimum wage when they worked at home. In 1967 a bill was proposed, declaring cashew processing in places other than registered factories illegal. But the practice continues even to this day. Interviews with some home workers revealed that they are paid a higher wage than stipulated for the work but no deductions are made and they are entitled to no benefits because they get no other benefits from the employers. These women say they prefer this as they can care for home chores, protect the grown up girls in the family while also earning. Retired women (after 58) also continue to work at home while they are entitled to welfare fund pensions.

Kerala state created the Cashew Development Corporation (KSCDC) in 1969 and opened its own factory in 1971. It then gradually took over private factories and by 1988, 70 factories were under this Corporation with a total of 54,860 workers making the KSCDC the largest employer and processor in the state. At present, it has 30 factories and the KSCDC provides employment to around 20,000 workers. Of the present strength of 18874, 17792 are Female and 1082 are male. Today, the industry is in a more robust situation with the workers getting a minimum of 200 days of work and even complains of a shortage of workers.

The women workers are covered under the Maternity Benefit Act and ESI Act. In the last five years, according to the KSCDC the following number of women workers received Maternity benefits.

TABLE 5.27:
Number of Workers in KSCDC Receiving Maternity Benefits

Year	2005	2006	2007	2008	2009
Number	52	71	114	134	187

Information given by the Cashew Development Corporation.

A detailed study of a private factory in Kottayam, Quilon District, was undertaken. This private factory, one of many under the same ownership, engages 300 women and 8 male workers and has been in existence for over 30 years. It houses all the four stages of cashew process. The roasting process is mechanised and managed by men now although there are still women who work in the factory who were engaged in the roasting in the manual phase. The shelling is all done by women who sit on their haunches, working with their bare hands and who are paid on a piece rate base. They work for 8 hours and earn Rs. 90–120 at the end of the day. The manager says they have difficulty to get women to work at this job now. The women who work in the peeling sit on the ground in a cleaner surrounding than the former but also work with bare hands peeling the nuts while simultaneously separating them into different basins depending on the size of the piece which range from the unbroken full size kernel to a tiny piece of nut—about 8 sizes in all. They are also paid on a piece rate, which is higher than the former, and they earn from between Rs120–130 a day. The graders, all women, work in-group and are paid for the number of crates they grade each day. Nevertheless no women are willing to do the shelling work now as women have more education now and see such work as drudgery that is so poorly paid.

All these women are extremely happy with their work and their benefits as all are covered by ESI, get their bonus and contribute towards PF and will finally get a pension as well. They are happy too for the cash payments they get for three months after delivery. The factory provides a crèche facility where they can bring their babies and they are entitled to feeding breaks. Most of them return to work only after 5–6 months. So there are still 2–3 months when they are without monetary earnings. But the entire earnings of these women after years of work are very meagre, the take home being between Rs. 3000 to Rs. 3500 for six days of rigorous labour. Although the workers seem to have dignity of labour, their living conditions are still extremely poor.

In Kayankulam, also in Quilon District, two FDGs were done, one with a group of 30 old women who had all worked in factories that were under CAPEX and 20 women who worked at home. The discussion with the old women revealed a pathetic story. They had worked in the cashew factories since they were young girls. Only two of them knew how to read. The factories that they worked in were either converted into cooperatives in the 1980s or were taken over by the KSCDC. At that time they were members of the ESI. Most of them were dismissed when they were considered to be sixty at which time they were given their PF but no gratuity. 120 of them had filed a case for gratuity, had got a favourable judgment from the High Court but have not received it yet. The management says it pays gratuity only for the years in which the factory was taken over. After 35–40 years of work, in the booming cashew industry, they are poor and desperate. As they get older they have no security cover except that they receive the Rs. 250 a month as pension as members of the Cashew Workers Welfare board.

Talking to the women who work at home, they are entitled to no benefits as workers but the older ones had registered in the Cashew Workers Welfare Board. They were between the ages of 22–65. The younger ones said they worked at home so that they could take care of their children who had been born in the government hospital. They had received no assistance from the state at this time. They planned eventually to work in the factory. Some of the older women had worked in factories and had received ESI benefits but this was not valid after retirement when it was also most needed. They had borne their babies before they were registered in the ESI so they had received no maternity benefit. One of them had received assistance from the local nurse and remembers to have received food grains from the health centre. The other women had always worked at home as they also had some animals at home that they cared for or had an old parent to look after besides house chores. These women were members of the Cashew Workers Welfare Board. None of them knew either about the JSY or the RSBY.

The discussion with women in the cashew industry highlighted the fate of the women who keep this industry going. While the state and the private industrialists feel they play an important role in importing the raw nuts so that workers can have work, the fact remains that a substantial amount of foreign exchange is earned by the export of these nuts and yet the workers are paid only the minimum wage.

Broad Observations from the field study of the industries—fishing, coir and cashew are:

- In all these three sectors, where there are numerous women workers, the wages are very low and the cover of welfare benefits meagre.
- In today's context, when even the NREGA pays Rs. 120 a day, women in these traditional industries still earn a pittance.
- Most women workers, and all in the organised sector of the cashew industry, are entitled to the ESI. But the three-month coverage of cash payments is insufficient for women as they cannot leave the child at home unless there is someone to care at home. Not all factories provide the crèche facilities and even if they do, women are reluctant to bring the children as early as three months.
- There are a substantial number of workers who work at the household level too. Assessing this number is not easy. They are not covered by any social security measures and neither have they benefited from the RSBY registration as they are scattered. There is still demand for workers in this sector although the total days of employment fluctuate from 175–200 days a year.
- The coverage of welfare and that of maternity in particular is minimal.

5.12 RECOMMENDATIONS

Since the bearing and rearing of children is a social responsibility that women undertake in society, it is only fair that the entire society supports women in this task. Moreover, every woman regardless of the work she undertakes and regardless of the sector in which she is employed, should have a right to

equitable support at maternity. The state should therefore devise means by which this support can be given to all women.

Based on the study that had attempted a secondary data review, consultations and field based interviews and focus group discussions, the following recommendations are being made:

- Make good maternity services available and accessible to women free of cost. Hence the infrastructure for maternity should be enhanced at the public health levels.
- This should be accompanied by a cash payment for the three months in which a mother is indisposed to undertake other work.
- There should be a better unification of schemes that presently provide such cash benefits. The amount should be commensurate with living costs.
- The ESI notified areas should be expanded. The workers contribution toward ESI could have a fixed upper limit so that those workers earning at the higher levels do not feel discouraged to contribute and opt for a private insurance instead.
- The ESI dispensary/hospital network should be more widespread and better equipped so that employees can have easier access making their contributions more meaningful for regular medical assistance too. The ESIC could also provide some well equipped 'model' crèches in industrial areas so that the women workers could avail of them.
- The ESIC should make sure that all establishments collecting contributions should make the remittances to the Corporation so that the workers are not deprived of benefits.
- Mobile crèches, on the basis of the NGO mobile crèche programme could be developed with the support of the ESIC in other areas so that working mothers can also go safely back to work.
- All private schools and hospitals should be brought under the purview of the MB or ESI Act.
- The maternity cover for all the workers should be the same. Presently, there is no uniformity in the maternity cover in the Welfare Boards. The model of the Kerala Shops and Establishments Welfare Board could be followed as it not only helps to register workers but is a viable payment for small establishment owners. Through such a mechanism, the government can also channelise the maternity cess collected so that workers get a fair allowance at the time of maternity.
- Some streamlining is necessary between the ICDS and the NRHM with regard to the execution of the JSY. Moreover, for the poorer women who do not have the identity of a worker, the ICDS should make the food supplement available to all lactating mothers—regardless of caste. This programme should be monitored by a people's committee on which there are women who also work on issues of health and reproductive rights.
- It should be made mandatory that workers in the IT sector, no matter how small the enterprise, be covered by maternity benefits as per the MB Act.
- Provisions should be made for paternity leave, not necessarily with added cash payments, for 20 days at the time of delivery.

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We are Unaided
Are School teachers not women!
Does our motherhood not have values?

തങ്ങൾ അണുപുറയ്ക്കൽ സ്കൂളിലെ ടീച്ചർമാർ സ്ത്രീകളല്ലേ! തങ്ങളുടെ മാതൃത്വത്തിന് വിലയില്ലേ?

പ്രസവവധി ചോദിച്ചാൽ പല അണുപുറയ്ക്കൽ സ്കൂളിലെ ടീച്ചർമാർക്കും പണിപോകുന്ന അവസ്ഥ!

നവംബർ 10-ാം തീയതിയിലെ മെട്രോ മാസികയിൽ നൽകിയ റിപ്പോർട്ട് വായിച്ചപ്പോഴാണ് ഈ കത്ത് എഴുതാൻ എനിക്ക് പാഠമുണ്ടായത്.

സർക്കാരിൽ ഇപ്പോൾ പ്രസവവധി ആവശ്യമാണ്. മേത്ര സർക്കാരിൽ ഏതാണ്ട് ഒന്നര വർഷമാണ് (ഗവണ്മെന്റുകൾ). എന്നാൽ തങ്ങളെപ്പോലെ പാവപ്പെട്ട അണുപുറയ്ക്കൽ സ്കൂൾ ടീച്ചർമാർ അവധിയെടുക്കാം, പിന്നെ ജോലിയില്ല. ഗവണ്മെന്റ് ഇല്ല. പ്രസവവധി തന്നാൽ തന്നെ അങ്ങനെയൊരു സാഹചര്യം ഉണ്ടാകില്ല. (കുട്ടികളിൽ നിന്നു 12 മാസവും ഹിസ് വാങ്ങുന്നു)

തിരുവനന്തപുരത്തെ പ്രമുഖ സിബിഎസ്സ്കൂളിൽ ഏഴു വർഷമായി ഞാൻ ജോലി ചെയ്യുന്നു. എനിക്ക് ഇതുവരെ ഒരു വെക്കേഷൻസാലാരിയോ, മെറ്റേണിറ്റിസാലാരിയോ (രണ്ടു പ്രസവം) കിട്ടിയിട്ടില്ല. ഗവണ്മെന്റ് ചട്ടപ്രകാരമുള്ള ഗവണ്മെന്റ് പിഎഫ്ഡി ഇഎസ്എസ്സ്കൂളിലും അങ്ങനെയൊരു സാഹചര്യം ഉണ്ട്. ഞാൻ അങ്ങനെയൊരു സ്കൂൾ ടീച്ചർ ആയിട്ടില്ല. അതു മാത്രമല്ല തന്നെ പിൻവലിക്കുന്നു. എഎസ്സ്സ്കൂൾ സിബിഎസ്സ്കൂളിലെ സ്കൂൾ ടീച്ചർമാർക്ക് മാത്രമായി സിബിഎസ്സ്കൂളിലെ മാതൃത്വം കൊണ്ടു അങ്ങനെയൊരു കഴിയുന്നില്ല. വെറും 25000 രൂപ മാത്രമാണ് ഇങ്ങനെയുള്ള പ്രമുഖ സ്കൂളുകൾ നൽകുന്നത്. ഇതിനെതിരായി അങ്ങനെയൊരു സാഹചര്യം ഉണ്ടാകാൻ അങ്ങനെയൊരു ജോലി നൽകണം. മാതൃത്വം കൊടുക്കാൻ മേട്രോ സർക്കാരിൽ 150 രൂപ മാത്രമാണ് കട്ട് ചെയ്യുന്നത്. ഈ അവസ്ഥ മനോരമ വിഭാഗത്തിൽ മാതൃത്വം നൽകാൻ സാധിക്കും. പ്രമുഖ സ്കൂളിൽ മാതൃത്വം നൽകാൻ അങ്ങനെയൊരു സിബിഎസ്സ്കൂളിൽ 25% പിഎഫ്ഡി അഞ്ചു ശതമാനം ഇഎസ്എസ്സ്കൂളിലും ഈ പാവപ്പെട്ട അധ്വാനകരുടെ ശമ്പളത്തിൽ നിന്നാണ് കട്ട് ചെയ്യുന്നത്.

മാതൃ ഗോപൻ

25-11-2009
Malayala Manorama (Metro)

6.1 INTRODUCTION

Any discussion on Maternity Benefits needs to be located within the context of the work that women do and how visible their work is within the economy. A policy relating to Maternity Benefit is conditioned by the way 'work' is defined, especially in the context of social reproduction, that implies our need to accept the fact that despite more women working as breadwinners the unpaid care work continues to be their primary responsibility. On the one hand there is a remarkable resistance to ensure equitable distribution of domestic work within households, on the other policy interventions fail to recognise this very important contribution of women to the economy and factor in appropriate services for women at workplace like crèches, feeding breaks and other child care facilities. These should be a major requisite for Maternity Benefit entitlements for women.

A geographical area of 308 million sq km and a population of around 100 million make Maharashtra the second largest State in India. Considered an economic powerhouse, the State is highly urbanised and industrialised. With a Gross State Domestic Product (GSDP) at current prices (2007–08) of Rs. 5,909,950 million accounting for 13 per cent of the country's Gross National Product and a per capita income equivalent to US\$800, Maharashtra is also India's richest state. The State's manufacturing and rapidly expanding service sector together contribute around 85 per cent of the GSDP. It has a large pool of skilled and unskilled labour and the streamlined financial markets made it an early industrial powerhouse in India. During the year 2007–08, about 27 per cent of the national export was from the Maharashtra. Agriculture and allied activities sector is the laggard contributing just 11 per cent to the State's income though about 55 per cent of the population is dependent on this sector.³⁶

A look at the literacy rates shows overall a higher achievement in terms of the national figures. In 2001, the overall literacy rate was 77% with male literacy at 86.27% and female literacy at 67.5%. However, the combined expenditure of central and state governments is around Rs. 3,000 crore, less than one tenth of one per cent of India's GDP. This is a minuscule allocation, bearing in mind that children under six account for about 15 per cent of the population.³⁷

The aura of economic growth cannot hide the fact that Maharashtra also has 12 of the country's 100 poorest districts and, beyond the urban areas; the hinterland is struggling with deep poverty.³⁸ Maharashtra continues to have a larger proportion of its population living in rural areas (5.58 crore) as compared to 4.11 crore in urban areas.³⁹ One-fourth of the state's total population lives in

³⁶ Economic Survey of Maharashtra 2009–10.

³⁷ <http://planningcommission.gov.in/reports/sereport/ser/mpissb/mpissbexec1.htm>.

³⁸ Economic Survey of Maharashtra, 2009–10.

³⁹ Ibid.

deprivation, with inequalities being sharpest among the socially marginalised sections. Economic growth in the state has also invisibilised the fact that it is women and children who are contributing to this growth as labour in the unorganised sector, working in extremely exploitative conditions, with no protection. According to a study done by Sundaram (2000), the employment of unorganised labour was about half the total employment in the 1960s and rose sharply during the 1970s due the industrial policy of discouraging large industries. The informal economy rose to 66% by 1991 and has been increasing due to introduction of economic reforms.⁴⁰ According to estimate, the informal sector contributes 40% of the gross national product. This has serious implications for women and children who are seen as easily available labour working at odd hours without the need for social security measures.

Despite being a leader in introducing pro-active policies for women huge gender disparities are in evidence in the state. Gender discrimination is starkly evident in the sex ratios of Maharashtra which brings out startling figures of gender inequality as well as gender inequity. The overall sex ratio (2001) is 922 compared to the national average of 933. The 0-6 sex ratio of girls was 945 in 1991 and by 2001 this had reduced to 913 girls confirming the truth about increasing usage of modern technology to screen at embryo stage to eliminate girls. The PNDCT Act barring the test seems to be only on paper. Gender disparity remains high in terms of literacy achievements: female literacy is only 67.5 per cent compared to male literacy of 86.27 per cent. There has been some improvement in health indicators since 1991 Census and according to the SRS (sample registration system) data, infant mortality rate was 34 for every 1000 live births as against the all India average of 60 (SRS-2004–2006). At the same time according to NHFS-2 (National Family Health Survey) almost 50% of children in Maharashtra are malnourished, which is indicative of the fact that development in Maharashtra is skewed.⁴¹ The allocation for ICDS (Integrated Child Development Services) in the Union budget 2004–05 is barely Rs. 1,600 crore (up from Rs. 1,444 crore in the 2003–4 budgets).

Summarising, despite robust economic growth and a tradition of the pro-women policies, the human and gender development markers of the State leave much to be desired. Sharp urban rural divide and the huge regional imbalance and in development and chronic poverty characterise the State. Maharashtra's prosperity is concentrated in Mumbai and the other industrial and commercial cities of Thane, Pune, Nagpur and Nasik while the State's villages eke out a living on the fringes (Maharashtra Development Report, 2007).

6.2 POVERTY IN MAHARASHTRA-IMPLICATIONS FOR WOMEN WORKERS

The State has the third largest population of the poor (31.74 million) next only to Bihar (36.92 million) and Uttar Pradesh (59 million). The poverty ratio for the State (2004–05) is 30.7 per cent, higher than the All India ratio (27.5 per cent) by 3.2 percentage points. Poverty reduction in the State has also progressed at a slow pace since the 1990's. In 1993–94, Tamil Nadu and West Bengal had higher incidence of poverty than Maharashtra. However, by 2004–05, poverty had declined relatively more rapidly to lower levels in the other two States. There has, in fact, been an increase from 30.52 million to 31.74 million in absolute number of people below the poverty line (BPL) in Maharashtra during this period. Increasing poverty implies not only an increase in the number of poor women but also an intensification of the experience of poverty. Since poor women cannot afford to remain idle and needs must work, this in turn increases the size of the segment of the population which requires public provision of maternity benefits.

⁴⁰ Sundaram, SKG. (2000). Organisations Working for Unorganised Labour-The Case of Mumbai. Friedrich Ebert Stiftung. Mumbai.

⁴¹ <http://hetv.org/india/mh/healthstatus/nfhs2-findings.html>.

A closer look at the workforce participation of women continues to reveal this gender disparity. Women's presence in the workforce may have increased but there is a growing shift towards 'feminisation of labour'⁴² within Maharashtra.

6.3 TRENDS IN WOMEN'S WORKFORCE PARTICIPATION

According to the 2001 Census, there are a little over 14 million female workers in Maharashtra. They constitute 35 per cent of the total workforce. *A larger percentage of female workers (8.6%) are marginal workers compared to their male counterparts (4.9%).* The incidence of marginal workers is higher in rural areas (9.7%) than in urban areas (2.6%), which may be attributed to the fact that agriculture and allied activities are seasonal in nature. According to an analysis done in the Economic Survey of Maharashtra (2002–03), work participation rates among women have increased in rural and urban areas (46% in rural and 11.4% in urban in 1991, which has changed in 2001 to 46.5% in rural to 12.7% in urban) between the last two Censuses. According to NSS estimates there were 16.5 million female workers in 2004–05 of whom 13 million or 78 per cent worked in rural Maharashtra. Workers in the reproductive ages that is 15 to 49 numbered 14 million constituting 84 per cent of the female workforce. Work participation rates (UPSS WPR) for women in the state are higher (47.4 in rural and 19 in urban) than the corresponding rates for the country as a whole (32.7 in rural and 16.6 in urban) (Table 1). Work participation in 2004–05 also increased over 1993–94 levels. It is important to note here that in contrast to All-India trends, the increase was primarily in principal status. This was true of both the rural and urban sectors. This is a positive aspect of women's employment in Maharashtra.

TABLE 6.1:
Work Participation rate by gender and location- Maharashtra 1993-94, 2004-05 and 2009-10

	Rural			Urban		
	Male	Female	Total	Male	Female	Total
1993-94						
LFPR (UPSS)	55.8	47.8	51.8	54.9	17.7	37.3
WPR (UPS)	53.7	40.4	47.1	52.0	13.7	33.8
WPR (UPSS)	55.1	47.7	51.4	52.6	16.9	35.6
2004-05						
LFPR (UPSS)	57.5	47.5	52.7	58.0	19.8	39.9
WPR (UPS)	55.3	42.3	49.0	54.8	16.2	36.5
WPR (UPSS)	56.6	47.4	52.1	56.0	19.0	38.4
2009-10						
LFPR (UPSS)	58.1	39.7	49.1	59.2	16.7	39.2
WPR (UPS)	56.6	35.4	46.3	56.9	14.1	36.8
WPR (UPSS)	57.6	39.6	48.8	57.5	15.9	38.0

Source: Compiled from NSS Report No. 409, 515, and 537

In terms of sectoral distribution of the female workforce, according the NSS (2004–05) 91 per cent of rural and 14 per cent of urban women are entrenched in agriculture. Manufacturing accounted for 3 per cent of rural and 24 per cent of urban while the service sector employed 6 per cent of rural and 61 per cent of urban female workforce.

⁴² Kabeer, N. (2007). Marriage, Motherhood and Masculinity in the Global Economy: Reconfigurations of Personal and Economic Life, IDS Working Paper29, Institute of Development Studies, Sussex, UK.

As a percentage of total female workers, organised workers constitute between 3 and 4 per cent implying that the unorganised sector accounted for 97 per cent according to estimates of Government of India's, Annual Review of Employment, 2001–02). *In fact women workers in Maharashtra formed slightly more than 15 per cent of the total employment in the organised sector.* Of this around 64 per cent were in the public sector while 36 per cent were in the private sector. Within the organised sector, women's employment as a proportion of total employment in the factory sector (manufacturing and repairs) has remained stagnant in the range of 6 to 7 per cent for a long time (Economic Survey of Maharashtra 2005–06). Thus a large proportion of women workers in the organised sector are in the service sector.⁴³

In terms of type of activity undertaken, for women in rural Maharashtra, self employment (52%) followed by casual labour (46%) are the most important categories of employment and regular employment is the least (2.5%) important. In urban parts of the State however, regular employment (44%) followed by self employment (36%) predominate and casual labour (20%) absorbs the smallest proportion of women.

6.3.1 The Unorganised Women Workers of Maharashtra

According to an analysis by Kabeer (2003) with increasing globalisation the last 30 or more years, the global economy has been in an era market de-regulation and growing labour market flexibility, where new technologies have transformed forms of work-organisation and patterns of labour-force participation worldwide. This has given way to a growing type of employment which is characterised by "informalisation" of employment, through outworking, contract labour, casual work, part-time labour, homework and other forms of labour unprotected by labour standards. With this 'informalisation' process there have been an increasing number of women being pushed to the bottom of the pyramid in work forming the larger workforce pool within the informal economy.

The NCEUS Report (Sept 2007) gives a greater insight into the data on women workers in the unorganised sector for the State. It distinguishes between workers in the *unorganised sector* and *unorganised workers*: 90.4 per cent of women workers are in the unorganised sector while unorganised female workers constitute 95 per cent of their workforce. This indicates that 4.6 per cent of women work as unorganised workers in the organised sector.

The largest segment of unorganised workers consists of agricultural workers—cultivators as well as agricultural labourers. Around 77 per cent of the State's female workforce is in agriculture: 5.13 million or 36 per cent of the female workforce work as cultivators and 5.39 million (41 per cent) as agricultural labourers. The bulk of the households to which these women belong (72%) have less than 1 ha of land; of this, 48 per cent are landless (NSS 61st Round). Maharashtra is a water scarce state. Thus agriculture is dependent on the vagaries of the monsoon and a large proportion of households, mostly the small and marginal farmers and agricultural labourers are unable to meet their survival needs from agriculture. Migration due to distress—rural-urban and rural-rural, especially of tribes is an established feature in the State. *Entire families with small children abandon their villages to survive. Many are engaged by sub-contractors who double as commission agents for the contractors of large corporations and government undertakings... Others migrate under conditions of seasonal bondage to salt pans, brick kilns, on fishing boats, and for sugarcane cutting to repay consumption loans taken during the cultivation season* (Maharashtra Development Report 2007:217). Women form an important part of migrating families but have little status as workers and suffer from

⁴³ Source: Annual Review of Employment www.dget.nic.in.

many gender-specific problems such as, among others, lack of access to medical care during pregnancy and childbirth and sexual harassment at the destination.

Even within the agricultural sector, there has been a decline in the quality of employment. According to the Economic Survey of Maharashtra (2009–10) the proportion of main workers in agriculture and allied activities declined from 55.9 per cent in 1991 to 45.1 per cent in 2001. It shows that there is a shift of work force from agriculture to other sectors (*cultivators and agricultural labour-cultivators are those who own land and work on the farm but agricultural labour refers to wage labour employed by land owners; as holdings are very small cultivators also work as agricultural labour for wages*). At the same time though the percentage of cultivators declined to 41.7% in 2001 from 46.7% in 1991, there has been a marginal increase in the agricultural labour from 37.4% in 1991 to 38.4% in 2001. Overall as well, the percentage of main workers has declined from 91.4 to 84.3 during 1991–2001 and proportion of marginal workers registered substantial increase from 8.6 per cent in 1991 to 15.7 per cent in 2001. For the Scheduled Castes who constitute 10.2% of the total population, the work participation rates have also shown similar shifts. ***There has been a decline in the main workers among the SCs from 92.5 per cent at 1991 Census to 81.9 per cent at 2001 Census. This, in turn, has resulted in corresponding increase in the marginal workers among the SCs from 7.5 per cent in 1991 to 18.1 per cent in 2001.*** Out of the total workers, ‘agricultural labourers’ constitute 46.1 per cent, which is higher than 45.6 per cent for SC population at national level. Among the SCs ‘other workers’ account for 37.3 per cent. Only 12.9 per cent has been returned as ‘cultivators’; remaining 3.7 per cent have been workers in ‘household industry’.

In Maharashtra the Scheduled Tribe population is 8.9%. A look at their work participation rates shows similar trends as in the case of the SCs. There has been a decline in the main workers from 91 per cent in 1991 to 76.9 per cent in 2001 Census. This has resulted by corresponding increase in the marginal workers from 9 per cent in 1991 to 23.1 per cent in 2001. Out of the total workers, ‘agricultural labourers’ constitute 50.7 per cent, which is higher than 36.9 per cent registered among ST Population at the national level. ‘Cultivators’ accounts for 30.6 per cent and only 17.5 per cent have been returned as ‘other workers’. Remaining 1.3 per cent have been workers in ‘household industry’.

Thus it seems that women, SCs and STs in Maharashtra are shifting from secure occupations to more insecure occupations even within the unorganised sector with seasonal work and unprotected occupations, which are irregular in nature. Clearly then while locating and examining maternity protection the emphasis has to be to examine laws and schemes which ensure the same for unorganised workers and unorganised sectors.

6.3.2 Manufacturing Sector

In Maharashtra the unorganised manufacturing sector employs 2.90 million workers of which women number 0.65 million or 22.4 per cent. Of the total number of female workers in this sector (both rural and urban), 0.38 million or 58.5 per cent are working owners; 94 per cent of these (0.36 million) are one-woman enterprises, where the owner doubles as worker. Unpaid female family helpers number 0.18 million (28.9%) and female hired workers 0.82 million (12.6%). In terms of time spent 0.36 million or 55.56% are full time workers.⁴⁴

6.3.3 Service Sector

The service sector has become an important source of employment for women, next only to agriculture. Data on employment in the service sector is not available separately for the organised

⁴⁴ Source: NSS Report No. 524 and 525.

and unorganised sector. According to the NSS Survey of Service Sector (2006–07), there are 1.49 million service sector enterprises (excluding trade) of which 37 per cent are in the unorganised sector that is, they are not registered under any Act or Authority. This sector employs 3.39 million workers of which women number 0.77 million or 22.75 per cent of total employment. More than half the women working in this sector (56.11%) are full time workers.⁴⁵

6.4 COVERAGE OF PROGRAMMES/SCHEMES RELATED TO MATERNITY

Although per capita expenditure on health services in the State at Rs. 172.04 in 2007–08 was high compared to Rs. 126.98 spent at the national level, health spending amounted to a mere 0.31 per cent of the GSDP. Expenditure on health and family welfare (at current prices) has remained stagnant in the last 5 years at around 3.7 per cent of the total revenue expenditure. The slow growth in public expenditure is reflected in many ways. There is a dearth of medical personnel manning public health facilities especially in rural areas. There is a mismatch of facilities, especially for delivery, and availability of medical personnel at the various levels of the medical infrastructure. *A key element of most of the schemes that are being discussed have a targeted approach and benefits are given to women in the BPL categories only. They are not universal in nature except for ICDS and NRHM.*

Whereas 80.4 per cent of the villages surveyed under the Directorate of Health Services, (GOM) had beneficiaries under the Janani Suraksha Yojana (JSY), no more than 10 per cent of the villages had an Accredited Social Health Activist (ASHA), the village level health worker who is responsible for encouraging women to go to institutions for delivery. Less than 65 per cent of villages are within 3 km of a Sub-Centre (SC), the closest medical help available in the form of an Auxiliary Nurse Midwife and within 10 km of a Primary Health Centre (PHC), the closest institutional facility for delivery. While 78 per cent of the PHC's function around the clock, only 31 per cent have a lady medical officer; only 45 per cent have facilities for new born; and only 47 per cent have referral services for pregnancies and delivery. This kind of imbalance is visible through the other layers of the system as well, increasing the risks of death and morbidity in the course of pregnancy and childbirth. The low growth in health expenditure is also reflected in the poor utilisation of funds under various centrally sponsored programmes (Economic Survey of Maharashtra 2008). The two major programmes that target mothers are the Integrated Child Development Services (ICDS) and the Janani Suraksha Yojana under the Reproductive and Child Health Programme, Phase II (RCH II). Besides these, the Government of Maharashtra also funds the Navsanjivani Yojana and its component the Matrutva Anudhan Yojana. Table 2 show the declining trends in the expenditure incurred on some of the important health programmes.

TABLE 6.2:
Expenditure Incurred on some Important Health Programmes

Programmes	Expenditure (Rs. Crore)			
	2006–07	2007–08	2008–09	2009–10 (upto Oct. 09)
Family Welfare Programmes	195.02	191.87	262.40	121.88
Reproductive and Child Health programme Phase II	40.53	99.22	177.16	52.16
National Rural Health Mission	8.89	121.93	120.90	60.60
Jeevandayi Arogya Yojana	8.86	19.83	23.44	5.96
Matrutva Anudan Yojana	8.19	7.01	7.15	7.34

Source: Directorate of Health Services, Government of Maharashtra.

⁴⁵ NSS Reports 428 and 429.

6.4.1 Integrated Child Development Services

By the end of November 2009, there were in all 81,981 AWC's in operation in the State. The implementation of the ICDS in the State is monitored by Child Development Project Offices (CDPO's) at the taluka/block level. There were as of November 2009, 84,241 AWCs, 7,296 mini AWCs and 472 CDPOs in operation in the State out of 97,462 AWCs, 11,567 mini AWCs and 553 CDPO's sanctioned.

The Supplementary Nutrition Programme (SNP) is an important component of the ICDS. The SNP aims to provide nutritious diet to children below six years of age as well as pregnant and lactating women belonging to the disadvantaged sections of the society. It also aims to control malnutrition situation in remote and sensitive areas and to minimise the infant mortality rate.

6.4.2 Janani Suraksha Yojana

Janani Suraksha Yojana (JSY) is being implemented in the State since 2005–06 with the objective of reducing maternal and neonatal mortality by promoting institutional deliveries among the poor pregnant woman. Maternal Mortality Ratio (MMR) of the State has reduced from 149 during 2001–03 to 130 during 2004–06. The scheme is applicable at all Sub Centres, Primary Health Centres, Rural Hospitals, Sub-District Hospitals, District Hospitals, Accredited Hospitals, Hospitals under Medical Colleges, Municipal Corporation Hospitals and all Government aided hospitals. Under the scheme, for urban area, Rs. 600/- and for rural area Rs. 700/- is given to the beneficiary after delivery in the institution within 7 days while for home delivery amount of Rs. 500/- is given to the beneficiaries having upto two living children. The number of beneficiaries under JSY in 2008–09 was 2.24 lakh women and the sanctioned amount and expenditure incurred was Rs. 28.30 crore. In 2009–10 (upto October 2009) the number of beneficiaries covered was 1.01 lakh and expenditure out of the total sanctioned is so far 13.03 crore.⁴⁶

6.4.3 National Rural Health Mission

National Rural Health Mission (NRHM) was launched on 12th April, 2005, to provide accessible, affordable and accountable quality health services to the poorest households in the remotest rural areas. NRHM further aims to provide overarching umbrella to the existing programmes of health and family welfare including RCH-II, malaria, blindness, iodine deficiency, filaria, tuberculosis, and leprosy and for integrated disease surveillance.

6.4.4 Navsanjivani Yojana

To reduce maternal mortality and infant mortality in tribal areas, the State government initiated the Navsanjivani Yojana in 1995–96. Implemented in 15 tribal districts up to 2007–08, it is now being implemented in all the districts of the State. Besides provision of basic health services and safe drinking water supply, the Health Department, the implementing agency for this scheme, has introduced two innovative initiatives:

1. Appointment of Pada Volunteers on voluntary/part time basis in each hamlet in the 15 districts where the scheme is being implemented. There are, at present about 10,816 Pada Volunteers.
2. Constitution of 172 Mobile Medical squads with one medical officer with a vehicle and para medical staff, to go to each village and hamlet to identify malnourished and sick children and provide medical health at their homes and if required also shift them to the nearest help centre.

⁴⁶ Source: State Health Family Welfare Bureau, Government of Maharashtra in Economic Survey of Maharashtra, 2009–10.

Appropriate medical treatment or intensified food supplementation is given to all children. At the end of October, 2009 there are 165 mobile medical squads appointed and the expenditure incurred was Rs. 2.68 million.

6.4.5 Matrutva Anudan Yojana

It seeks to encourage institutional delivery in tribal areas and provide for antenatal care. The benefit under this scheme consists of medicines worth Rs. 400 and cash of Rs. 400, given in the form of a cheque at the time of discharge after delivery from a public medical institution. This scheme was implemented as a component of the Navsanjivani Yojana in 15 tribal districts only until 2007–08. It has now been extended to all districts and all mothers. Matrutva Anudan Yojana for tribal beneficiaries is continued under Navsanjivani Yojana. During 2008–09, 1.17 lakh mothers were benefited and expenditure of Rs. 7.15 crore was incurred. During 2009–10, upto December 2009, 0.54 lakh mothers were benefited and expenditure of Rs. 2.17 crore was incurred.⁴⁷

6.4.6 Rashtriya Swasthaya Bima Yojna

RSBY is a Central Government Scheme announced by the Prime Minister Manmohan Singh on the previous year's Independence Day (August 15, 2007). It is a new health insurance scheme for the Below Poverty Line (BPL) families in the unorganised sector. The objective of RSBY is to provide the insurance cover to below poverty line (BPL) households from major health shocks that involve hospitalisation. About 75 per cent of the money is provided by the Government of India (GOI), while the remainder is paid by the state government. State governments have to engage in a competitive bidding process and select a public or private insurance company licensed to provide health insurance by the Insurance Regulatory Development Authority (IRDA). The insurer must agree to cover the benefit package prescribed by GOI through a cashless facility that in turn requires the use of smart cards which must be issued to all members. This requires that a sub-contract be arranged with a qualified smart card provider. The insurer must also agree to engage intermediaries with local presence such as NGOs, etc., in order to provide grassroots outreach and assist members in utilising the services after enrolment. The insurer must also provide a list of empanelled hospitals that will participate in the cashless arrangement. These hospitals must meet certain basic minimum requirements (e.g., size and registration) and must agree to set up a special RSBY desk with smart card reader and trained staff. The list should include public and private hospitals.

BPL families are entitled to more than 700 in-patient medical procedures with a cost of up to 30,000 rupees per annum for a nominal registration fee of 30 rupees. Pre-existing medical conditions are covered and there is no age limit. Coverage extends to the head of household, spouse and up to three dependents. However if the bill goes beyond Rs. 30,000 then the beneficiary has to bear the extra cost.

In Maharashtra 33,10,034 BPL families 15,07,608 have been enrolled in RSBY in the month of May 2010. All districts except Wardha have empanelled private hospitals for access to health facilities for the families.⁴⁸

A significant fact that needs highlighting is that health functionaries are working at the lowest end of the health services. In fact they form a large proportion of the informal invisible workers. Their roles are critical for health outcomes of women and children and yet they are not counted as 'workers' but 'volunteers' who are paid an honorarium not a 'salary, which is very low. This is

⁴⁷ Economic Survey of Maharashtra 2009–10.

⁴⁸ <http://www.rsby.in/Statewise.aspx?state=35>.

true of the ASHA, the Anganwadi worker and the Helper, who are the main functionaries working directly with the people. Here too we see a clear gender disparate approach where the work of women in villages and urban localities are not seen as 'paid work' but 'voluntary' work, since it is assumed that women are the natural care givers (see Box 1).

BOX 1

HUNDREDS of thousands of anganwadi workers and helpers all over the country closed their centres and participated in protest demonstrations against the apathetic attitude of the UPA government towards their long pending demands. Around eight lakh anganwadi employees in the country participated in the strike. Severe police repression was unleashed in several states. The call for the all India strike was given by the All India Federation of Anganwadi Workers and Helpers (AIFAWH). The federation, which observes July 10 every year as All India Demands' Day, decided to observe this year's Demands' Day by organising all India strike against the indifference shown by the UPA government. The response of the anganwadi employees to the strike call was unprecedented, reflecting their anger and resentment at the non implementation of the assurances given by none else than the prime minister.

The major demands of the anganwadi employees include:

- i) converting ICDS into a permanent service and opening anganwadi centres in all human habitations,
- ii) regularising the services of the anganwadi workers and helpers as grade III and grade IV employees, and till these demands are fulfilled,
- iii) immediate enhancement of the remuneration of the anganwadi employees to Rs. 3,000 per month for workers and Rs. 2,000 for helpers,
- iv) consumer price index linked dearness allowance to all the anganwadi workers and helpers,
- v) provision of social security benefits like provident fund, pension, ESI, gratuity, etc., and
- vi) ex-gratia of Rs. 1,00,000 and Rs. 50,000 for workers and helpers who were being retired on reaching 58 years.*

**Hemlata, K. (2007). Magnificent All India Strike by Anganwadi Workers. Peoples Democracy. Vol XXXI, No. 29, 22nd July 2007. CPI (M).*

BROAD OBSERVATIONS:

- The outreach of all these programmes is dependent on whether a family qualifies to be BPL or not at a particular point of time.
- Secondly for each scheme be it JSY, NREGS or RSBY the families will have different cards through which they can access the facilities. This leads to a lot of confusion as many families considering the level of disempowerment (especially in case of SC/ST and other minorities) and lack of knowledge may not be able to decide which card to use when and how.
- With so many intermediaries and the typically top down approach of these programmes the beneficiaries' level of participation, convenience and opinions have not been taken into account.
- These schemes largely cater to the health and maternity needs of women who belong to BPL families, may not be working full time or are working as unorganised workers. The maternity benefit in any case does not take into account wage loss because of confinement and delivery.
- The successful and complete utilisation of these schemes by women depends on how well informed and empowered they are. ASHA as a community mobilise is herself an 'invisible' worker. The likelihood of an efficient access and utilisation of these schemes are subject to manipulation and dependent on the knowledge and empowerment levels of the beneficiaries.
- Except for NREGS the other schemes are welfare oriented and not entitlements oriented, which then leads to another set of difficult questions, who, how and when are decisions regarding the efficacy and outreach of these programmes taken? And like many other earlier poverty alleviation programmes who is finally accountable for the real implementation and actual achievement of the targets, with the layers of intermediaries and functionaries

6.5 FIELD STUDIES IN UNORGANISED SECTOR

In Maharashtra the initial exploration of the secondary sources of data revealed that a large number of women work either in the unorganised sector or as unorganised workers in the organised sector. There was considerable difficulty in getting data appropriate for Maharashtra from the Labour Commissioner's office as records were haphazard and largely not available. The initial decision making for sites for deeper investigation and analysis had to be limited to choosing them purposively using NSSO data to locate women workers in specific industries and occupations. For unorganised sector, waste pickers of Pune, informal workers in Dharavi, domestic workers and unorganised workers in MSME were selected for the study.

According to the Economic Survey 2009–10 of Maharashtra out of the 254 statutory cities/towns in the State, 61 cities/towns reported slums at the time of actual enumeration. The total population in 61 cities/towns was 3.36 crore and total slum population is 1.12 crore (33.3 per cent). In other words, one person out of every three persons in these cities/towns is residing in a slum.

6.5.1 Dharavi—The Informal Economy and Women Workers

Dharavi is reputed to be one of the biggest slums in Asia, though it is, above all, one of the oldest. This area has been reclaimed from the Mithi River over a decade by migrants from all over India. The original inhabitants of Dharavi were the Koli, a community of fishermen whose presence has been visible for centuries in Mahim Creek, located along the Mithi River, which is situated on the northern boundary of Dharavi. The first migrants came from Maharashtra (the state of which Bombay is the capital) and Gujarat (the border state north of Bombay). They first settled in the southern neighbourhoods of Bombay, but as the city grew, they were pushed farther and farther north to allow the wealthier populations to live in the new residential buildings built on the sites of the former slums. These first migrants settled permanently in Dharavi. Later, such a large wave of migrants came from the Tamil Nadu state (in southern India), particularly from the Tirunelveli district, that today one third of Dharavi's population speaks Tamil. More recently, two very poor and highly populated northern Indian states, Uttar Pradesh and Bihar, were the main sources of new migrants. All these migratory fluxes have contributed to the wide diversity of people and activities in Dharavi: Kumbhar potters from Saurashtra (Gujarat), tanners from Tamil Nadu and Azamgarh (Uttar Pradesh), leather and textile workers from Maharashtra and Bihar, and Valmiki street sweepers from Haryana.⁴⁹

Dharavi functions largely as a place where there is subcontracting of work for numerous industries like leather, garments, cosmetics, medical equipments, and also has a huge recycling industry, where both men and women are employed on a daily wage. In the garment and the leather recycling units the research team came across a complicated sub contracting system which has placed women workers in a completely disadvantaged position. The increasing informalisation of the workforce is a key feature of subcontracting. 'Informalisation' means the practice by employers of hiring workers in such a way that they are not recognised as employees under labour law, that is to say as 'formal' workers. 'Informal' workers may be on repeated short-term contracts, or working as 'casuals' or as homeworkers, for example. Such workers have little chance of claiming their legal rights. Many do not know who they are really working for. Meanwhile their employers avoid their legal responsibilities, reduce their costs, and increase their profits. Employers are not necessarily breaking the law; they are simply side-stepping it. But the hard-won employment rights of workers are being deeply eroded. Subcontracting supply chains can be quite difficult to understand. So too can their

⁴⁹ http://ita.habitants.org/notizie/abitanti_d_asia/in_the_heart_of_bombay_the_dharavi_slum.

impact on workers' organisation. The situation is presenting many challenges for the trade union movement around the world.⁵⁰

Shabana¹ shared in detail about her work and work conditions. She was widowed with two small children, an old grandmother, mother-in-law, a young brother-in-law and another brother-in-law, with his wife. Her 'bhabhi' works from home to supplement the family income. Shabana earns Rs. 60–80 per day depending on number of years that they have worked in the unit. They work from 9am to 7 pm every day (except Sundays), with a lunch break for an hour in between. She is not entitled to any holidays except Sundays. If she takes leave for illness salary is deducted for number of days that she has not worked. Any kind of illness means additional expenses as well as loss of wages. Visits to the government hospital are only option but there too she has never received any treatment free of cost. Maternity leave is a distant dream and though Shabana had her deliveries in the hospital, but had to incur additional costs for medicines, transportation and other such expenses.

Focus group discussions were conducted with women workers in garment units and recycling units. Some of the key inferences drawn were:

- Women workers are forced to take up any work that is available and which do not require specific skills due to extreme poverty.
- Usually migrant most women have been pulled out of the existing social support networks available in their source/home areas. This deepens their poverty as they are not able to negotiate for better work conditions due to dual burden of work at home and outside (reproductive and productive work).
- The women get Rs. 60–80 per day while men get Rs. 110–150 per day depending on the years of experience.
- They work for 8 to 9 hours per day beginning at 8 am and often finishing at 6 to 7 pm. Though they have children they do not get any breaks to go and look after them.
- There are some arrangements for tea and water but toilet facilities were not apparent and the women said they do not get any medical or any other benefits. Since this is a private unit run by an individual, so according to them the question of facilities doesn't arise.
- Most of them get married at a very young age 15–18 years.
- All of them shared that they do not get any maternity leave, and if they do plan to have children then they would have to leave the job, and rejoin again. According to them there is no other leave, its work daily and earn daily.
- The women expressed complete ignorance about any scheme or provision for them with regard to their maternity or medical needs. Depending on the severity of the health problems they may go to a nearby hospital or a private nursing home. This choice was also dependent upon their savings and capacity to pay. Overall they prefer to go to a private clinic as they feel they get better attention and do not spend too much time for their checkups. The long queues and rude and unfriendly behaviour of the government hospital staff is a big deterrent for them to access public health services.
- They are out of the net of any law due to the sub contracted nature of work and are 'invisible' workers.
- This has led to lack of collective strength and negotiation capability.

The discussions with women workers in the informal units of Dharavi gave us an insight into how 'informalisation' of labour denies women social security and maternity benefits.

⁵⁰ Mather, C. (2004). *Garment Industry Supply Chain. A Resource for Worker Education and Solidarity. Women Working Worldwide*. Manchester. UK.

6.5.2 MSME-Case Study of Women Workers in Two Units

Since Maharashtra has shown a tremendous leap in the growth of MSMEs in the last few years and the state is making conscious efforts to promote these to generate employment, two units case studies were taken up for this study. MSME's are important also for another reason: in June 2000 the government of Maharashtra exempted MSME units employing up to 25 workers with power and 50 workers without power from the ambit of the Factories Act(1940) (vide notification from the Directorate of Industries, Government of Maharashtra).⁵¹ This in effect transformed a part of the organised sector into unorganised sector. Information regarding whether the exemption continues to be applicable and whether these units get exempted under the MB Act as well was not forthcoming from the authorities—Labour Commissioner's Office and Directorate of Industries for instance—despite many efforts. The sites were decided purposively with an initial exploration of the MSME census information to locate units which would have more women workers. Nashik MIDC where these two MSME were located is not covered by the ESIC. Both the units are located in Nashik and one is a packaging unit and the other a cast iron foundry unit. In the packaging unit the women workers are employed for manual work of branding, assembling and packaging and in the cast iron unit they work in the fabrication unit. Some of the key findings in this case study have been the following:

- Both the units are not covered by any labour law and in the packaging unit the permanent workers have been enrolled under the RSBY.
- Whatever benefits that the women workers are dependent on the whims of the employer/owner of the unit.
- The work conditions are appalling and most of the workers were observed to be suffering from severe health problems, chemical peeling of skin, cough, and other ailments which are a result of the closed and polluted area of work. They do not have access to any health facility except for government hospitals.
- Leave for illness or any other family requirement is not given, though in the packaging unit they are entitled to 4 casual leaves and 2 medical leave only.
- Women workers are not entitled to any child care, maternity benefit or any other social security benefits.
- Most of the women workers are working in unsafe conditions and they face sexual harassment outside the compound. They were not very open about sexual harassment in the workplace but a sense of unease was observed when questions pertaining to the issue were asked.

The above case studies have revealed that though Maharashtra is promoting the MSMEs in a major way to ensure rapid industrialisation of the state and thereby ensure growth in GDP, labour laws are becoming redundant through circumvention and liberalisation processes. Gradual downsizing of public sector enterprises, with its outsourcing of lower end jobs through sub-contracting. This has been leading to informalisation of work, with little or no social security coverage to most of workers. As a result it is the women workers who are facing maximum exploitation and minimum social security or maternity protection. However, there are some silver linings. Women workers in some sectors have unionised. The domestic workers are a case in point. Where the State reneges on its duties to workers, workers' actions are critical.

6.5.3 Domestic Workers Movement

The National Domestic Workers' Movement (NDWM) works with domestic workers in India and Indian migrants working abroad. Domestic workers, particularly child workers and live-ins, are

⁵¹ See www.dcmsme.gov.in/policies/statelaw/maharashtra.

routinely denied basic rights. They comprise one of the most vulnerable and exploited groups of the unorganised sector. Nearly 90% of domestic workers are women, girls or children, ranging from ages 12 to 75 and it is estimated that 25% are below the age of 14. The NDWM has been able to successfully mobilise the domestic workers and file a PIL in the Supreme Court, which resulted in the enactment of the Domestic Workers (Registration Social Security and Welfare) Act, 2008. According to NDWM the following issues concern them:

- The majority of domestic workers are illiterate.
- Domestic Workers are engaged in such tasks as cooking, washing, and cleaning, which are traditionally seen as women's work and are therefore looked down upon and treated as less than humans.
- In India, the stigma for domestic work is heightened by the caste system, as tasks such as cleaning and sweeping are associated with low castes.
- Domestic Workers are referred to as 'servants' and 'maids' which has resulted in their feelings of insecurity and inferiority. This has further led to the indignity inflicted upon them and their work.
- Domestic Workers are highly exploited and denied just and humane wages. Domestic workers are paid well below the minimum wage for unskilled and semi-skilled workers.
- Labor laws do not cover Domestic Workers. They are not recognised as workers; hence do not enjoy legal protection, rights and dignity.
- The working hours of Domestic Workers can go upto 8 to 18 hours a day. Wage, leave facilities, medical benefits and rest time depend totally on the employer.
- Domestic Workers are victims of suspicion. If anything is missing in the house, they are the first to be accused with threats, physical violence, police conviction and even dismissal.

Maharashtra has already enacted a state level Act the Maharashtra Domestic Workers Welfare Board Act, 2008. A meeting and interview was held with a member organisation of the Movement—Jagrut Gharelu Kamgar Andolan. According to this organisation there are almost 8 lakh domestic workers in Mumbai itself and out of this they are able to reach out only to 15000 to 17000. The main issues that emerged out of this discussion were:

- The maternity benefit covered under the Act does not provide for loss of wages.
- According to the this organisation 1) the employer must give 3 months or failing that at least 11/4 months of leave; 2) must not dismiss the worker during this time and 3) must give at least one month's pay.
- The Act says that employers must be represented in the Board but does not say anything about their contribution.
- The government as one of the welfare board members will only provide for the all expenses of two deliveries in a municipal hospital provided the domestic worker is a registered member of the welfare board.
- The Act does not ensure minimum wages and leaves much to be desired in terms of conditions of work and sexual harassment of workers.
- There are no mechanisms available within the Act to ensure that the provisions are properly implemented and monitored by the Welfare Boards.

The real challenge that this organisation faces is that fact that the domestic workers are not yet a collective force, with no support from established Trade Unions. The domestic workers are neither aware of their rights, nor empowered enough to demand their rights due to which it is left to the civil

society organisations to mobilise them and create collective thinking and strategies. This movement is still at its nascent stage and needs a great deal of support from formal Trade Unions to actually enable all its members to negotiate for not just maternity benefits, but also recognition as ‘workers’ with rights to social security and a dignified life.⁵²

6.5.4 Best Practice in the Unorganised Sector—Kagad Kanch Patra Kashtkari Panchayat

In Maharashtra the Kagad Kanch Patra Kashtkari Panchayat has tried to mobilise and empower waste picker women through formation of a Trade Union in Pune. According to an assessment done by this group scrap collection is undertaken by two groups, waste pickers and itinerant buyers. The total population of such workers in Pune city is estimated approximately 7,000, of which waste pickers constitute 85 per cent and itinerant buyers 15 per cent. Waste pickers retrieve paper, plastic, metal, glass, bones, bottles and rags from garbage bins and dumps. Over 90 per cent of waste pickers are women. They move mostly on foot covering up to 10–12 kms a day with headloads of up to 40 kgs. Some of them travel by train or truck to the villages and industrial belts around the city, in order to collect scrap. They leave their homes at sunrise and return at sunset after a 10–12 hour working day. The average daily earning is about Rs. 50.⁵³

Discussions with the women waste pickers revealed several aspects of their work and work conditions. They have taken up this work not out of choice but mainly out of sheer necessity to work and earn some money. Many of them have been working for almost 20–25 years. All of them got married very early as young as 13 years of age and came to Pune city from their natal families. All of them belong to the lower castes, i.e., Dalits largely from Matang caste. They shared how they had tremendous difficulty in engaging in this work as they were harassed by the police, residential watchmen and the residents. The kind of work meant working with putrefying and decaying waste which in turn led to cuts, wounds and infections, diseases of the respiratory tract, skin infections and other such ailments. Going for treatment meant added expense and was always a last resort. Almost 97% of these workers are illiterate and are unable to take time out for alternate skill building and work (Chikramane 2000).

Kagad Kanch Patra Panchayat is the outcome of the initiatives by some members of the National Adult Education programme of SNDT Women’s University. These members initially felt the need to start some educational initiatives with the girl waste pickers, as they perceived them as child labour and wanted to motivate them for education. While exploring possibilities they realised that the girls spent the entire day collecting garbage and had no time to spare for any kind of educational inputs. This led to greater investment in trying to understand their work. They campaigned for source segregation of garbage in an elite neighbourhood nearby so that the girls could source the scrap easily. Excited by the prospect, their mothers, who were also waste-pickers were motivated to send their daughters to school and they would collect the segregated scrap. About thirty adult women waste-pickers were issued identity cards by SNDT for collecting source segregated scrap in the neighbourhood. Their earnings improved dramatically because source segregated scrap fetched better rates, reduced their hours of work and improved the actual physical conditions of their work.

Five thousand adult waste pickers and itinerant buyers were organised into the Kagad Kach Patra Kashtakari Panchayat (KKPKP) in 1993, in order to establish a collective identity and provide leverage for bargaining. To establish their status as ‘workers’, the association was registered as a

⁵² Personal interviews with members of Jagruti Gharelu Kamgar Andolan.

⁵³ Chikramane, P and Narayan, L. (2000). Formalising Livelihoods-Case of Waste Pickers in Pune. Economic Political Weekly. October 7.

trade union and photo identity membership cards were issued. Endorsement of the identity cards by the municipalities was sought on the basis of the informal, unpaid yet productive role of waste pickers in the management of urban solid waste. The Pune and Pimpri Chinchwad Municipal Corporations officially endorsed the identity cards in 1996 and 1997, respectively. At present the waste pickers have the sole monopoly of collecting segregated garbage and this has meant an assured livelihood. They have to still to contend with the process of privatisation of waste collection which is being introduced by the state, which is major threat to their livelihood. They have now moved forward at the National level with demands for recognition as ‘workers’ with clear social security measures based on the National Act for Unorganised Sector Workers as laid out for them by the state. Their demands are:

- That they be given state level identity cards for recognition as ‘workers’.
- That they should be given pension as laid out in the Act.
- That they would then be eligible for maternity benefit for three months as given in the Act.

For maternity benefit the focus group discussion with the waste pickers revealed that they have been able to utilise the JSY and have received cash compensations in the hospitals for institutional deliveries as they have BPL cards. But those who have gone to their natal homes for deliveries shared that they did not access JSY nor receive any cash amount for institutional deliveries. In fact these respondents shared that in their villages there were very few health facilities available and hence they preferred deliveries at home. Those who went for deliveries to the government hospitals did receive cash compensation for each birth. One respondent reported that she had a Caesarean delivery and received a higher amount of Rs. 1800. But they have to save money through their pregnancy so that they can pay for the transportation, medicines, food and other costs. They are members of Self Help Groups which is essentially a savings group and they take loans from the group as and when they need. However in all events they are not entitled to maternity benefit as compensation for wage loss and hence most of them despite health complications are back to work within 3–12 days. This has major implications for their health and mortality outcomes since they are also in a hazardous profession. Besides they are unable to take rest and feeding breaks for their infants and often leave them behind for care with older women members of their family.

The KKPKP has yet to address child care issues and most of the members leave their children behind with older women or younger siblings. They also have worked out shifts wherein one group works from 7am to 12pm and the next group works from 1pm to 7pm. So those who stay at home look after the young children while the others go for work. Crèche facilities are a major requirement for these women but they do not have access to any such programme. Anganwadis need to be set up and should ensure such day care facilities to relieve the stress and burden of care work of these women.

What remains as a challenge is the issue of not being recognised as part of the Municipality as regular employees and most of all they are still to be included in the ambit of the National Unorganised Sector Workers Social Security Act. This Act has yet to be notified in Maharashtra and has implications for several other unorganised women workers, in Maharashtra. A National Forum of waste pickers called Swachh Alliance has been started and mobilisation for the rights has begun.

6.6 SCHEMES FOR MATERNITY BENEFITS FOR WOMEN WORKERS IN ORGANISED SECTOR

Maternity Benefits are an entitlement for those women workers who comprise of the organised workforce in Maharashtra. These women workers are covered mainly under two specific schemes

Employees State Insurance Scheme and Maternity Benefit Act. This research has made an attempt to explore the coverage, efficacy and utilisation of these two schemes.

6.6.1 Maternity Benefits under ESIC

The basic features of the scheme such as eligibility, contribution, benefits and so on are uniform throughout the country. In Maharashtra the ESIC Act is implemented through the Regional Office (Mumbai), 5 sub-regional offices (Marol, Thane, Pune, Aurangabad and Nagpur) 83 branch offices. ESIC infrastructure in the state consists of 14 hospitals and 71 dispensaries. A feature peculiar to the state is that the ESIC comes under the Labour Department as well as the Public Health Department of the Government of Maharashtra. This leads a great deal of difficulty in decision making and actual monitoring of the scheme.⁵⁴

In 2005–06 there were 2,833 claimants and Rs. 36.84 million was paid out as maternity benefits—an average of around Rs. 13,000 per claimant. In general, this contributory scheme of maternity benefit provisions has two important advantages over other models: 1) Tracking employers and insured persons including women is well established as part of the system thus increasing the chances of delivering maternity benefits to the target beneficiaries. 2) Since the employer's contribution to the ESIC is the same (4.75% of the average wage) for both male and female workers and since maternity leave and benefit payment does not involve additional monetary burden on the employer, subscribing to the ESIC does not create any disincentive for employing women.⁵⁵

According to statistics available with the ESIC Regional Office, Parel (Mumbai) the number of establishments covered under the ESIC has increased from 63,574 in 2005–06 to 85,837 in 2008–09. This increase is, however, due solely to the increase in eligible units in the implemented areas, since no new areas have been brought under coverage since October 2004. The painfully slow and patchy geographical coverage in the state has been primarily due to the tardiness in notification, by the Government of Maharashtra (GoM), of fresh areas for implementation. No new areas have, in fact, been notified since October 2004. Despite state policy of actively encouraging industrialisation of the backward districts by setting up industrial estates through the Maharashtra Industrial Development Corporation (MIDC), large tracts of the state comprising the districts of Ahmednagar, Beed, Buldana, Gondia, Gadchiroli, Hingoli, Jalna, Latur, Nandurbar, Parbhani, Raigadh, Ratnagiri, Sindhudurg, Yeotmal and Washim remain outside ESIC coverage due to absence of notification.⁵⁶ For the same reason even established highly industrialised hubs such as Pune are only partially serviced by the ESIC.

Although all the 18 districts where ESIC Act has been implemented have at least one dispensary, only 8 boast of a hospital; 8 or more than 50% per cent of the hospitals are in the Mumbai-Thane area. Thus, there is only one hospital (Nagpur) to service 73,552 subscribers in Akola, Amravati, Nagpur, Wardha and Chandrapur districts; one hospital (Solapur) to 45,978 subscribers in Satara, Solapur, Sangli and Kolhapur; 2 hospitals (Nashik and Aurangabad) to 136,385 subscribers in Dhule, Nashik, Jalgaon and Aurangabad; and 2 hospitals in Pune to 237,910 subscribers in the district. The 3756 subscribers in Nanded must find it equally difficult to access hospitals in Nagpur, Solapur or Pune.

⁵⁴ As per interview with ESIC officials.

⁵⁵ The employer does face the problem of finding a substitute.

⁵⁶ In addition to the absence of notification, it is possible that ESIC coverage of industrialised areas are also constrained by 1) the dearth of enterprises which fulfil the ESIC minimum employment criterion and 2) lack of feasibility of coverage.

TABLE 6.3:
Maternity Benefit Claims Preferred During the Years—ESIC Maharashtra 1999–2000 to 2003–04

Year	No. of Confinements	No. of Benefit Days	Amount Paid	Average Amount Paid Per Confinement
1999–2000	3691	317828	38590508	10455.30
2000–01	3664	303655	39419065	10758.48
2001–02	3289	277923	37496706	11400.64
2002–03	3011	249306	35030610	11634.21
2003–04	2672	232525	34433200	12886.68
2005–06	2833	na	36841000	13004.24

Note: Figures up to 2003–04 include Mumbai, Pune and Nagpur only.

Source: Up to 2003–04 www.labourbureau.nic.in

2005–06 Table 9.12, Indian Labour Year Book, 2007:171

Gender disaggregated data on the ESIC's operations in the state, particularly time series, is not readily available. There is an absence of efforts to collect and collate data from the numerous branch offices distributed across the state. Non-availability of data is one of the critical challenges faced by this team in assessing maternity benefit provision by the ESIC.

6.6.2 Maternity Benefit Act in Maharashtra

The MB Act and the Maharashtra Maternity Benefit Rules, 1965 came into force in Maharashtra on September 1, 1965 (vide GoM notification dated 9.8.1965). The Act currently applies in the state to:

- Factories (defined by under section 2(m) of the Factories Act, 1948), mines and plantations including those belonging to the Government and circuses.
- Every establishment covered under the Bombay Shops and Commercial Establishment Act (1948) not covered by the ESIC, including all residential hotels, restaurants and eating houses (since Feb. 22, 1980).
- Establishments in the Cotton ginning Industry (since Feb. 22, 1980).
- All hospitals except run by the Government or by Zilla Parishad and Panchayat Samiti (since May 17, 1978).

The Act is implemented by the Central Government in the case of mines, plantations and circus and by the Government of Maharashtra in the case of all other establishments listed above. According to latest Labour Bureau statistics available, 966 factories were covered under the MBA in Maharashtra (2003). Of these 743 or 77% submitted returns. Of the 408 women who put in claims for maternity benefit, 363 claims were accepted and 192 or 47% of claimants were paid partially or fully. No medical bonuses were paid. The total maternity benefits paid amounted to Rs. 7.6 million.

TABLE 6.4:
Maternity Benefit Paid in Factories, Plantations and Mines in Maharashtra* 1995–2003

Year	No. of Ests. Covered	No. of Ests. Submitting Returns	Average Daily No. of Women Employed in Ests. Submitting Returns	No. of Women who Claimed MB During the Year	Number of Claims Accepted	Number of Claims Paid fully or Partially	Number of Cases where Sp Bonuses were Paid	Total Amount of Maternity Benefit Paid	% Disclosure	% of Claims Paid
	1	2	3	4	5	6	7	8	9=2/1	10=6/4
1995	831	507	17094	543	518	506	28	4462171	61	93
1996	859	600	18550	461	461	446	72	3944402	70	97
1997	876	609	19619	452	452	428	116	3854889	70	95
1998	1024	734	17630	510	510	481	208	3779920	72	94
1999	1120	695	17194	402	402	356	143	5139513	62	89
2000	1192	765	15285	330	330	330	0	4906222	64	100
2001	833	602	14032	314	314	42	na	4940810	72	13
2002	913	678	14396	327	327	70	7	6376443	74	21
2003	966	743	15363	408	363	192	0	7574460	77	47
2004	na	na	13874	383	na	303	na	6536000	na	79
2005	na	na	18595	355	na	303	na	5917000	na	85

Note: No Plantations are shown under Maharashtra.
Only All-India data for Mines is given.

Source: Table 5.1, Statistical Profile on Women Labour, www.labourbureau.nic.in.

By comparison, Kerala's figures show much better coverage and implementation, particularly considering the small size of the latter's population and low female work participation rates. Maharashtra, however scores over Kerala in terms of the percentage of claimants paid (47% compared to Kerala's 21%) and the average amount paid per recipient (Rs. 39,450 compared to Kerala's Rs. 18,913).⁵⁷

The implementation of the MB Act is poor in Maharashtra. Less than 1000 establishment are under coverage; disclosure rate hovers around 75%, although it has shown some improvement since 2000; the percentage of claims actually paid after plunging from a little less than 100% in the late 1990's to 13% in 2001 can be seen to have improved. But the most striking feature is the complete avoidance with impunity of the payment of the medical bonus after 1999. *There is no centralised authority in the state that collects data on the number of establishments covered by the Maternity Benefit Act, the corresponding number of female employees, number of claimants or the amount claimed. The reason is that maternity benefit provision is the obligation of the employer.*

6.7 FIELD STUDIES—WOMEN WORKERS IN ORGANISED SECTOR

For the organised sector three sites were decided upon for field study. These are sugar industry, para professionals in health sector and Rashtriya Chemical Fertilisers (PSU).

6.7.1 Sugar Industry

The sugar industry is a seasonal industry, working for 160–180 days a year from October/November to April/May. During the crushing season the factories work three shifts, besides a general shift. A

⁵⁷ Source: Statistical Profile on Women Labour, www.labourbureau.nic.in.

3500 TCD co-operative mill visited, employed 750 workers—420 permanent, 290 seasonal and 40 temporary. The permanent employees were made up of office and factory staff from civil, maintenance and agricultural departments. Seasonal employees are appointed for work related to crushing of sugar cane. The latter get full salaries during the crushing season and a retainer during the rest of the year. This constitutes the organised workforce of the industry. The proportion of organised female workers in the industry is negligible: none work in the factories; a very small number works in administration mostly as telephone operators, clerks or computer programmers. The highest number of female workers amongst the factories visited was 9.

The sugar industry, being a seasonal industry, is not covered under the ESIC Act. The organised workers therefore fall within the ambit of the Factories Act and therefore the Maternity Benefit Act. Of the 3 factories visited, one had no women workers; one had 7 and the last as many as 9 women workers. All were part of the permanent office staff. They were members of the mill's union, but their awareness of their rights and entitlements as workers was poor. In particular, knowledge and awareness of the applicability, eligibility and the provisions of the Maternity Benefit Act was poor both amongst the female employees and the labour or legal officers, though some provision for maternity leave and benefit (45 days leave and benefit at full wage before delivery; the number of benefit days after delivery in accordance with doctor's recommendation; same rate of benefits for abortion and sickness following delivery, the number of days determined according to the doctor's recommendation) did exist. The low awareness may perhaps be partly explained by the fact that the women had either joined after completing reproduction or were still unmarried. Only one woman had had a child after joining and she had claimed maternity benefits, which were much below those given under the MBA.

The bulk of the workforce, however, works outside the factory—in the sugarcane fields, cutting and transporting a continuous supply of cane to the factory during the crushing season—a critical factor that keeps the state's sugar recovery rate high. These are the cane cutters and transporters—called the 'koyta' in Marathi, who are critical for the operation of the mill but *are neither recognised by the mill nor the farmers as their employees*. Women constitute 40% to 45% of these unorganised workers. The cane cutters and transporters supplying cane to the mill mentioned above numbered 5000 of whom, 1500–2000 were women. In general, a large proportion of the women were very young, 13–20 years of age. Age at marriage is below 18. However, the women in the camp site of one of 3 mills appeared older: the mill claimed that they did not allow men and women younger than 18 years to work as cane cutters. How they ensured this is not very clear.

The women leave with their husbands as early as 4 am in the morning, cut and trim cane and return to the camp at around 4pm to take over household tasks such as cooking, cleaning, washing, care of cattle and so on. Older girls were seen doing household chores such as sweeping, carrying water, patting dung cakes for use as cooking fuel and caring for their younger siblings. Most of these girls said that they had completed various levels of schooling but had dropped out either due to parental pressure; need to carry out household chores or child care and marriage. ***Pregnant women do migrate and deliver during the crushing season as evidenced by a number of women with infants in arms. The women reported working until the labour pains set in and delivered in the camps or sometimes even in the fields or under the carts while waiting for their turn at the mill's gate. The mills either give some cash or take them to hospitals in case of complications but this is solely at the mill's discretion and practices vary across mills.*** Women reported that they go back to work within 2 hours of delivery without any adverse effect according to them. No medical facility or medication is availed of either for the mother or the new born. Elderly women relatives provide the requisite help. Only a few women reported taking their children to the local public hospitals for immunisation.

The women in general (except one) were not aware of their rights as workers. There was no agreement even regarding the claims made by the mill's officer of special benefits given such as sugar or cash. Many women claimed they had no ration cards (in their villages). They were unaware of NREGS, ICDS and JSY. One group led by an articulate young girl (who credited the sakhar shala and its teacher for her awareness) said that they had no NREGS in their village or else they would not migrate. Except the 'toli' group other women in the camps expressed lack of knowledge regarding the cane cutters union and its activities. The main findings were:

- The sugarcane cutters are migrants from the poorer districts of Maharashtra. These workers need to have improved access to the various poverty alleviation, and educational programmes in the source villages. Strengthening programme delivery (NREGA, NRHM, JSY and others) in the source villages during the lean season is critical to ensure removal of debt bondage and access to maternity entitlements.
- Women cane cutters are not recognised as 'individual workers' nor paid a separate wage.
- The sub-contracting pattern followed by the mill owners has led to bondage of the workers. The contractors or 'mukkadams' are given a certain amount by the mill owners as 'wages' for the cane cutters, who in turn advance this amount to the cane cutters much before the cutting seasons at their homes. Once the season starts the cane cutters work without any wages as per the instructions of the 'mukkadams.'
- Although the co-operative mills and the farmers (who are its share holders, double as owners of the mills) deny their role as employers, their responsibility towards the cane cutters is clear. Government should ensure that the Federation should contribute towards a social security and specifically maternity and child care benefit fund.
- There is a need for stringent monitoring mechanisms to be set up for Shakh Shalas which cater to the educational needs of the children of cane cutters and reintegration into formal schools in the source villages should be followed up.
- Formal Trade Unions are not actively looking at the conditions of work especially of the women workers. There is a Trade Union of Cane cutters and discussions revealed that so far their focus has been on minimum wages rather than conditions of work and social security.⁵⁸

6.7.2 Status of Nurses and Para-Medical Professionals in Maharashtra

Nursing as a profession has always been accorded a low status within the medical fraternity. Historically the nursing profession emerged in the colonial times and since then socially it has been perceived as 'lowly' job comprising of cleaning and bathing patients, clearing up after the doctors had finished their expert medical work. Notions of standardisation, training and registration were introduced in India in the late twentieth century. Since then many nurses especially the better-educated ones began to view themselves as emissaries of the reformed models of nursing, with their emphasis on standardised education and the state registration of nurses (Fitzgerald 1997: 75).⁵⁹

In Maharashtra there are 43 state hospitals, 124 municipals hospitals and more than 1000 private hospitals and nursing home⁶⁰ (Annual Report, Economic Survey of Maharashtra, 2007). About 35 to 40% of total women in health sector work in as nurses and other paramedical professionals.

⁵⁸ Personal interviews with Union leaders of Cane Cutters.

⁵⁹ Nair, S. and Healey, M. A Profession in the Margins. http://www.cwds.ac.in/OCPaper/profession_on_the_margins.pdf.

⁶⁰ Annual Report, Economic Survey of Maharashtra, 2007.

Municipal corporations and councils have larger number of public hospitals and health post. Each hospital in a city employs 500–700 nurses and 100 Para-medicine professional (including lab technician)⁶¹. Each public hospital in small and medium town employs 200–250 nurses and 25–30 paramedical professionals.

With the introduction of the National Rural Health Mission the need for Auxiliary Midwife Nurses, Community Health Nurses and other paraprofessionals has increased. The nursing service of the country comprise of four main categories: the nurse, the health visitor, the auxiliary nurse-midwife and the midwife. The other personnel who also contribute to the nursing services are the Dais, trained and untrained, the nursing assistants, orderlies, ward boys, and ayahs. There are Community Health Visitors (CHV) in urban areas and many housewives work as CHVs in the health campaigns and on community health issues. There are more than 16000 CHV's who get Rs. 3000/- per month as an "honorarium" for 5 hrs work in the communities. These women form the backbone of the Public Health programmes of Maharashtra who motivate, disseminate information and dispense the first medical help to lakhs of people in urban communities. Yet they are not recognised as 'workers' and denied all social security benefits. Similarly because of lack of unionisation or any kind of mobilisation others like nurses and other paraprofessionals are nor given the due 'status' and recognition of the work that they are performing This is amply demonstrated by the actions of the state of Maharashtra in pushing for privatisation of the nursing services.

Detailed interviews were conducted with nurses and paraprofessionals in a public hospital in Mumbai to gather an insight into the status of social security and maternity benefits. Some of the key inferences from these were:

- There is an increasing trend towards pushing nursing and other paraprofessional jobs on a contractual basis.
- These jobs are mainly manned by women and lower caste men and hence are stigmatised and continue to be regarded as unimportant jobs in comparison to doctors. This lowered status is enhanced by low wages, lack of secure tenure and difficult working conditions.
- It needs to be reiterated here that nurses are a mainstay of the medical world and their role needs to be recognised as such. To do so there is a need to ensure security of tenure, workplace and social security benefits.⁶²
- The registration, monitoring and regulation of private nursing homes have to be strengthened and social security and maternity provisions extended to the same.
- Data base and its verification should be maintained by State government and Medical Councils who are doing private practice and details of nurse and other staff need to be furnished to state health department on a yearly basis.
- State should regularise all contract paraprofessional staff workers in public hospitals whose salaries have been accruing from special funds.
- Strengthening the training and education of nurses and other paraprofessionals makes good policy strategy as for improving health services in Maharashtra. It is the nurses who should be administering and deciding on curriculum for training as they are the essential stakeholders who have the experience of working directly with the patients.⁶³

⁶¹ Notes from Personal Interview.

⁶² Jesani,A. (1998). Ethics, Rights and Strikes of Health Workers. Indian Journal of Medical Ethics. Issues: Med Ethics. 1998, July-Sept.

⁶³ Based on personal interviews as well as literature review.

6.7.3 Women Workers in a Public Sector Undertaking

The PSU selected for this study is Rashtriya Chemical Fertiliser which is a corporate body and Government of India undertaking. Rashtriya Chemicals and Fertilisers (RCF) Limited is a Company incorporated under Companies Act 1956. The Company was formed after the reorganisation of Fertiliser Chemical India into 5 Companies. During 1992 and 1993, with the introduction of the structural adjustment plans 7.5% of the equity of RCFL has been disinvested to Financial Institutions and the general public. At RCFL, Human Resources Management is actively linked to the corporate vision and goals.

In view of the competitive environment which is forcing organisations all over the world to review their structures and manpower strength, RCF systematically takes an internal review of need for restructuring for maintaining a balanced and efficient structure. Manpower redeployment and retraining is given priority over possibilities of retrenchment.

Manpower planning has played an important role in shaping of RCFL. Through dedicated and competent manpower, RCFL has achieved the present position of leadership in Fertiliser Manufacturing. RCFL's management has always considered the manpower as an asset and has taken care of its employees through various welfare schemes such as Housing, medical care, sports facilities and various Social Security schemes.

- Housing facility is provided to the employees at colonies in Chembur and Kihim/Kurul, near Alibag, Dist. Raigad. The colonies have well maintained sports club and also School facilities for the employee children.
- To take care of the health of the employees and their families, RCF has two well equipped hospitals one each in the housing colonies at Mumbai and Kurul.
- There are different Social Security schemes operating in the Company like Group Saving Linked Insurance Scheme, Group Personal Accident Insurance Scheme, House Building Loan Insurance Scheme and RCF Death Benevolent Scheme.
- The company takes all efforts to keep the employees motivated and maintain good Industrial Relations. Excellent growth opportunities are available to the employees. The Company believes in workers participation in Management for which various committees are functioning at both its Units. RCF has a strong and dedicated team of 4334 permanent employees.

6.7.4 Status of Women's Employment in RCFL in Mumbai and Thane Divisions

There are 4,334 permanent employees working in two locations of RCFL Mumbai and Thane divisions. Out of total number of employee there are 1,357 are women employees. These women employees are scattered in both division but form a large proportion in Mumbai. Out of 1,594 of total workers officers, 624 are women officers at A and B grade level including and 733 are workers in the laboratory, manufacturing plant and other adjunct section of the RCFL. Since 1994 when women numbered 3,582 RCFL went through an internal adjustment programme where heavy automation of various functions were out sourced to many other small companies, and many of these women's were offered scheme of non-redeployable employees (Golden Hand Shake), bringing the numbers down to the present 1,357.

Currently there are 7 contractual jobs which have been outsourced to a local housekeeping agency, which is employing nearly 1,400 workers at RCFL. Approximately 450 of these are women who are working in Crèche centres, hospital and guest houses. These women do not have any record of their employment status in RCFL because the housekeeping agency changes their location after every year. Women working on contract basis have been given the facility to use RCFL hospital but have

to bear all the medical expenditure unlike the permanent women employees. There are two day care centre running in the RCFL campus for which they charge Rs. 500 per month from their employees, an amount which women workers at the lower divisions and contract workers cannot afford to pay. The discussions and personal interviews with HR personnel and women workers revealed the following findings:

- Women in the permanent jobs have enjoying full protection under Maternity Benefit Act (amended), 2008—12 weeks maternity leave, 6 week paternal leave and wage compensation for women.
- The hospital facility in the RCFL is well equipped with modern health technologies, with 500 Bed Capacity. This ensures complete protection to women at the campus. Apart from that, regular check up is carried out through mobile hospital nurses.
- Women workers on contract are admitted in the hospital at free of cost though they have to cover their other medical expenditure.
- Contract women workers are insured for accidents but not maternity protection. All the claims of the women are settled by their respective contractors for which RCFLs management is not responsible.
- The rate of daily wages is dependent on the contractor's whims and deeper exploration of construction workers (around 300 women labourer for collecting sand) showed discrepancy of wage rate with the contractor claiming that, he is paying Rs. 150 per day and the women reporting Rs. 110 per day.
- RCFL has a Women Development Cell at and sexual harassment cases are taken up proactively by them. In two such cases the management had taken strong action against the erring officers by transferring them to Thal-Alibag division and 6 years time-breaks for their promotions.
- It was observed that, there are lots of measures have been taken by management to create gender sensitisation in the RCF campus.
- There are 4 four trade union exists in the RCFL campus. These units are operating in an isolated way, where they are connected with outer political parties despite being supported by political parties. Since last 2 years, there has been tremendous increase in the contract workers membership. They have put demand at the management level regarding absorbing them in to permanent status. Trade union leaders and organisation has been playing important roles in pushing all the labour welfare agenda on board. Negotiation and convergence had been their tactics in putting forward labour agenda. Since 2005 onwards all trade union in RCF, are trying to bring all contractual workers in the ambit of social protection of RCF management, but CAG and parent ministry has been rejecting their proposal on account of heavy cost encircled.
- It has been observed that, RCF is following the major ten fundamental principle of UN-Global Compact Office, which directly pertaining to the environment, labour and human right. From principle 3 to 6, healthy workers environment has been maintained which explicit about elimination of discrimination with respect to gender, social class, etc. Campus has been intact with gender sensitisation and adherence to the labour laws.
- However the labour management is not in position to resolve the conflict between multi lateral departments and there is a lack of coordination among departments which makes the work of labour welfare officers difficult.
- There is no record of contractual employees and these needs to be maintained by RCFL officials as there are a number of women workers working on contract.

6.8 OVERALL RECOMMENDATIONS AND CONCLUSION

During the review of the maternity protection in Maharashtra, several key issues were thrown up which showed that entitlements to maternity benefits is intrinsically linked to the 'work' women are doing and how women's 'work is perceived and located within programmatic interventions and welfare schemes. The major programmes for maternity benefit being implemented in Maharashtra are through two laws the Employees State Insurance Act and the Maternity Benefit Act. Both these cover a small percentage of women workers within the organised sector. Women workers in the unorganised sector and unorganised workers are not covered by any legislation and instead they have to access different schemes and programmes like the Janani Suraksha Yojana, National Rural Health Mission, Integrated Child Development Scheme, Matrutva Anudan Yojana and Rashtriya Swasthya Bima Yojana which have a diversity of procedures and functionalities. There is no central authority to ensure convergence, awareness generation and mobilisation of the women to ensure full access and utilisation of these schemes. The functionaries themselves are not regarded as 'workers' rather they are treated as volunteers and paid honorariums, most of them being women. So the outcomes of these schemes may vary and access will not necessarily be universal.

Maharashtra has a history of civil society movements and a rich democratic ethos where people have been involved in policy making, changing and implementation. However this study has revealed that this partnership is waning with the onslaught of privatisation and globalisation. This has had severe implications for women workers where the on the one hand more women have been forced to join the workforce out of sheer economic necessity. On the other hand the organised sector has started sub contracting many of its lower level jobs which are largely manned by women. Women working as unorganised workers are unable to negotiate for any social security benefits let alone maternity benefits.

On the basis of this study the following recommendations can be made:

- It has clearly emerged that more and more women are being pushed into the unorganised work be it the organised sector or unorganised sector. Therefore in Maharashtra, it is imperative to build a complete gender disaggregated data base of women workers in all kinds of work beginning with skilled, trained to unskilled and untrained work which includes voluntary, part time and consultative work. The categories of women workers in both the Census and NSSO are inadequate in capturing the nature and diversity of work done by women (reproductive and productive). Improving our official data systems to better capture the work done by women is called for.
- State should recognise that collective bargaining is possible only when women workers are on a level playing field with their employers. Therefore to promote an atmosphere of healthy negotiation and bargaining trade unions should be seen as partners to facilitate participatory democratic decision making and ensure labour rights for women. This means realising the principles discussed by the Indian Labour Conference, the State Labour Ministers' Conference and the Standing Labour Committees. The country recognised that the workers in the organised and the unorganised sectors can only achieve the right to work and the rights at work, along with the right to organise and agitate, if positive conditions are created together by the State and the employers.
- There are several civil society organisations and movements that are doing sterling work to organise the unorganised women workers. The state can work towards strengthening partnerships with these to enable the empowerment of the women workers and extend maternity benefits to them.
- The present labour laws need to be reviewed and reworked to address the changes brought in by

the liberalisation of work. This means all social security laws will have to include contractual and seasonal work within the organised sector, so as to ensure increasing coverage of maternity protection through the MB Act and ESIC.

- Given that NSS data shows an increase in principal status female employment in Maharashtra, more workers can easily be brought under the ambit of the existing laws by simply extending them to more areas and sectors. The Acts also need to be modified to cover more effectively the increase in the use of contractual labour and of outsourcing.
- It is also necessary on the part of State governments to avoid using exemption powers given in the two legislations to restrict the coverage. In general, the exemptive powers of the state governments need to be restricted.
- Better ways of implementing the Acts and monitoring need to be formulated. A strong data base is indispensable for this and needs to be created. Also implementation needs to be tied to accountability. The spreading of responsibilities amongst several departments is inimical to this aim.
- National Social Security Scheme and Act should be extended urgently in Maharashtra to all women workers in the unorganised work and sector. Any scheme or programme for the unorganised workers should take into account the low literacy of workers, the increasing incidence of migration.

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7.1 INTRODUCTION

This chapter gives a brief background on the demography and the social condition of the women of the state followed by a description on the economic and poverty situation of the State. The chapter then elaborates on women's work profile followed by an analysis of the schemes and laws that provide maternal health protection and benefits. The last two sections elaborate on the field study conducted and the recommendations.

7.2 BACKGROUND OF ORISSA

The state of Orissa lies in the east coast of India with a coastline of 560 kilometres. Orissa has an area of 1,55,707 sq.km. having a total population of 3,67,06,920⁶⁴. Administratively the State is divided into 30 districts with over 50,000 villages. The density of population is 203 per sq. km. Only 13.28% of the population lives in the urban areas. More than one third of the land is under forest. Largely non timber forest products, cane, bamboo and other minor forest products such as kendu leaves, sal seeds are available.

The state of Orissa is characterised by a strong presence of tribal people. There are 13 major tribes that reside in the state. These are Birhor, Bonda, Didayi, Dongria-Kondh, Juang, Kharia, Kutia Kond, Lanjia Saura, Lodha, Mankirdia, Paudi Bhuyan, Saura and Chuktia Bhunjia. The Scheduled Tribes (ST) population of 8.14 million comprise 22.18% of the total population of the state mostly concentrated in the north-western and south-western districts. The districts of Gajapati, Kandhamal, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nabarangapur, Rayagada and Sundergarh have more than 40% tribal population. Geographically, 45% of the State's area is designated as Scheduled area.

7.2.1 Social Condition of Women

It is imperative to understand the status of women in Orissa to know their social position on certain key indicators such as sex ratio, literacy, health, etc. Within the overall population of women a specific focus on the tribal women status is essential to understand their situation.

7.2.2 Sex Ratio

The number of females per 1000 males in Orissa is 972 higher than the all India figure of 933. However it has declined considerably by 65 points while that of India has declined only by 39 points during the period 1901–2001.

In the state there are 7 districts of Orissa, which have favourable Sex ratio as per the 2001 Census (more than 1000). These are Gajapati, Rayagada, Kendrapada, Kandhamal, Nuapada, Kalahandi and

⁶⁴ Census 2001.

Ganjam. Gajapati district has the best sex ratio at 1003. The lowest Sex ratio is in the district of Khurda at 901. The best 7 districts of Orissa occupy positions within 100 among all the districts in the country with the district of Gajapati occupying the 28th position.

The 5 districts that have a sex ratio of more than 1000 (Gajapati, Rayagada, Kandhamal, Nuapada, Kalahandi) have a sizeable ST and SC population in the range of 40%–71%. The Sex ratio among the STs is 1003 which is better than the overall sex ratio of the State as well as that of India. During the period from 1961, the ST Sex ratio was much higher at 1015.

On the other hand the Child sex ratio (0-6 years) is 950, which is again higher than the all India figure of 927. The child sex ratio of the district of Nabarangapur at 1002 is the only one, which has the Child Sex ratio over 1000 and it occupies 11th position amongst all the districts in the country. The lowest Child Sex Ratio is in the district of Nayagarh with 901.

7.2.3 Female Literacy

Female literacy rates have been increasing in the State—there has been a rise from 35% in 1991 to 51% in 2001 while in 1951 it was a mere 4.52%.⁶⁵ The female literacy rates are comparable with the all India female literacy rate which is 54.16%. The state's rural and urban female literacy rates are 47.22% and 72.68%, respectively. There is considerable regional variation with the district of Khurda at the top for the last two Censuses (71.06%) while the district of Nabarangapur is at the bottom with the female literacy rate at 21.02%.

The tribal districts of Nabarangapur, Malkangiri, Rayagada, Koraput, Nuapada, Gajapati and Kalahandi have been in the bottom rung of the female literacy rates (Nabarangapur having 21.02% female literacy). Overall the ST communities are the least literate (37.37%) as per the 2001 Census. The drop out amongst the ST children in primary schooling is 10.69% (2008–09) higher than the SC and all categories children.⁶⁶

7.2.4 Health Profile

The high maternal mortality in Orissa is indicative of the in general poor health status of women. The SRS data indicates MaternalRate (MMR) as 358 in 2001—03 which has reduced to 303 as per the 2004–06 data published in 2009. The concurrent national figure is 254. For each woman who dies as many as 30 other women develop chronic and debilitating conditions which seriously affect the quality of life.⁶⁷ The leading causes of female morbidity in rural areas not linked to pregnancy are non specific fever, acidity, TB, malaria.⁶⁸

Antenatal care coverage has increased from 65% as per NFHS-1 to 87% in NFHS-3. Institutional deliveries however remain low though there has been an increase from 14% (NFHS-1) to 39% (NFHS-3). On the other hand Janani Surakhsha Yojana data indicates that institutional delivery is as high as 84%. (Refer to section on JSY in this report).

Female Infant Mortality Rate (FIMR) in Orissa remains one of the highest in India being 70 females per 1,000 live births, with the national figure (India) is 15 points lower than Orissa at 55. Child malnutrition in Orissa is high, i.e., more than 50% of the children are malnourished.⁶⁹

⁶⁵ Census, 2001.

⁶⁶ Economic Survey of Orissa 2009–2010, Govt of Orissa, 2010.

⁶⁷ State of Health in Odisha, HDF,2010,

⁶⁸ Ibid.

⁶⁹ Economic Survey of Orissa 2009–2010, Govt of Orissa, 2010.

The tribal population is the most disadvantaged social group in the state. Unfortunately no separate data on morbidity rates, in the aggregate or for major acute/chronic diseases is available for the tribal population. The following data reveal the vulnerabilities of the tribal women's health. The incidence of anaemia amongst the tribal women is significantly higher than that for other social groups (It was 74.7% as per NFHS 2 data). The major health problems that affect the tribal population are: communicable diseases, malaria, TB, dysentery, parasitic infections, acute respiratory infections, Sick cell, G6 PD deficiency.⁷⁰ The two indicators of maternal health are antenatal care and delivery care. NFHS 2 survey revealed that 37% of the ST women did not have any ante natal check ups. The institutional delivery is also very low at 8.7% amongst the tribal women (NFHS 2).⁷¹

Vital Indices:

The Crude Birth rate (CBR) of the state is 21.4 and the Crude death rate is 9.0 as per the SRS 2008. NFHS 3 data indicate that the CBR for Orissa is 17.7.

Fertility Rate:

The National Family Health Survey-3 (NFHS-3) data reveal that there has been an improvement in the Total Fertility Rate (TFR) which stands at 1.89. The TFR of the state is below the all India average. However women married by the age 18 years is relatively high at 36.3%⁷². The NFHS data over the years reveal a decline in total fertility rate from 2.53 in NFHS 1 to 1.89 in NFHS 3.

On the other hand SRS 2007 data present that the Total Fertility Rate is 2.4. The age specific fertility rate gives the highest rate of 172.9 for the age group of 20–24 years. It declines slightly to 151.7 for the next age group of 25–29 years. For the youngest age group of 15–19 years, the fertility rate is 35.7 as per the SRS 2007.

Health Infrastructure:

For providing basic health service to the people throughout the State, particularly to the rural and urban poor, 231 CHCs, 116 Block PHCs, 1162 PHCs(New), 90 Mobile Health Units (in the 8 KBK districts), 122 other Hospitals and 6374 Sub-Centres (ANM Centres) are in operation⁷³ In the year 2008–09, there was 19% (8360 out of 43796 sanctioned posts) vacancies in the Department of Health and Family Welfare.⁷⁴

7.2.5 Development Index

Amongst the states for which Human Development Index (HDI) has been calculated the rank of the state of Orissa is 11th with a value of 0.404.⁷⁵ The rank of Orissa of the rural Social Development Index (SDI) amongst the 16 major states is 16 with a value of 27.3 while the urban area is ranked 15 (value—37.4). The value of GDI is 0.546 of the state of Orissa.

Areas of Concern:⁷⁶

- Women's education still lags behind far behind men's education.

⁷⁰ State of Health in Odisha, HDF, 2010.

⁷¹ Orissa Human Development Report, Govt of Orissa, 2004.

⁷² NFHS 3.

⁷³ http://www.orissa.gov.in/health_portal/index.html.

⁷⁴ Budget for health in Odisha: A Critical Reflection, CYSD, 2010.

⁷⁵ Orissa Human Development Report, Govt of Orissa, 2004.

⁷⁶ Orissa and the MDGs : MDG 3, UNICEF and XIMB, 2009.

- Wide gap persists between male—female education in the middle, secondary and higher secondary level due to the fact that young girls help in household activities.
- There is a gap between formal political equality and actual participation of women in the decision making process.

7.3 ECONOMIC SCENARIO IN ORISSA

7.3.1 Macro Scenario

Orissa reported an annual average growth rate of 9.51% for the 10th plan, much higher than the target of 6.20%. The state’s growth rate in 2009–10 is in line with the national trends.

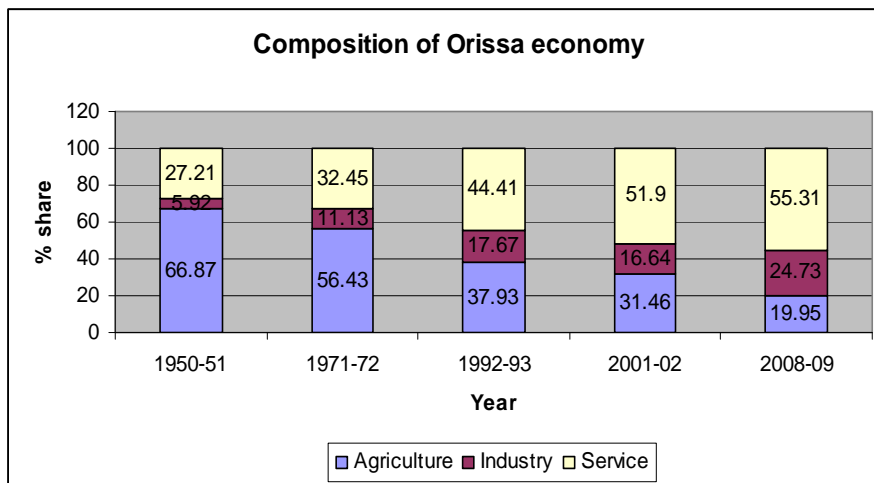
Agriculture and allied sectors contribute less than 30% towards the States Gross Domestic Product but they engage about 60% of the workforce.⁷⁷ Lack of irrigation, low rate of use of fertilisers remain a stumbling block in enhancing agricultural productivity.

On the other hand the industrial sector has contributed significantly to the high growth rate (24.73%). The industrial sector includes manufacturing, mining and quarrying and electricity-gas-water supply. The mining sector contributes 7% of the Gross State Domestic Product.⁷⁸ In the total value of mineral output Orissa ranks number 1 in the country.

The service sector which comprises of sub sectors like banking and insurance, real estate, public administration, trade, hotels and restaurants, construction, transport and communications and other services has been increasing in the State and as per the 2008–09 estimates, it has contributed 55.31% to the State’s economic growth.

Overall Orissa’s economy is becoming less agricultural, more industrial and more service oriented over time.

FIGURE 7.1:
Sectoral Composition of Orissa State GDP (1950–2009)



In infrastructure, the focus of the state has been on power, roads and water. However the availability of power to its capacity in the state is about 35% which means that the transmission and distribution losses are still major concern. Deficit of power is 7.1% much lower than the all India average of 13.3%. Over 60% of the villages are electrified but only 22% of the rural households have electricity. The state lags in surface road density.

⁷⁷ Economic Survey of Orissa 2009–10, Govt of Orissa, 2010.

⁷⁸ Economic Survey of Orissa 2009–10, Govt of Orissa, 2010.

7.3.2 Poverty in Orissa

Though the population of the state of Orissa is only 3.57% of India's totals, the poor of the state are 6.5% of total poor in India.⁷⁹

Two spatial aspects of poverty in Orissa are to be noted: poverty in Orissa is primarily a rural phenomenon and there are significant regional differences in the incidences of poverty.

The proportion of people living below the poverty line as per the 2004–05 estimates is 39.9% which continues to be one of the highest in the country.⁸⁰ Since 1999–2000, there has been a reduction of 7.25% in the poverty rates. There is a sharp regional variation in the decline in poverty with the coastal regions witnessing a sharp decline but it continues to remain high in southern, western and northern regions of the State.

It is worth observing the impact of the high growth rate of the state has on poverty reduction. The incidence of poverty was 71.51% in 1993–94 which was the highest amongst the 16 major states. The district of Kalahandi had the highest poverty ratio (78.65) followed by Koraput (78.65) and then Kandhamal (75.42) as per the estimates of 1999–2000.⁸¹

7.4 WOMEN'S WORK PROFILE

7.4.1 Female Work Participation Rate

Female Work Participation Rate (FWPR) is an important indicator to assess women's participation and involvement in various economic activities and their access to income. FWPR of Orissa since the period of 1961 to 2001 has decreased from 26.58 to 24.62 while the Rural FWPR has remained more or less the same around 27. There has been a decline in the urban sector during the same period from 13.12 to 9.76.

The tribal districts and those with more population of SCs and STs have a higher FWPR. The highest FWPR is in the district of Gajapati (49.80). Districts such as Malkangiri, Nabarangapur, Kandhamal, Rayagada, Koraput have a FWPR of more than 40%. On the other hand the coastal districts such as Cuttack, Khurda, Puri, Kendrapada, etc., have a participation rate less than 15.

7.4.2 Women Workers

Participation of women in work is reflected in the Census data of 1991 and 2001 which reveal that there has been increase in the total women workers from 27.28% to 31.34% as a percentage of the total female population. Numerically, the total women workers in the state are 44,74,482 as per the 2001 census.

But there has been a decline in the women main workers from 18.18% to 16.52%. On the other hand there has been a considerable increase in the women marginal workers.

Women Main Workers:

In the category of the main workers, the highest number of women is in the Household industry category (36.13%). The sex ratio of women workers in Household industry is 1,222 women per 1000 males. The next highest number of women main workers are as agriculture labourers (sex ratio being 938). The sex ratio of the workers who are involved in other different works like in cottage industry,

⁷⁹ Mehta Aasha Kapur, Asmita Shah, Chronic poverty in India, CPRC Working Paper 7.

⁸⁰ Economic Survey of Orissa, Govt of Orissa, 2009.

⁸¹ Orissa Human Development Report, Govt of Orissa, 2004.

small and large scale industry and unorganised sector workers, etc., is 222 in the state comparable with the all India data of 223.

Women Agricultural Workers:

As a large population live in the rural areas, their lives and livelihood depend on agriculture and allied activities such as forestry, fishing, etc. Agriculture is a labour intensive sector and most of the women are engaged as agriculture labourers. Women are involved in activities, which has maximum drudgery such as transplantation. Women of family contributed highest hours per season (61.66) in harvesting and post harvesting operations and participated lowest in land preparation. Same pattern was observed from the paid women and total women (family + paid labour).⁸²

Women in Forestry:

Women especially tribal women play a central role in gathering fuel wood, fodder and Non Timber Forest Produce (NTFP). Women are engaged as primary gatherers as well as in some value added production process such as beedi rolling in kendu leaves. (Refer to the field study section in this report). As high as 98% of the women in the tribal areas are engaged in NTFP collection from forests.

As per a Planning Commission study done on 301 tribal households (Kondha, Munda and Saoras) in 6 districts of Boudh, Pulbani, Keonjhar, Mayurbhanj, Sundergarh and Gajapati it was seen that on average a tribal family derives 50% of its annual income from forests and does trading on about one third of the products collected.⁸³

Direct employment by Forest departments is restricted for women. Women however are engaged in nursery work, transplanting and collection. In a social forestry project in 1980 in Orissa it is seen that women had 37% of the total person days of employment.⁸⁴

Female Workers in Non-agriculture Sectors:

The percentage of women in non agriculture sector is an important indicator for understanding the empowerment level. Non agriculture sector includes all the sectors of employment such as mining, manufacture, trade, transport, hotels, finance, services, etc. In Orissa the percentage of female workers in the non agriculture sector has increased phenomenally from 57.24% to 78.57% from 1980 to 2000. That is an increase of 21.33% in the participation of women in this sector. Correspondingly in the same period the percentage of female workers in the agriculture sectors has decreased from 42.74 to 21.43. If such a trend persists, the participation of women in the non agriculture sector will reach an estimated 88.57% by the year 2011.⁸⁵

The above mentioned trend raises questions whether the agriculture sector is declining in the state of Orissa or whether the fast growing industrial sector is attracting women workers.

7.4.3 Employment Schemes: Women's Participation in MGNREGS

The National Rural Employment Guarantee Scheme (NREGS) now renamed as Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) guarantees each rural household a 100 days of manual work within a 5km radius on a casual basis each year. There is a 33% preference for women workers. Minimal worksite and welfare facilities are to be provided for in the form of crèche, safe drinking water, first aid, shade, resting place, *ex-gratia* payment, etc.

⁸² Standardisation of women specific field practices in rice in Orissa, NRCWA.

⁸³ Indian Institute of Forest Management, Bhopal, Study for Ministry of Environment and Forests, 1998.

⁸⁴ Pant, M.M., Forest Economies and valuation, Medhawi Publishers, Dehradun, 1984.

⁸⁵ Orissa and the MDGs : MDG 3, UNICEF and XIMB, 2009.

In Orissa, the participation of women in NREGS work was 36% in the year 2006–07. It has been on the increase (46%) in the year 2008–09. On comparison amongst the states, the highest has been in Tamil Nadu (81%) while the lowest is in J & K (4%).

Study: A study conducted by Indian School of Women Studies and Development, N Delhi in the district of Mayurbhanj and Sundargarh regarding the gender analysis of NREGA in the year 2006 gave suggestions such as: At least 1 female of each family should get job card; In the election of VLL elder female and disabled should get first priority; Creech, rest room and drinking water should be provided.

7.4.4 Women Self Help Groups

The network of Women SHGs has been given a boost under the Mission Shakti campaign of Government of Orissa. As per data sources there are 372748 WSHGs with 44,72,976 women members. Credit link has been provided to 4,13,656 WSHGs. Some SHG groups are doing well after being linked to Mid Day Meals of various schools. Other SHGs have started as PDS agents, community mobilisers on institutional delivery, LPG gas distribution.⁸⁶ The increase in their burden of work through Government entrusting them with too many schemes to run, can also have a deterrent effect as most women have heavy household duties.

Concerns of Women Workers:

Migration: People of Orissa migrate due to multifarious reasons but primarily as an escape mechanism from poverty, indebtedness, droughts, non availability of work, etc. This migration occurs as a survival strategy and not a step for better livelihood options. There is distress in the migration too as the working conditions in the work site are no better. In the context of women, in the first place women migrate with their husbands or fathers reinforcing gender stereotyped roles and norms. Women continue to bear the double burden of household activities as well working in the migration site. In the event of women migrating alone with other women and/or male family members, the issues of exploitation and gender based discrimination is very high on account of wage disparity, non coverage under insurance and violation of labour norms. Non accessibility of maternal and children related schemes on health, food, nutrition, education at the destination site is a major concern. For the women headed households, the impact of migration is immense as they have been forced to take on all responsibilities of the household in the absence of the migrating husband whereby they are also more vulnerable to further exploitation and marginalisation in their local area. Thus for women who have migrated or who have stayed back heading their households, migration is due to vulnerable and marginal condition in their own area and its impact creates further gender disparity⁸⁷.

7.5 EMPLOYMENT OF WOMEN IN ORGANISED SECTOR

The state of Orissa which has a low industrial sector (less than 25%), the employment scenario is dismal. Besides the total employment in the organised sector is on the decline and as per the 2007 data it is 0.688 million employees. The dominance of public sector continues (86.9%) though there is a slight increase in the private sector employment situation. The ratio of private to public sector employment in the state (less than 0.2) vis-à-vis the national scenario (0.4–0.5) is low which reveals that the private sector has a low presence in the state.⁸⁸

As per the data available in Directorate of Employment, Bhubaneswar, Orissa while there were 12.4% women employees in the year 2000, it has increased to 14.8% by the year 2007. In the

⁸⁶ Economic Survey of Orissa, Govt of Orissa, 2009.

⁸⁷ Increasing migration and impact on women, Study supported by NCW, Sansristi, 2007.

⁸⁸ Economic Survey Orissa, Govt of Orissa, 2009–2010.

comparison between public and private sector, the maximum women employees, i.e., 92,000 are in public sector, with only 10,000 in private sector in the year 2007. There has been a decline of women employees in the public sector by 8000 during 2006–07 and overall the decline in the organised sector employment has been by 1, 10,000 over the period 2000 to 2007. (Refer Table 7.1)

TABLE 7.1:
Employment in the Organised Sector (in Thousands)

Year	Public Sector		Private Sector		Total Organised Sector Employment	Women Employee in Organised Sector	Percentage of Women Employees to Total Employees
	Total	Women	Total	Women			
2000	711	89	87	10	798	99	12.4
2001	717	92	89	10	806	102	12.7
2002	692	93	79	10	771	103	13.4
2003	680	96	87	10	767	106	13.8
2004	657	96	89	11	746	107	14.3
2005	655	100	90	11	745	111	14.9
2006	627	100	89	11	716	111	14.9
2007	598	92	90	10	688	102	14.8

Source: Directorate of Employment, Orissa, Bhubaneswar.

The employment registration indicated that only 0.035 million were women job seekers compared to 0.147 million men.⁸⁹

It is seen that women usually go in for temporary and standby jobs because of the prevailing diffidence to employ women in regular full time jobs with good working conditions which are considered as expensive.⁹⁰ The state's unemployment rate has remained higher than the national rate. The urban unemployment rate is higher than the rural unemployment rate. The unemployment rate has increased as per the 61st and 62nd round of NSS. The absence of sex disaggregated data on unemployment hinders analysis from a women's perspective.⁹¹

7.6 ENSURING MATERNAL HEALTH—SCENARIO IN ORISSA

Models of Maternity Protection:

Different models are being practiced while providing maternity benefit and protection. The employer liability model is in which the employer bears the medical expenses and protection of work through paid leave for women employees and this exists primarily in the organised sector. The other model is that of the contributory model in which the employee as well as the employer contributes to a corpus from which maternity benefits are given out. Such a model is adopted in the Welfare boards for workers in the unorganised/informal sector such as construction and also in the ESI registered organisations in the organised sector. While ESI Act gives paid leave and medical expenses reimbursement, the welfare boards generally give cash assistance. On the other hand, the third model is the public safety net one in which women from rural and urban areas primarily from BPL households are to avail government schemes for cash compensation for maternity related expenses. (Refer Table 7.2)

⁸⁹ Economic Survey of Orissa 2008–2009, Govt. of Orissa.

⁹⁰ Hans, Asha, Women of Orissa- status and challenge, unpublished paper, 2010.

⁹¹ Economic Survey of Orissa 2009–2010, Govt of Orissa.

**TABLE 7.2:
Existing Maternity Protection/Benefit Models**

Model/Sector	Provisions
Employer Liability mobility model (Organised Sector)	MB Act
Contributory social security model (Organised and Informal Sector)	ESIC Welfare Boards (Beedi, Construction, etc.)
Public Safety net model	NMBS, JSY, ICDS, RSBY

In the above described models there are the following departments which are in charge of providing maternity benefit/protection:

**TABLE 7.2: (contd.)
Implementing Departments of Various Maternity Assistance Programmes/Schemes**

Department	Scheme/Act
Women and Child Development	ICDS
Health and Family Welfare	NMBS, JSY
Labour and Employment	MB Act, ESI Act, Welfare Boards, RSBY, Acts on Beedi workers

7.7 SCHEMES

7.7.1 Integrated Child Development Schemes (ICDS)

The programme covers all the 314 blocks and 12 urban local bodies of the State through 60,918 Anganwadi centres and 10,216 mini Anganwadi centres. During 2008–09, the coverage of pregnant and lactating mothers under Supplementary Nutrition Programme (SNP) was 48.79 lakh while 8.66 lakh mothers were given health check ups. In the referral services 6.5 lakh mothers were covered.⁹²

Social Audit of ICDS: In a social audit conducted on ICDS in Kagan village of Mirdhapali Gram Panchayat under Bolangir Sadar Block of Bolangir district on 2nd June 2009, some of the key issues that were raised are:

1. Using traditional weight machine, the Anganwadi workers cheat the beneficiaries by giving less quantity of items against the prescribed one.
2. Neither the people nor the beneficiaries are aware about the prescribed quantity of food-grains to be distributed in the centre. There is no display board at the Anganwadi centre.
3. The attendance Register is not open for public inspection. The Anganwadi centre is not opened regularly. The children do not get pre-school education at the centre.
4. All the beneficiaries said that health check up is never done in the centre.
5. Though there is norm for providing cooked food to the beneficiaries, the beneficiaries are given dry food in all centres.

ICDS Beneficiaries in Tribal District:

The district of Kandhamal has the lowest number of pregnant and lactating women (0.01 lakh) under the SNP of ICDS in the year 2007–08.⁹³

7.7.2 National Maternity Benefit Scheme (NMBS)

This scheme, which started operating from 1995, provided for Rs. 500 as assistance for nutritional support to BPL women, 8–12 weeks prior to delivery for each of the first two live births. Specifically NMBS is linked to provision of better diet for pregnant women from BPL families.

⁹² Economic Survey of Orissa, 2009–2010, Govt of Orissa.

⁹³ <http://www.wcdorissa.gov.in/icds.aspx>.

As per the Supreme Court order of 9th May 2005, the existing NMBS will continue. Later on 29th November 2007, the SC ordered that under NMBS, the amount shall be Rs. 500 per birth irrespective of number of children and the age of the woman. The NMBS has been merged with JSY since 2005.

Poor Performance of NMBS:

Way back in 2002, Mr. N C Saxena (Member of Right to Food fact finding team) had observed on a visit to Orissa that pregnant mothers were not given benefits due to them under the NMBS programme. Backlog was huge in Keonjhar district. The scheme of giving Rs. 500 to each BPL pregnant mother was not running well at all. Fund allocation for this district was so meagre compared to the requirement that there was a four year backlog. According to the district figures roughly 25,000 births take place in a year. If half of them are BPL families, the scheme should be benefiting 12,500 women, against this number only 1818 women were given the assistance during 2001–02 under the scheme.⁹⁴

Social Audit of NMBS:

In a social audit conducted in GP Budidar, Block: Junagarh Dist. Kalahandi on 15th June, 2006, it was found that NMBS is not known to anyone in the Panchayat and found to be totally defunct. Surjya Majhi of Lakhnepada and Hasmani Nial of Bijradar informed that the Anganwadi Didi is demanding Rs. 5 per kg of maize powder which is meant for the pregnant ladies living below poverty line. They were surprised to know that there is such provision to support pregnant ladies living below poverty line.⁹⁵

7.7.3 Janani Suraksha Yojana (JSY)

This scheme started in 2005 which promotes institutional deliveries. It is a fully Centrally sponsored scheme. By the year 2007–2008, the overall beneficiaries were around 7 lakh, out of which the institutional delivery cases are 84% and rest 16% are home delivery. Rural cases comprise of 81% while the urban cases are 19%. The SC and ST beneficiaries have totalled to 2,07,717. The role of ASHA is identified in 48% of the total cases. The Health and FW dept is the nodal under the National Rural Health Mission to operationalise the scheme. (Refer Table 7.3 and 7.4) An ASHA has been deployed in every village of population 1000 to provide basic health services to rural population. Till now 34,352 numbers of ASHAs has been deployed through out the state.

TABLE 7.3:
Beneficiary Status of JSY in Orissa by Place of Delivery

Year	Home	Institutional	Total
2005–06	5,281	21,126	26,407
2006–07	75,752	1,51,452	2,27,204
2007–08	78,883 (16.08%)	4,11,774 (83.92%)	4,90,657

Source: Annual Report 2007–08, NRHM Orissa.

TABLE 7.4:
Beneficiaries who have received Benefit with the help of ASHA Worker

Year	ASHA Accompanying Mothers	Amount Received in Lakhs
2007–08	2,26,265	7,73,242

Source: Annual report 2007–08, NRHM Orissa.

⁹⁴ http://www.wfp.org.in/website/events/countdown_2007/nc_saxena_right.pdf.

⁹⁵ www.righttofoodindia.org/data/Final_Report_social_audit.doc.

JSY assessment:⁹⁶ A study conducted by UNFPA indicated that 73% of the births during the year 2008 in Orissa were conducted in a health facility. Among these institutional deliveries, those conducted in government centres and in accredited private hospitals were found to be 67%. Thus the direct beneficiary of the JSY scheme was to the tune of 67–68% in the state. The socio-economic differential indicates that the per cent of institutional deliveries was slightly lower for those living in *katcha* houses, those belonging to the ST community and among illiterate mothers.

7.7.4 Rashtriya Swasthya Bima Yojana

Rashtriya Swasthya Bima Yojana is a Central Government Scheme providing health insurance for the Below Poverty Line (BPL) families in the unorganised sector. BPL families are entitled to more than 700 in-patient medical procedures with a cost of up to Rs. 30,000 per annum for a nominal registration fee of Rs. 30 per annum per family. Pre-existing medical conditions are covered and there is no age limit. Coverage extends to the head of household, spouse and up to three dependents, i.e., this scheme is one for medical insurance for BPL families of 5 upto Rs. 30,000.

In Orissa the BPL families enrolled total to 3,37,207 in the districts of Jharsuguda, Kalahandi, Nayagarh, Nuapada and Puri.⁹⁷ The nodal agency is the Dept of Labour and Employment, GoO.

Maternity related expenses are expected to be covered in this scheme but it is dependant if the pregnant woman name is listed as a dependant.

7.8 LABOUR LAWS AND MATERNITY PROTECTION

To understand the situation if women workers and their maternal benefit entitlements, the labour laws being enforced in the state are to be looked into. In Orissa, the labour laws prevailing (50 in number) are in primarily three categories. One: the labour laws enacted and enforced by the Central Government. Two: laws enacted and enforced by both the State and Central Government. Three: laws enacted and enforced by the State Government (Refer Annexure-A).

Provision for Women Workers under Labour Laws:

In the context of women and those related to maternity protection the laws are: Employees State Insurance (ESI) Act 1948, Beedi and cigar workers (conditions of employment) Act 1966, Beedi workers cess welfare act, 1976, Building and other construction workers (Regulation of employment and conditions of service) Act, 1970, Maternity Benefit (MB) Act 1961, Building and other construction workers (Regulation of employment and condition of services) cess Act, 1996, Orissa building and other construction workers (Regulation of employment and condition of services) rule 2002, etc.

7.8.1 MB Act (Orissa Scenario)

According to labour statistics in Orissa for the period of 1997 to 2008, a total of 182 beneficiaries have got maternity benefits and received a total sum of Rs. 27,27,526 against the days claimed. In the year 2002 there were only 24 beneficiaries and these beneficiaries received a sum of Rs. 4,11,252 against the claimed days. The status in 2008 shows that only 16 beneficiaries have received Rs. 2,75,550. (Refer Table 7.5). A total of 650 establishments are covered in the state of Orissa.

⁹⁶ Concurrent assessment of JSY in selected state, UNFPA, 2009.

⁹⁷ Annual Report, Dept of Labour and Employment, Govt of Orissa, 2009.

TABLE 7.5:
Coverage of Beneficiaries under Maternity Benefit Act, 1961, in Orissa

Year	No. of Establishments Covered Under	No. of Beneficiaries	Amount of Maternity Benefit Paid (Rs.)
1997	646	13	1,75,976
1998	649	11	1,18,685
1999	647	02	73,250
2000	647	10	1,90,468
2001	647	07	2,13,766
2002	648	24	4,11,252
2003	650	34	2,95,927
2004	650	20	2,24,958
2005	650	18	3,48,016
2006	650	11	1,74,700
2007	650	16	2,24,978
2008	650	16	2,75,550
Grand Total		182	27,27,526

Source: Labour statistics in Orissa, 2007.

7.8.2 ESI Act (Orissa Scenario)

ESI Corporation:

In Orissa the ESI Corporation operates through 24 branch offices. It is noticed that 17 districts are covered. There are 54 ESI dispensaries and 6 hospitals (347 beds) in the Orissa region.⁹⁸

Establishments Covered:

In Orissa there are 5,592 factories and establishments are covered in the year 2009, while it was 5,254 and 4,927 in 2008 and 2007 respectively (Refer Table 7.6).

TABLE 7.6:
Establishments Covered Under ESI

Year	No. of Factories/Establishments Covered
2007	4,927
2008	5,254
2009	5,592

Source: ESI, Bhubaneswar, Orissa.

Insured Employees:

The approved number of employees/Insured Persons during the period 2001 to 2005 has been the highest in the year 2005 at 1,31,450 and the beneficiaries are 5,10,026.

Females Insured:

In the state of Orissa, under the ESI registration, the total female insured comprise of a mere 2.82% of the total insured. Specifically for the year 2009, the new registration of female insured employees was 7.57%. Numerically, the total female insured are 1,30,679. (Refer Table 7.7)

⁹⁸ http://www.esicorissa.org/esic_glance.html.

TABLE 7.7:
Year-wise Registration of Insured Employees

Year	New Registration			Total Insured Employees		
	Male	Female	Total	Total Male Insured	Total Female Insured	Grand Total
2008	61,408	4,403	65,811	28,81,236	2,33,375	31,14,611
July 2009	55,733	4,565 (7.57%)	60,298	45,02,875	1,30,679 (2.82%)	46,33,554

Source: ESI, Bhubaneswar, Orissa.

Branch-wise Scenario:

Rourkela branch office of ESIC has covered the maximum number of female workers in the year 2007 where as in the same year in three branches namely Anugul, Puri and Sonapur no female workers have been registered under ESIC act. In the year 2008 the branch offices of Rourkela, Rajgangapur and Bhubaneswar have the highest number of insured female employees, i.e., 1634, 1083 and 948 respectively. The total number of insured women were 8780 in the year 2009, out of which the top three branch offices being Rourkela, Bhubaneswar and Jajpur road which had covered 2935, 1842 and 1445 women respectively.

Maternity Benefit Under ESI

In 2007–08 financial year there were 167 female beneficiaries who have received a sum of Rs. 11,03,297 in terms of cash assistance for 10272 days under maternity benefits in the state. In the next financial year 2008–09 there has been an increase in the coverage with 185 women being given maternity benefits for a total amount of Rs. 11,03,210 for 10975 days. (Refer Table 7.8)

TABLE 7.8:
Maternity Benefit Payments under ESI

	April 2007 to March 2008	April 2008 to March 2009
No. of Payments	167	185
No. of Benefit Days	10,272	10,975
No. of Fresh Claims	124	130
Amount Paid (Rs)	11,03,297	11,03,210

Source: ESI, Bhubaneswar, Orissa.

7.8.3 Welfare Boards in Orissa and Maternity Provision

In Orissa there are 11 boards formed by the Government of Orissa which covers different categories of unorganised labour force. Specifically the Boards are for Child Labour, Beedi workers welfare, Building and other construction workers, minimum wages.

Recently in March 2010, the Orissa State Social Security Board has been constituted under the Unorganised workers Social Security Act 2008. Maternity Provisions for unorganised workers:

1. Construction workers—Women workers to get delivery assistance for maximum two children (amount not mentioned).
2. Beedi workers—Rs. 1000.00 as delivery assistance per child for two live births.

7.9 FIELD STUDY

In the context of Orissa, the situation of maternity protection was assessed by studying the following sectors and units:

Organised Sector: Women employees in a Public Sector Undertaking (PSU), Corporate HQ, Bhubaneswar and Women employees in a Chemical Factory (ESI registered).

Unorganised Sector: Women labourers in a Public Sector Company (PSU), plant site at Damanjodi, Koraput.

Unorganised sector under welfare Boards: Women beedi workers in Sambalpur district.

General women accessing maternity protection schemes such as JSY and ICDS.

The efficacy of the norms, acts, laws and schemes that were investigated were the MB Act, ESI Act, Provisions under the Welfare and Cess Commissioner for the Beedi workers, Schemes such as JSY, ICDS and RSBY.

The methodologies adopted for the study were Focus Group Discussion (FGDs), key informant interviews, secondary data review and workshop.

7.9.1 Unorganised Women Workers (Women Beedi Workers, Sambalpur)

The field study has been done in 4 blocks of Sambalpur district, among them two are remote blocks, far away from the district head quarter and rest two are nearer to the district township. The rural blocks covered are: Sambalpur, Jujumara, Dhankoda, Rengali and the urban area is the Hirakud NAC.

During this study for getting qualitative information the research team conducted 6 FGDs among the home based women beedi workers who are involved in different unions or exposed to awareness programmes or not involved any unions. Key informant interviews have been done for the beedi company owners, agents, Beedi dispensary doctor at Sambalpur town.

Beedi production is a labour intensive work. The beedi industry provides a sustainable livelihood to the rural poor. The beedi workers are mostly women as beedi making is a home based work. The beedi industry is the single largest unskilled employment provider after agriculture sector. In Orissa it is estimated that more than five lakhs (unregistered and registered) workers are engaged in beedi industry. More than 90% of these beedi workers are women.

In Orissa, there are 13 districts where beedi workers are present for different manufacturing companies out of which Sambalpur district has the maximum number of home based beedi workers, i.e., about 48.33%. The number of licences issued is 268 out of 317 establishments covered. The highest (116) number of licences has been provided in Anugul district and next 54 in Cuttack. Thirty licences have been issued in Sambalpur district. (Refer Table 7.9). Overall the home workers are 96.3% of the total workers. These are primarily women.

TABLE 7.9:
Establishments and Workers (Male and Female) in Beedi Industry in Orissa

Sl. No.	Name of the District	Licence Issued	No. of Estts. Covered	No. of Workers in the Industrial Premises	Home Workers	Total Workers	Home Workers as % of Total Workers	% of Home Workers in the District
1.	Anugul	116	116	1631	33,430	35,061	95.3	19.2
2.	Balesore	7	7	39	8,525	8,564	99.5	4.89
3.	Bargarh	7	7	72	2,525	2,597	97.2	1.45
4.	Cuttack	54	54	1852	14,618	16,470	88.8	8.39
5.	Jaipur	4	4	262	2,483	2,745	90.5	1.42
6.	Jharsuguda	36	36	139	13,217	13,356	99.0	7.59

Sl. No.	Name of the District	Licence Issued	No. of Estts. Covered	No. of Workers in the Industrial Premises	Home Workers	Total Workers	Home Workers as % of Total Workers	% of Home Workers in the District
7.	Kendrapara	-	10	10	3,040	3,050	99.7	0.19
8.	Khurda	-	25	73	685	758	90.4	0.39
9.	Malkangiri	6	6	75	4,442	4,517	98.3	2.55
10.	Mayurbhanj	7	7	25	0	25	0.0	-
11.	Nayagarh	-	13	29	6,536	6,565	99.6	3.75
12.	Puri	-	1	16	766	782	98.0	0.44
13.	Sambalpur	31	31	2,400	84,152	86,552	97.2	48.33
	Grand Total	268	317	6,623	1,74,089	1,80,712	96.3	100

Source: Labour Welfare Commissioner, Bhubaneswar, Orissa.

Laws Governing Beedi Workers:

There are mainly two Acts which govern the employment conditions and welfare measures of beedi workers.

Beedi and Cigar Workers (Conditions of Employment) Act, 1966:

The Beedi and cigar workers (condition and Employment) Act 1966 specifies about the welfare of the workers and regulates the condition of employment, definition of employee (any person who is doing beedi work either in home or in the premises of manufacture company or provided raw materials through the contractor). The Act provides that no employer shall use or allow to be used any place or premises as an industrial premises unless he holds a valid license issued under this Act. The Act provides for the facilities for Cleanliness (Section 8), Ventilation (Section 9), Over Crowding (Section 10), Drinking Water (Section 11), Latrines and Urinals (Section 12), Washing Facilities, (Section 13), Crèche (Section 14), First Aid (Section 15) and Canteens (Section 16) to be provided by the employer.

Beedi Workers Welfare Fund Act, 1976:

The main purpose of the act is to provide welfare measures to improve the living conditions of the labourers engaged in the beedi making activities. In particular to defray the cost of measures for the benefits of the such persons directed towards the improvement of public health and sanitation, the prevention of diseases and the provision and improvement of medical facilities; provision and improvement of water supplies and facilities for washing; provision and improvement of educational facilities; provision and improvement of housing and recreation facilities including standards of living, nutrition and amelioration of social facilities, provision of family welfare, including family planning education and services; the provision and improvement of such other welfare measures and facilities as may be prescribed.

Under this Act maternity benefits for the female beedi workers are given Rs. 1000/- upto two live births and in this context the workers have to apply to the concerned authority at the beedi hospital in the prescribed format within one month of delivery.

Orissa Rule:

The Beedi and Cigar (conditions of Employment) Rules, 1969 were framed in exercise of the power conferred by Section-44(3) of Beedi and Cigar Workers (conditions of Employment) Act, 1966, for the Welfare of Beedi workers. The said rules were published in L&E. Deptt. Notification No.2348 dt. 19.2.69.

Welfare and Cess Commissioner, Orissa:

The Labour Welfare Organisation (LWO) of the Welfare and Cess Commissioner, Bhubaneswar is one of the 9 regional offices through out the country. This office caters to the welfare measures of the beedi, mines, cine workers, etc. with the funds raised by the cess levied. This welfare service is without any contribution from the individual worker. The LWO, Bhubaneswar comprises of two field offices (Barbil and Rourkela), 24 medical units (1 hospital and 23 dispensaries).

The beedi workers welfare fund is financed by a levy of cess on manufactured beedis. At present Rs. 2/- is charged per 1000 manufactured beedis.

Welfare Schemes for the Beedi Workers:

Under the 1976 Act and the 1978 Rules, welfare schemes for the beedi workers, their families and dependants are in place related to health, education, recreation, social security and housing.

There are 16 static and mobile medical units to provide free medical treatment to the beedi workers, and their family members. The women beedi workers are entitled to get maternity benefit of Rs. 1000 for two deliveries. Other health related assistance includes treatment for heart diseases, TB, etc. The beedi workers can avail free medical check up services in the beedi hospital and there are also provisions for reimbursement of the amount of expenditure on different minor as well as major diseases.

In all Orissa basis, the Welfare and Cess Commissioner has issued identity cards to 2,07,263 beedi workers. Maternity benefit has been availed by only 432 women (Refer Table 7.10).

TABLE 7.10:
Activities of LWO, Bhubaneswar for Beedi Workers—2009

Sl. No.	Scheme	Number of Workers	Total Amount Spent (Rs.)
1.	Number of I Cards issued till Feb 2009	2,07,263	NA
2.	Workers covered under GIS	1,15,540	NA
3.	Maternity benefit scheme	432	4,32,000
4.	Additional monetary compensation for sterilisation	31	15,500

Source: Welfare and Cess Commissioner, Bhubaneswar.

Ground Reality:

The beedi workers have been facing numerous difficulties in their daily life starting from getting Identity Card to accessibility of facilities as per the government. provisions. Awareness about the provisions and other facilities as per the act is very low for which the benefits have not been accessed by the beneficiaries.

During our field study we have identified three categories of beedi workers in Sambalpur district like factory based beedi worker, out work system and under contract. In the factory based worker the owner/staff directly monitors the work. All the work is done in the premises of the establishment and they are not allowed to take materials to the residence. The companies are not interested to do work under this system because under this all the workers (both men and women) have to be registered under ESIC act or Factory act. The companies avoid adopting this system of work. In any case the companies give more opportunity to male workers in the premises. In the field study, in the four companies covered, no female workers were found in the premises.

In the out rate system the employer shifts the work site to the home of the worker and in this process the raw materials are supplied by the company, the excess materials after finishing the fixed requirement of finished product are returned to the company as per the norm.

In contract work system generally the raw materials are supplied through the intermediary person or contractor or manager of the concerned company. This practice was generally found to be prevalent in the field study area, where the women workers receive the raw materials from the contractor and deposit the finished product through the same procedure. According to the workers the factory based system or out rate system is better than the contract based system.

In most of the cases the workers have been suffering various problems like receiving low wages. There is gross mismanagement of provident funds, which is not being deducted regularly. Generally the contractors deduct the contribution from the workers wage but do not deposit it in the accounts of the beedi worker. Inaccessibility of maternity benefits, scholarship, free medicine facilities, loan to construct own building, recreational facilities, etc., aggravate the situation. The women beedi workers have to manage the household chores as well as engage in beedi making. They generally work long hours ignoring their own health requirements. The young women especially pregnant ones work till the delivery period. There is significant lack of awareness or knowledge related to maternity provisions.

Schemes like Swarnajayanti Gram Swarajgar Yojana, Pradhanamantri Gram Sadak Yojana, Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), etc., where the labour can do unskilled manual work do not give priority to women workers. In the case of MGNREGS there is no provision for the women workers to get maternity benefits assistance. Recently, the Government has launched an insurance scheme called as Rastriya Swasthya Bima Yojana for the BPL families. But till now this scheme has not been implemented in Sambalpur district.

The beedi workers who have identity cards can avail free medical facilities from the beedi hospital. But in reality the workers are facing various difficulties to access these facilities from the beedi hospital. The problems in beedi hospital are insufficient numbers of doctors and other staffs, far location of the hospital. The Sambalpur beedi dispensary has only one doctor since the last seven years. Women beedi workers generally depend on private institutions or government hospital for delivery. Due to the poor financial condition, the pregnant women in the remote areas prefer home based delivery.

It was seen that the women beedi workers are availing the ICDS facilities such as iron tablets, vaccination, etc., from the Anganwadi Center. The women beedi workers who have gone in for institutional delivery in the Govt. recognised hospitals are getting the cash assistance sum of Rs. 1400/- under Janani Surakhaa Yojana (JSY). However the women feel is that the amount is not sufficient for institutional delivery because the hospital location is far away from the village and also have no communication facilities for which some of the women prefer home based delivery. In any case the women are availing the cash benefit under the JSY and they feel that the procedural aspect is pretty simple.

Maternity Benefits for Beedi Workers:

It is mandated that the women beedi workers would be eligible to avail Maternity benefit of Rs. 1000/- upto two live births and in this context the workers have to apply to the concerned authority at the beedi hospital in the prescribed format within one month of delivery. The application is to be supported by the Identity card. Here in lies the problem—for the numerous women who do not possess the I Card, they cannot apply for maternity benefits. Also the procedural aspect of application is complex and this is a deterrent. On the other hand, the availability of JSY is easier. It is also noticed that the women work till the last date of pregnancy.

Many of the women workers do not have any idea about the maternity benefit and the procedure that needs to be followed to avail of it. It is seen that generally where the union is more active and the villages are nearer to the hospital area, workers know about the procedure and they are accessing

financial assistance from the beedi hospital after submitting the application form along with essential documents like photo copy of birth certificate of the baby and beedi identity card. After thirty days of submitting application form, the beneficiaries are getting financial assistance from the beedi hospital.

As per the primary information collected from the beedi hospital that 129 beneficiaries have received maternity benefits from the beedi hospital located at Sambalpur district head quarter. (Refer Table 7.11)

TABLE 7.11:
Maternity Benefit Beneficiaries in Sambalpur Beedi Hospital

Month/2009	No. of Beneficiaries
January	20
February	16
March	04
April	06
May	06
June	05
July	08
August	11
September	09
October	14
November	12
December	18
Total	129

Source: Beedi dispensary, Sambalpur.

In overall scenario we found that the women beedi workers are accessing maternity benefits after delivery mainly from two different sources (JSY and Beedi hospital). Both of these are cash benefits in the post delivery situation. The women engage in work till the last date upto the delivery. The women are not in a position to take rest and not work as that would lead to wage loss. Non issue of identity cards is debarring many valid and legitimate women beedi workers from availing many benefits from the Welfare fund including the maternity benefit.

7.9.2 Women Workers in PSU

The Government undertakings or the Public Sector Undertakings (PSU) are key to national development and provide employment to a large number of persons. Since the First Five Year Plan, independent India has seen a sustained growth in the number of PSUs. The common objectives have been: building up of infrastructure for development, generating surpluses for further investment, creating employment opportunities, diversification of the economy, reduction of inter-regional disparities and promotion of rapid economic growth. These provide a safe, sustainable and secure employment to skilled, semi skilled, executive, administrative personnel. Sectors such as heavy industry, steel, oil and gas, banking and insurance among others have the some of the largest and most successful PSUs—BHEL, State Bank of India, ONGC, Indian Oil Corp, Oil India, Steel Authority of India and Bharat Electronics among others.

Study Area:

In this study we have focused on a PSU in Orissa. Specifically we have covered the women employees in the Corporate Office at Bhubaneswar and the women labourers in the plant site. The

primary qualitative information was gathered from the women workers through conducting Focus Group Discussion. Key informants like contractors, doctors, PRI representatives and local union leaders were interviewed to get information about the existing situation of women labour workers in the PSU. Secondary information was also explored from the units about the employees.

Maternity Benefit Policy:

A maternity benefit policy has been formulated by the PSU. It is applicable to all the executive and non-executive employees working in the company. The policy is as per the MB Act. It is seen that five number of women have availed maternity benefit during last three years in the Corporate Office. (Refer Table 7.14)

**TABLE 7.12:
Beneficiaries of Maternity Benefit**

Year	No. of Beneficiaries	No. of Days	Categories
2007–08	02	270	Executives
2008–09	00	00	
2009–10	03	405	Non-Executives
Total	05	675	

Source: Corporate House of the PSU, Bhubaneswar.

Women Workers:

In plant site, there are two type of workers engaged: Maintenance Labour and Casual Labour.

Maintenance Labour are appointed by the company directly and normally these category labourers get the benefits/facilities as per the company rule. The women maintenance labour do unskilled work under the Civil Department and very few women get the chance to do other works in the plant site. In this regard the employees of the PSU said that plant site work is really difficult for the women.

In the plant site premises, specific arrangements like separate rest room, crèche for the babies, safety shoes, medical facilities, canteen, etc., have not been given till now for the women labourers. The women labourers are getting a sum of Rs. 150/- per day for civil work. The workers said that the company must provide sufficient work to the maintenance labour over the year. In practice, workers do not get work regularly on a monthly basis. The company also technically avoids for providing work over the full month because if the worker gets the opportunity to do civil work in the plant site as maintenance labour continuously, then the company have to pay the contribution towards the Provident Fund. It is a financial burden; company feels. Due to irregularity of work the workers do not get the daily wages against leave. As the workers said; “for safe working conditions of the workers some benefits and scope have to be provided by the company on a regular basis like adequate and fair remuneration, Safe and healthy working condition, Security of employment, Opportunity for growth and advancement, Promotion prospects, Application of principles of natural justice and equity, etc.”

On the other hand, casual labour get paid a daily wage rate of Rs. 55/- to Rs. 65/-. The contractors prefer unmarried women to do the unskilled manual work in the factory site. The casual labourers do not have any other entitlements.

Facilities and Benefits for Women Workers:

The women labourers in the plant site of the PSU do not have any specific facilities. It was observed that women are mostly concentrated in the civil work. In case of pregnant women, the company is not shifting them from heavy to light work, for which they (women labourers) not interested to work

during that period. The women are availing maternity benefit sum of Rs. 1400/- from the local hospital for institutional delivery under the JSY scheme.

7.9.3 Women Workers in an ESIC Registered Unit (Chemical Factory)

The study also covered an ESI registered unit at Bhubaneswar. There are 731 registered women employees in the said unit out of a total of 1793 employees. There are only 24 skilled women employees. All the male and female employees of the said unit are registered under ESIC.

We have conducted FGDs with the women workers of the factory to understand the maternity benefits that they have availed, its efficacy and impediments. In the last three years there were 29 numbers of beneficiaries who have claimed maternity benefit but unfortunately only 25 have got paid leave as per their salary structure. The reasons as to why the four claims were not approved were late submission of form and lack of knowledge about the procedures for availing maternity benefits through ESIC.

During the field study we found that all the beneficiaries have availed 84 days paid leave as per the norm. All the beneficiaries have got opportunity for free treatment in the hospital along with amount against claimed days. Two women workers have also availed the cash assistance under Janani Suraksha Yojana.

The workers however expressed the need for increasing their number of days of paid leave for maternity. Need for crèche facilities was also felt. The days that spent for vaccination of the new born and till one year of the child are taken as leave which was not appreciated by the women workers. They desire to have additional paid leave for the child care.

7.10 CONCLUSION AND RECOMMENDATIONS

CONCLUSION:

- The maternity benefit under the Beedi board needs a lot of documentation where as the JSY scheme is a simpler one.
- There is under issue of Identity cards to beedi workers.
- Migrant labour is a major problem in many parts of the state of Orissa. Accessibility of maternity protection schemes by the migrant women is not there. Hence database of migrant labour should be maintained so that the maternity protection schemes are available to all women.
- In the remote, tribal and inaccessible areas of the state of Orissa, women are not able to avail the schemes such as the JSY, ICDS, etc.
- Maternity benefits is a rights issue but the various schemes suffer due to poor implementation. Also many of the schemes are demand driven and hence do not reach many of the deserving and eligible women.
- Women working in the unorganised sector such as the brick kilns, construction, etc., do manual labour till the last day of pregnancy until the delivery which is very hazardous to their health as well as to the health of the unborn child.
- There seems to be disconnect between maternity benefit and maternity protection for women in the organised and unorganised sector.
- The cash compensation through the ASHAs under JSY is burdened with many delays which is a deterrent for many families to avail it. The untied fund at the Sub Center ought to be spent for travel reimbursement and other contingency expenses.

- The Rogi Kalyan Samiti and the Goan Kalyan Samiti which started on a pilot basis in 2006 does not have any progress.
- There is no provision for maternity benefit under MGNREGS.
- In the Kendu leaf pluckers' welfare fund, there is no provision for maternity benefits.
- Women employees insured under ESIC are able to access and avail the maternity benefit provisions.
- There is less number of establishments registered under ESI.
- 84 days benefits are not sufficient under ESIC.
- MB Act stipulates annual return forms to be given to Labour Commissioner regarding disbursement of benefits under MB Act in establishments. There is gross under reporting.
- Establishments in organised sector are depending more on contract labour and daily wagers.
- There is lack of coherence and convergence on the issue of maternity benefit/protection amongst the multiple agents such as Govt departments, Welfare Boards and corporations.

RECOMMENDATIONS:

Unorganised Sector:

1. Women should be able to get better nutrition during the period of pregnancy and lactation.
2. Women should be included in welfare boards constituted.
3. New Welfare board needs to be constituted for Agriculture and allied farming sector.
4. Wage rate should be universal.
5. Beedi worker's card should be ensured to all the workers.
6. Village level data base on sex disaggregated basis of migrated labourers to be maintained.
7. Functioning of the various boards should be clearly defined and available in public domain.
8. Involvement of SHGs for maternal protection.
9. Inaccessible areas (mainly tribal areas) need to be given strategic attention to provide maximum benefits to the women.
10. Safety net for wage compensation and job guaranty during the advance stage of pregnancy to be provided.
11. Provisions for maternity benefits to the workers under the Construction welfare board.
12. The newly Constituted State Social Security Board should be women inclusive and its mandate be clearly identified.
13. Migrant women should be entitled to get all facilities of ICDS, JSY, RSBY or any other at the destination site.

Organised Sector:

- Paid leave for maternity under ESIC should be extended upto 120 days at least.
- Coverage under ESIC is to be increased.
- Child care and ante- and post-natal care needs to be protected through ESI leave.
- Beneficiaries of women insured persons should be increased.
- Crèche facilities should be provided.
- Social security coverage must be extended for the women in the IT and BPO sector.

- Every beedi worker should get identity card from the labour and Employment department, strict monitoring must be ensured to check up fake identity card.
- The number of beedi hospital and dispensaries must be increased
- Gynaecology specialist should be appointed in each hospital
- There ought to be simplification of procedures of availing the maternity benefits for women beedi workers.
- Women Self Help Groups can contribute in ensuring that all women get maternity protection through the various schemes.
- Filing of returns under the MB Act should be monitored.

Schemes:

- The travel expenses component of the JSY should be enhanced in remote and hilly terrain of Orissa.
- The RSBY card should give priority to list the names of the women who are in the reproductive age in the family.

Others:

- There has to be a focused approach on the issue of maternity protection/benefit amongst the Government departments particularly Health and Family Welfare, Labour and Employment; Women and Child Development.
- Women component planning to be taken up by the Labour and Employment dept.

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Labour Laws Enacted by the Central and State Government

Sl. No.	Name of the Act
A	Labour Laws Enacted and Enforced by Central Government
1.	The Employees State Insurance Act, 1948
2.	The Employees Provident Fund And Miscellaneous Act, 1952
3.	The Dock Workers (Safety, Health and Welfare) Act, 1986
4.	The Mines Act, 1952
5.	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976
6.	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
7.	The Beedi and Cigar Workers (Conditions Of Employment) Act, 1966
8.	The Beedi Workers Cess Welfare Act, 1976
9.	The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
10.	The Iron Ore Mines Labour Welfare Cess Act, 1961
B	Labour Laws Enacted by Central and Enforced by Both Central as well as the State Governments
11.	The Child Labour (Prohibition and Regulation) Act, 1986
12.	The Building and Other Construction Workers (Regulation of Employment and Conditions Of Service) Act, 1970
13.	The Contractual Labour (Regulation of Employment And Conditions Of Service) Act, 1970
14.	The Equal Remuneration Act, 1976
15.	The Industrial Disputes Act, 1947
16.	The Industrial Employment (Standing Orders Act), 1946
17.	The Interstate Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979
18.	The Labour Laws (exemption from furnishing returns and maintaining registers by certain establishments) Act, 1988
19.	The Maternity Benefit Act, 1961
20.	The Minimum Wages Act, 1948
21.	The Payment Of Bonus Act, 1965
22.	The Payment Of Gratuity Act, 1972
23.	The Payments Of Wages Act, 1936
24.	The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
25.	The Building and Other Construction Workers ((regulation of employment and condition of services) Cess Act, 1996
26.	The Apprentices Act, 1961
27.	The Cine Workers Welfare Cess Act, 1981
28.	The Cine Workers Welfare Fund Act, 1981
29.	The Employee's Liability Act, 1938
30.	The Factories Act, 1948
31.	The Fatal Accident Act, 1855
32.	The Motor Transport Act, 1961
33.	The Personal Injuries (Compensation Insurance) Act, 1963
34.	The Personal Injuries (Emergency Provision) Act, 1963

Sl. No.	Name of the Act
35.	The Plantation Labour Act, 1951
36.	The Sale Promotion Employees (Condition Of Services) Act, 1976
37.	The Trade Union Act, 1942
38.	The Weekly Holidays Act, 1942
39.	The Working Journalist and Other News Paper Employees (Conditions of Service) and Miscellaneous Provision Act, 1955
40.	The Working Journalist (Fixation of Rates Of Wages) Act, 1958
41.	The Workmen's Compensation Act, 1923
42.	The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
43.	The Equal Remuneration Act, 1976
44.	The Children (Pledging of Labour) Act, 1938
45.	The National Services Act, 1972
46.	India Boilers Act, 1923
47.	Orissa Building and Other Construction Workers (regulation of employment and condition of services) Rule, 2002
48.	Orissa Building and Other Construction Workers Welfare, Cess Rule, 1998
C. Labour Laws Enacted and Enforced by the State Government	
Sl. No.	Name of the Act
1.	The Orissa Shop and Commercial Establishment Act, 1956
2.	The Orissa Industrial Establishment (N&F) Act, 1969

Source: Annual Report 2007–08, Labour and Employment Department, Govt. of Orissa.

Uttar Pradesh

Uttar Pradesh (UP), with its mega population (over 180 million) faces enormous challenges which are reflected in its low ranking amongst the states in India in terms of key social indicators. The steady population growth of UP has indeed been detrimental to the developmental matrix of the state. The ‘burden of its people’ has strained resources affecting both natural and material wealth. An adverse sex ratio, a high fertility rate, a high mortality rate and high levels of illiteracy and low GDP, further hamper its path of growth. The social composition of its people is as diverse as its regions, which constantly impinges on the political upheavals, economic development and policy initiatives. These are also impacted by large social disparities too. The historical backlog of systemic discrimination/ exclusion of SC/ST’s and women places them at the lowest level of economic deprivation. Women’s situation is reflected in the high gender gap, particularly in case of indicators like female literacy, work participation rate and life expectancy that confirm the denial of their rights particularly socio-economic entitlements and rights. While looking at availability, access and impact of maternity benefits in both formal and informal sector, it becomes critical to juxtapose their reproductive and sexual health status with the prevailing employment/labour scenario.

The table below illustrates some indicators, in certain critical sectors of human development.

TABLE 8.1:
Selected Indicators of UP and India: A Comparison

	Uttar Pradesh	India	Sources
Population	166.2 million	1.02 billion	Census 2001
Sex ratio	898	933	“
SC population	21.15%	16.2%	“
Total Literacy	57.36%	65.38	“
Female Literacy	42.93%	54.16	“
Male Literacy	70.23%	75.85	“
Birth Rate—1999	30.4	26.1	2005 (GOUP)
Death Rate—1990	8.7	8.7	2005 (GOUP)
Decadal Growth—pop.	25.80	21.34	Census 2001
% of People Below Poverty Line	32.8%	27.5	Economic Survey (2004–05)
IMR	73	58	Economic Survey (2005)
MMR	517 per lakh live births	301 (2003)	RHIME/SRS
TFR	3.8	2.7	NFHS 3
Institutional Deliveries	Urban—40% Rural—18%	Urban 69.4% Rural 31%	NFHS 3
Anaemia in ever married women	50.8	56.2	NFHS 3
Married Women who participate in decision making at household level	48.2%	36.7%	NFHS 3
Ever married women who experience violence	42.4%	37.2%	NFHS 3

UP's growth performance in the initial two decades of economic planning was extremely low (approx. 2 to 2.5% per annum). It was only during the Xth Five-Year Plan (FYP—2002–2007) where the growth rate showed positive trend and reached at 5.2% per annum. This trend continued in the XIth FYP (with an average between 6–7 per cent per annum). On the other hand the status of human development continues to be far from satisfactory as it ranks at 13th position in the Human Development Index (HDI) with a HDI value of 0.39 against the national average of 0.47.

The report covers the reproductive health status and the economic participation of women in the state in the first section. The second section takes into account various maternity benefit schemes and their operational status in the state. The third section places the health benefits available and accessed by women in the three different sectors—public, private and unorganised and the payout of the maternity benefit schemes within the sectors. The final is the concluding section along with the recommendations for the state as a whole.

8.1 HEALTH AND ECONOMIC PARTICIPATION OF WOMEN IN UP

8.1.1 Women's Reproductive Health

Women's reproductive health in UP is poorer than in most other states in India. With an estimated 14% of the 26 million Indian births occurring in UP, there are around 3.5 or 4 million live births in the state each year, (RGI, 2006). Beyond that there are a number of unwanted pregnancies, miscarriages and still births or maternal deaths before birth. Based on SRS estimates (1997–2003), the MMR of UP was 517 in 2002–2003, which means roughly around 20,000 maternal deaths in a year. According to estimates, the proportion of ill-health to maternal deaths is 20 times, giving a staggering number of women who are in dire need of maternal health care. This situation has been in evidence since the last few decades, warranting special planning and provisions for ensuring service provision to all women to prevent deaths or ill-health.

Clearly, the health status of women in the state does not present a very positive picture, as health facilities are inadequate and unevenly distributed across the large state of 70 districts (now 72 districts as of 1.7.2010). As per NFHS 3, only around a quarter of women (26%) received three or more ANC visits, about two-thirds (65%) received two or more doses of tetanus toxoid (TT), half of the women were given iron and folic acid (IFA), but only 9% took it for at least 90 days. The majority of deliveries (88%) are conducted at home and more than two-thirds of these home deliveries are attended by untrained persons. Such low levels of utilisation of Reproductive and Child Health (RCH) services, which are supposed to be provided free of cost by the State, illustrates that health services are either not available or are so poor as to be undesirable, that the overall low status of women prevents them from accessing these services, or both. According, to the SRS figures, 89.9% of deliveries in UP took place in homes in 2001–2003—out of these around 70.8% of the births were handled by non-health personnel (family members, neighbours as well as traditional birth attendants (TBAs)).⁹⁹ This is evident in the Total Fertility Rate (TFR) of the state which is 3.9, Infant Mortality Rate is 69 (IMR) and Maternal Mortality Ratio (MMR) is 440 (SRS 2004–06), which are higher than the national average. The sex ratio too is lower at 898 as compared to 933 for the country.

⁹⁹ These TBAs of UP would be of varied caste composition, and provide services such as facilitating the birth, identifying complications, suggesting referrals, disposing of the placenta and providing immediate post-partum care to the secluded mother and child (washing and massage, etc.) according to Matrika, (n.d.) Hearing Dais' Voices: Learning About Traditional Birth Knowledge and Practice, MATRIKA, PLAN International. 2 Source: RHS Bulletin, March 2008, M/O Health and F.W., GOI.

The National Rural Health Mission (NHRM) is an endeavour to strengthen and improve the quality of state health services in far flung areas. But for the rural women of Uttar Pradesh, the quality of state healthcare provision is hardly different from the private for-profit sector, which is generally labelled as expensive, unregulated and often providing irrational therapy in order to maximise profit health care providers. Government staff on the other hand, who draw full salary from the state, very often appear to be routinely demanding informal payments from low-income women who approach them for maternal health services; they may even deny admission to women on the basis of these payments.¹⁰⁰

The percentage of women aged 20–24 married by age 18 has declined from 64.3 per cent in 1998–99 to 53 per cent in 2005–06, which helped to lower the total fertility rate in the state from 4.06 to 3.82 in the same period. However, it is still high when compared to the national figure or even other states, but nevertheless a positive sign. Institutional births and births assisted by a doctor/nurse/Local Health Visitor (LHV)/Auxiliary Nurse Midwife (ANM)/health workers have increased from 15.2 to 22 and 14.6 to 26.3 respectively in the period 1998–99 to 2005–06. The percentage of ever-married women aged 15–49 who are anaemic also increased from 49 to 52.8, which is a sign of insufficient health infrastructure facilities as well as poor infrastructure in rural areas.

8.1.2 Health Infrastructure of the State

According to NFHS 3 and District-Level Household Survey 3 (DLHS), an average of 15% of the population that seeks healthcare services in UP accesses government health facilities, while 85% opt for private providers. The reasons for this are multi-faceted, and include people's lack of confidence in the government health system. The uptake of preventive health services is low in the state, especially among rural and uneducated women. Low literacy and lack of awareness about services, schemes, and entitlements, low status of women, poverty, and cultural factors are among the crucial factors that determine the health-seeking behaviour in the state.¹⁰¹

The public health system is the least functional due to lack of human and physical health infrastructure, especially in rural areas. Community Health Centre (CHCs), Primary Health Centre (PHCs) and Sub-Centres (SCs) are lacking by 53, 16 and 22% respectively in view of their demand.¹⁰² Therefore despite large public sector health infrastructure in the State only 9% people actually make use of this facility for treatment of ordinary ailments. Due to dysfunctional government health systems at local level, people have to resort to faith healers, untrained health practitioners or private practitioners. In a study of 3,000 households in five Indian states (including UP), that assessed factors affecting health seeking and utilisation of curative healthcare services private practitioners were perceived to be providing better services mainly because they prescribed injections as part of every treatment and were willing to make home visits which were convenient, especially where transportation was inadequate. The government health services were not popular because of the longer waiting period involved, the attitude and behaviour of the staff, and lack of medicines.¹⁰³ The NFHS-3 data for the state substantiates these findings.

Inferences:

- Low levels of literacy and lack of awareness about services, schemes and entitlements; low status of women and lack of family support for them reinforcing low self worth; abject poverty

¹⁰⁰ Report for the Planning Commission, 2007, Jashodhara Dasgupta, Sahyog, UP.

¹⁰¹ Prasad. G. 2009. "Urban Health in Uttar Pradesh: Challenges and Opportunities." accessed July 8, 2009.

¹⁰² Source: RHS Bulletin, March 2008, M/O Health and F.W., GOI.

¹⁰³ Ibid.

pushes women's health to a low priority; and prevalence of culturally influenced practices reflects in low health indicators for the state.

- The health care system and medical human resources in the state are not adequately responsive to women's RCH needs and overall health security, particularly of the poor and marginalised women and those residing in remote areas. Improvement and standardisation in the quality of services through well designed systems for accreditation is critical.
- The confidence of the rural communities in the local service providers such as ASHAs and ANMs has been eroded due to poor service delivery. The IEC and behaviour change communication (BCC) initiatives in the state could play a critical role towards building women's confidence in the public health system.¹⁰⁴
- Due to inadequacy of the health system and services the needy and target population, the poor, are seeking cost intensive private health services, also with no social security to fall back upon.
- Government's initiative to experiment with privatisation of health services will impact the poor and marginalised in accessing low cost services. Besides it is indicative of the state's inability to provide services despite the huge financial resources available in the exchequer.

8.1.3 Economic Growth, Women's Employment and Work Participation

UPs growth rate in SDP¹⁰⁵ only rose in the Vth Plan period and caught up with the national growth rate in the VIth and the VIIth Plan periods, when the state recorded a growth rate of over 5 per cent per annum. However, since the 1990s the growth rate dropped significantly, affecting all the sectors of the economy. Some upward trend in the growth rate of GSDP was discernible during the Xth Plan period as both public and private investment picked up. Thus, the growth rate of the UP economy works out to 5.3 per cent during Xth Plan as compared to a growth rate of 7.3 per cent as all India level during the same period. However, the rate of growth in per capita income of the state works out to 3.3 per cent during Xth Plan period as compared to the corresponding growth rate of 6.0 per cent at all India level. This impacts the situation of work and employment in the different sectors, for men and women and for the different social groups—it is worth noting that the concept of 'work' and 'employment' poses problems in terms of measurement particularly in case of women. Census uses the concept of main and marginal workers. National Sample Survey Organisation uses the concept of primary and subsidiary workers in terms of usual, weekly, daily status and focuses on employment and unemployment through its definition of work or gainful activity as the activity pursued for pay, profit for family gain or in other words the activity, which adds value to the national product. Therefore while male work participation rates as estimated by NSSO are roughly comparable with that of Census, the former reports much higher work participation rates for females.

8.1.4 Sex-wise Distribution of Workers

Sex wise distribution of workers shows that highest proportion of women workers in the state is in agriculture and the numbers of women employed in agriculture sector as cultivators (36.05) are slightly higher than the national average (32.93). Women are working primarily as labourers in agriculture sector. Women's employment proportion in industrial and service sector is nominal—15.96%, well below the national average of 21.75%. Their engagement in household industries, which shows distress work and disguised employment, as 8.34%, higher than national average of 6.46%.

¹⁰⁴ Health Seeking Behavior in Rural UP, USAID, 2009.

¹⁰⁵ UP HDR, 2006.

TABLE 8.2:
Sex-wise Distribution of Workers in Different Sectors¹⁰⁶

State/Union Territory	Male/Female/	Total Workers	Percentage to Total Workers			
	Total		Cultivators	Agricultural Labourers	Household Industry	Other Workers
1	2	3	4	5	6	7
All-India*	Male	275,014,476	31.06	20.85	3.18	44.92
	Female	127,220,248	32.93	38.87	6.46	21.75
	Total	402,234,724	31.65	26.55	4.22	37.59
UP	Male	40,981,558	42.65	20.12	4.75	32.48
	Female	13,002,266	36.05	39.65	8.34	15.96
	Total	53,983,824	41.06	24.82	5.61	28.5

Main and marginal workers together constitute 32.5% of population economically active in UP (2001 Census). Work participation rates (WPR) that shows the proportion of population engaged in gainful economic activity, was very low for females at 16.5% as compared to 46.8% for males. This was lower in urban areas, where only 26.3% of persons were economically active as compared to 33.9% in rural areas. Only 19.0% of rural women and 6.8% of urban women were found to be economically active. It surfaces that limited employment opportunities for women restrict their role in economic development and their individual empowerment. Even district-wise work participation rates have very sharp variations in female work participation, showing a range of 6.3 per cent in Saharanpur (Western UP) to 36 per cent in Chitrakoot (Southern UP). In general FWPR is higher in the poorer regions of Bundelkhand and Eastern UP, as compared to the western and central regions.

According to NSS 61st Round, 36.3% of the persons in the state were employed according to UPSS (Usual + Subsidiary) status. WPR for males and females were 50.2 and 21.6% respectively. The WPRs in the state are clearly lower than that in the country particularly for females. WPR was somewhat higher in rural areas of UP at 37.1% as compared to the urban areas, where only 33.1% of persons were economically active. Work participation rates for women are particularly low—24.0% in rural areas and only 11.7% in urban areas. The latest NSS round shows an improvement in WPR between 1999–00 and 2004–05 for both males and females in rural as well as urban areas (UPHDR 2006).

8.1.5 Sector-wise Women's Employment

As per the 2001 Census, about two thirds of the total workers (main + marginal) are engaged in agriculture. About three-fourths of female workers were engaged in agriculture as compared to around three-fifth of male workers. There has been a shift away from the agricultural sector to non-agricultural sector, mainly in the tertiary activities, for total as well as rural workers, both male and female. The rate of decline in the proportion of agricultural workers was much sharper in the '90s, as agricultural is no longer in a position to absorb more workers. Thus, it appears that marginal farmers are unable to sustain themselves on agricultural incomes and are either becoming agricultural labourers (more women) or moving to other activities as migrant labour.

The NSS data shows greater diversification of the economy as compared to the Census data. The 61st Round of NSS shows that 61.7% of total workers were employed in primary sector, 18.2% in secondary sector and remaining 20.1% in tertiary sector. Only 12.4% workers were employed in manufacturing activities. The rural economy continues to be predominantly agrarian with 72.8% workers employed in agriculture and allied activities, with female workers are overwhelmingly

¹⁰⁶ Census 2001.

concentrated in agricultural activities. 80.5% of total women workers and 86.7% of rural women workers were found engaged in agriculture. The sectoral pattern of employment shows large variations across regions and districts. The economy of the Western region is more diversified as compared to other regions of the state with over 43% workers employed in non-agricultural sector. A relatively higher proportion of women workers also are engaged in non-agricultural activities in this region as compared to other regions, where over 75% of female workers are found in the agricultural sector.

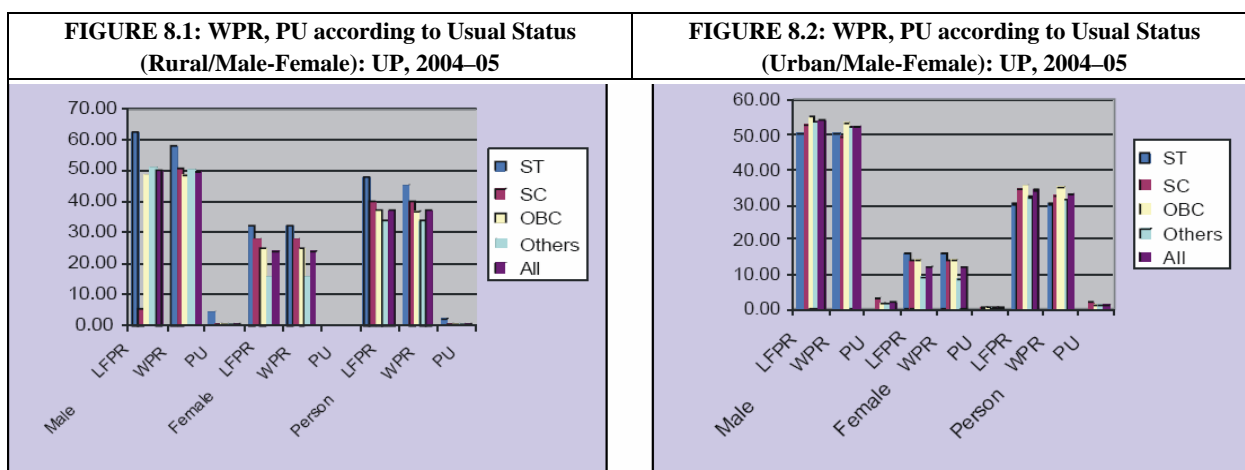
8.1.6 Growth of Employment

It is important to note, that in UP, the growth in employment has been largely contributed by the growth of marginal workers, who work for less than 183 days in a year. Over 60% of female workers (as compared to 15% of male workers) belonged to the category of marginal workers in 2001. The incidence of marginal workers is much higher in the two backward regions of Bundelkhand and the Eastern region of UP. It is illustrative of the fact that employment opportunities were not being generated on a regular basis in all regions and in all sectors, particularly for women workers. There has been low diversification of work opportunities, with the major percentage of workers engaged in the primary sector. Industrial activities are concentrated in some districts in the western part of the state. While there is a low level of participation of workers, both male and female, in the organised sector, female workers have registered a higher growth rate (6.4% per annum) than male workers (1.6% per annum). Female WPR is extremely low, with a high proportion of female workers engaged in agriculture and allied activities as marginal workers only. Additional employment has been generated in low paid over crowded sectors like agriculture and allied activities, construction, petty trade, informal sector and social services.

The major problem in UP is that the quality of employment in terms of productivity is low. Underemployment is particularly severe in case of female workers who do not get regular employment opportunities in terms of steady economic options.

8.1.7 Labour Force Participation Rate

Given the changing nature of the economy in the 1990s with increased mobilisation around women's work and its concentration in the informal, unorganised sector, the realm of productive work has not received serious attention in UP, which is reflected in its tardy economic growth. Data relating to labour force participation rate (LFPR), workers, WPR and proportion unemployed (PU) for various social groups (Figs. 8.1 and 8.2) reveals that in rural UP, the proportion of economically active persons was highest in case of ST followed by SC, OBC and others. The LFPRs for these groups were 47.8, 39.9, 37.1 and 34.0%, respectively. The significantly high LFPR proportions of ST/SC and OBC women reflect their dual work burden to sustain meagre household incomes.



The Issues:

- Among agricultural workers the proportion of cultivators has sharply declined while that of agricultural labourers has increased. Agriculture is not in a position to employ more workers. Marginal farmers are unable to sustain themselves on agricultural incomes and are either becoming agricultural labourers (more women) or moving to other activities as migrant labour.
- A large percentage, 72.8 per cent of workers are employed in agriculture and allied activities, with female workers overwhelmingly concentrated in agricultural activities. 80.5 per cent of total women workers and 86.7 per cent of rural women workers were found engaged in agriculture.
- Women's engagement in household/home based industries, shows distress work and disguised employment, as 8.34 percentage, much higher than national average of 6.46 percentages.
- The organised sector accounts for less than 5 per cent of total workforce and around one-fifth of non agricultural workforce in the State. Almost four-fifths of total organised sector employment is in the public sector.
- The proportion of female employees in the organised sector has been increasing in recent years, though they still constitute hardly one-tenth of total organised sector workers. They are mainly concentrated in social services.
- In UP, employment has low productivity. The problem of underemployment is particularly severe in case of female workers who do not get regular employment opportunities which are steady economic options.
- WPRs for illiterate females vary between 26.9 per cent and 54.5 per cent for all social groups. It once again reveals that significantly high proportions of women are forced to share dual work burden of household works as well as wage earning activities.

8.2 MATERNITY BENEFIT SCHEMES AND PROVISIONS

In the context of UP, as in other states women clearly need maternity benefits to ensure that entitlement for good health as well as socio-economic protection. Since the majority of women are in the unorganised, rural sector they are not covered under any social security schemes, except for Janani Suraksha Yojana (JSY) and Rashtriya Swasthya Bima Yojana (RSBY). The latter is applicable only for BPL families with 2 children. Most of rural poor women from non BPL and those having more than 2 children get excluded. So though as per SRS data UP's (including Uttarakhand) MMR at 440 in 2004–06 has improved from 517 in 2001–03, but is still higher than the national average of 254. Even the TFR at 3.9 (SRS 2007) is higher than the national average of 2.7 and nowhere close to the target of 2.1 for the year 2012.

The state government figures show that maternal health benefits, including JSY, have increased whereby a total of 15.63 lakh beneficiaries have reportedly availed of the services in 08–09. The trend of beneficiaries benefited under JSY shows an increase as per UP state report (50% in the last year). In 2005–06 there were 12,127 beneficiaries, followed by 1,68,613 in 2006–07, there was 21% increase in 2007–08 and subsequent 50% increase in 2008–09.¹⁰⁷ Audited expenditure has increased sharply from Rs. 26.21 crore in 2005–06 to Rs. 87.12 to Rs. 458.26 crore, i.e., 89% of allocation (Rs. 514.74 crore). JSY accounted for 61% of the reported expenditure in 2008–09.

8.2.1 National Rural Health Mission (NRHM)

The National Rural Health Mission is aimed at ensuring effective and quality healthcare, especially to the poor and vulnerable sections of the society. It is being implemented in the State with the aim of

¹⁰⁷ Source: M&E Division reports, and JSY reports from the states.

reducing infant mortality rate and maternal mortality ratio, ensuring population stabilisation, prevention and control of communicable and non-communicable diseases. The state reports significant progress in terms of implementation of various activities under NRHM. A number of new schemes have also been launched, such as, the Saubhagyawati Surakshit Matritva Yojana, a scheme to promote institutional deliveries by involving private sector providers. The overall objective of the State is to have the highest attainable standards of services in the public health institutions/system, coupled with the recent technical advances in terms of well equipped facilities and adequate skilled manpower at every level.

As per the Planning Commission Review Report (2009) for UP, infrastructure improvements have been made by way of strengthening 252 PHCs with three Staff Nurses to make them functional for 24x7 services. Overall 62 CHCs are functioning on 24x7 basis and facility survey completed in 169 health institutions at below district level. Total number of 53 District Hospitals, 68 CHC and others level are functioning as FRUs (Field Referral Units). No Mobile Medical Units (MMU) are functional in the state as yet. At the field level more than 1.34 lakh ASHAs have been selected against a target of 1,36,268 and over 1.08 lakh ASHA's have been trained to reach out to women. Over 1.24 lakh ASHAs have been provided with drug kits. A total 17,323 Sub-centres are functional with an ANM and 1,158 SCs are strengthened with a second ANM. In the state 428 Contractual AYUSH Doctors have been appointed. To augment the human resources contractual appointments of 189 specialists, 2250 staff nurses, 1411 ANMs and 138 paramedics have been carried out under NRHM, but the staff situation is still inadequate, including that of doctors.

Key Concerns Despite Heavy Investments in NRHM.¹⁰⁸

- Institutional deliveries in the state are 24.5% as compared to the national average of 47%. There has been a decline in institutional deliveries from 23.25 lakh in 2007–08 to 18.18 lakh in 2008–09.
- Percentage of children (12–23 months) fully immunized is only 30.3%, as compared to the national average of 45.9%.
- The state continues to rank second highest in MMR (440) against the all India average of 254.
- The IMR is 69 which is the third highest in the country after Madhya Pradesh (72), followed by Orissa (71).
- Neonatal deaths continue to prove a major challenge due to shortage of neonatal referral units in district hospitals and basic newborn care units in all CHCs.
- Postpartum care is another area where there is need for strengthening services and monitoring them.
- Shortage of human resources at all level imposes serious challenges in implementation of NRHM in UP. Even many of the posts at Directorate level are lying vacant affecting the morale of the officials awaiting promotion. Efforts to recruit staff on contract basis have been much lower than the requirement.

Recently, the UP government took a bold step to engage with private hospitals for a partnership for delivery of health services in four Districts of Allahabad, Kanpur, Firozabad and Basti districts, through private hospitals—apparently Apollo Hospitals, Fortis Healthcare, Max Healthcare and Rockland Hospital. However the plan was shelved after serious questions were raised from several quarters about the effectiveness of high cost healthcare for the poor and needy.

¹⁰⁸ Source: Planning Commission 2009 Report of Performance review of flagship programmes implemented in the state of Uttar Pradesh.

8.2.2 Integrated Child Development Services (ICDS)

ICDS IV coverage extends to 41 districts through 897 sanctioned projects up to 2008–09. As against sanctioned 187,517 AWCs/Mini AWCs, there is 80.48% operationalisation. The total number of beneficiaries for supplementary nutrition is approximately 2.25 crore, including children below 3 years of age, 3–6 years of age and pregnant and lactating mothers. If the 90.22 lakh preschool children of 3–6 years are deducted then the gap in beneficiaries for SNP and Pre-School Education (PSE) beneficiaries is 8, 26 lakh.¹⁰⁹ The cashless maternity benefits for women under the ICDS scheme are mainly nutritional support for pregnant and lactating mothers and children, health check-ups and supply of necessary medical care, immunization of children and health education to women. In 2005–06, 14.73 lakh women covered out of 64.04 lakh pregnant and lactating women, that is, 23% were covered, while the total beneficiaries reached in 2007–08 were 34,51,652.

The major issues that hamper the system of support to pregnant women beneficiaries are:

- Inadequate worker skills, shortage of equipment, poor supervision and weak Monitoring and Evaluation. The community workers (AWCs) are overburdened, because they are expected to provide preschool education to four to six year olds, as well as nutrition services to all children under six and to pregnant women.
- Only 42% of functionaries and 54.3% supervisors are in place against sanctioned positions so outreach is severely hampered. Also irregular supply of food grains from FCI hampers supply of nutrition supplements impacting the health of beneficiaries, especially pregnant women and children under 3 years leading to malnutrition.
- Designated medical staff—doctors and ANMs—are not available at the PHCs and CHCs referred by Anganwadi Centres, due to shortage of medical personnel and other staff. Then the rural women perforce have to go to the district hospital or to private clinics and doctors.

The problems faced regarding health services by poor rural women in remote and far out areas are more magnified. These include the poor SC/ST and OBC women who may even have BPL or Antodaya cards. Anyway the Anganwadi centres only register 20 pregnant and lactating mothers, in their catchment of 1000 population, whose numbers may be more in large villages. The other women are deprived of the nutrition supplement as well as health check ups and tracking if they do not get registered at the centre. Even for those who register at the Anganwadi Centre nutrition is often not in regular supply either, in which only 23% women were covered as per Planning commission report cited above for 2008–09. The NFHS 3 data for UP shows that 50.8 per cent ever married women have anaemia. This figure appears rather low as field experiences show that a majority of women have anaemia.

8.2.3 Indira Gandhi Matritva Sahyog Yojana/Subhagyawati Surakshit Matritva Yojana

In October 2009 the Chief Minister announced a new scheme—Subhagyawati Surakshit Matritva Yojana, a new central scheme that purports to improve the health and nutritional status of infants and pregnant and lactating women. However, as yet no concrete operational plans have been executed to implement it. This is to extend support to pregnant women who are compelled to work right up to the last stage of pregnancy and resume work soon after childbirth, thus endangering both themselves and their infants. It is a programme of the Ministry of Women and Child Development which is a pilot project based on a conditional cash transfer scheme in some 95 districts across the States and Union Territories. The scheme has been allocated some Rs. 4,500 crore for the remaining part of the Eleventh Five-Year Plan.

¹⁰⁹ Source: Planning Commission Report, 2009.

Under this new conditional maternity benefit (CMB) scheme, which is called the Indira Gandhi Matritva Sahyog Yojana, a modest maternity benefit of Rs. 4,000 will be given to every pregnant and lactating woman to partly compensate for the loss of wages. The money will be given in three instalments and will have to be used strictly for the mother's antenatal care and the baby's immunisation. Cash incentives will also be given to Anganwadi workers (Rs. 200) and helpers (Rs. 100) to motivate them and ensure that the target group gets the benefit of the cash transfer. The overall responsibility of monitoring has been entrusted to the Integrated Child Development Services (ICDS). The pilot project will cover pregnant women of 19 years of age and above for the first two live births.

The main objective of the scheme is to encourage women to pay attention to their health for six months, and make use of health care services. Social activists in the health sector argue that cash transfers can be made and the objectives achieved without imposing conditions. The system of conditional cash transfers in the area of maternal health is a departure from previous methods of encouraging women to access health entitlements. The success of the scheme will depend equally on the factors of both supply and demand sides. In the Indian context, such schemes have been targeted more towards the individual rather than the household. While the objective is laudatory, social activists feel that it is important for the government to draw lessons, good and bad, from other such cash transfer schemes that exist in a few States in the country.

8.2.4 Employee State Insurance Act (ESIA)

In UP there are three Regional Offices of ESIC in Noida, Varanasi and Kanpur with 40 district level offices. There are 15 ESIC hospitals and 112 dispensaries across the state along with one Corporate hospital in Noida. The annual budget for social security in UP for 2007–08 was Rs. 17522 lakh, while which for 2008–09 has been increased to Rs. 20,754 lakh. As per 2007–08 data 4.53,000 employees were covered under ESIC scheme. As given below in 2008–09, 132,032 women employees have benefited from maternity benefits—mostly for family planning, Ante Natal Care (ANC), iron tablets and X-rays.

TABLE 8.3:
Coverage of Employees under ESIC in UP, March 2008

UP Region at a Glance	2005–06	2006–07	2007–08
No. of employees covered under ESIC Scheme	4,53,000	4,53,000	2,34,537
No. of ESIC affiliated units in UP	40	57	41
No. of factories/Establishments covered	8,486	16,186	9,404
No. of insured persons per year	48,3,050	4,82,050	2,45,393
No. of beneficiaries	17,57,640	18,31,790	7,39,374
Women beneficiaries for maternity benefits—mostly family planning, ANC care and IFA & X-ray—2008–09			1,32,032

Source: ESIC UP Website, 2009.

From the ESIC data given in Table 8.4, on maternity benefits and leave availed by registered women, it appears that out of a total of 4.45 lakh women registered only 0.35% availed maternity benefits.

TABLE 8.4:
Details of Maternity Benefits Disbursement through ESIC in UP¹¹⁰

Year	Women Registered	Beneficiaries	No. of Days Benefited	Amount in Rs.	Age Group	
					18–35 Years	36–45 Years
2005–06	58,050	430	32,056	9,55,294	324	105
2006–07	70,847	734	56,903	6,76,240	545	186
2007–08	89,940	574	74,967	14,03,064	456	117
2008–09	1,09,903	678	35,155	16,21,030	534	110
2009–10	1,19,679	230	16,203	5,81,394	189	39
Grand Total	4,48,419	26,46	2,15,284	52,37,022	2,048	557

From the Field Study:

In the case of the two districts covered under the study, Ferozabad and Saharanpur, we looked at the ESIC coverage for women employees. The pattern of their coverage and benefits accrued is illustrative of women’s situation and their lack of agency within the private sector. In Ferozabad district, as per March 2010 the total number of employees covered were 1891, out of these 422 were women. Coverage shows an increase from the previous year where 130 women employees were covered. As per the ESIC officials, this increase is mainly due to the inclusion of educational institutions under the umbrella of ESIC since 2008. However, despite the increase, as yet no maternity benefit payments had been made to any female employee. It was interesting to note that against the information received from various key informants that there are NO women employees in the glass and bangle factories (except for those working as unorganised, daily wagers), while the ESIC data showed women employees in these factories. Upon screening the two factories which, had 11 and 5 women registered with ESIC, it was found that the companies did not have a single woman employee at any level! This is a strange phenomenon, that even though women were not working at any level in the big factories—not even in the office, show room or front office, establishments were registering them under ESIC—the information was also being updated at ESIC level. According to the owners (of both the establishments) they had no knowledge or clarity of the registration of women beneficiaries under ESIC. As per unofficial sources this could be a way of evading tax payments.

In Saharanpur, the ESIC office covered 2 districts (Saharanpur and Muzzafarnagar) covering 900 establishments, of which factories constituted the larger percentage. On an average the office received 200 claims per month, which were disbursed as per the limit of Rs. 5 lakh on monthly basis. In 2008–09 there were 7033 insured persons (IPs) out of which 148 were women, there was an increase in 2009–10 as 7230 IPs were registered out of which 326 were women. Here too the increase in women IPs was solely due to inclusion of staff from educational institutions under ESIC. Regarding maternity benefit claims there had been just one claim in 2006 and two claims in 2007. Issues and details in the implementation of ESIA is further elaborated in the Section on Private sector.

8.2.5 Maternity Benefits Paid in Factories, Plantations and Mines by Uttar Pradesh

In UP women labourers are employed in mines in Bundelkhand and Eastern region mainly for head loading, stone breaking, cleaning and other forms of daily wage labour where they are entirely at the mercy of petty contractors and have absolutely no work safety or security. Most of the tribal and

¹¹⁰ Source: ESIC Regional Office, Kanpur, UP.

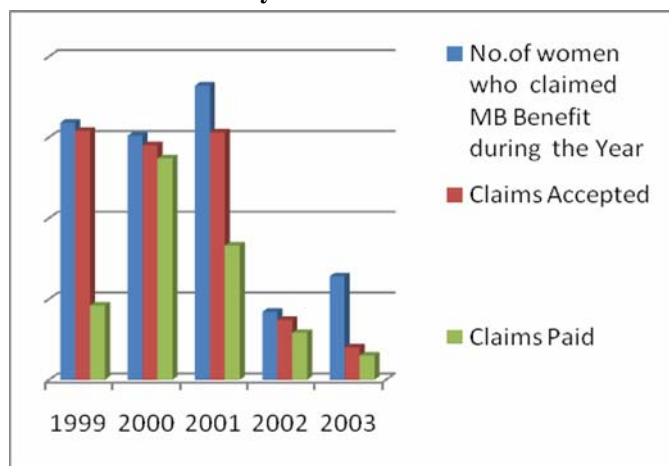
rural women working in the mines are off season workers as they also work as agricultural labourers. This is because most of the land is lost during mining and makes it difficult for them to get a sustained livelihood from agriculture or from the forest produce. In the mines too the work is not available on a regular basis. This gives the mining companies ample opportunity not to provide minimum wages or permanent labour in the mines as they can blame the workers for irregularity of attendance.

While the large scale mining is mechanical, women in the small-scale sector are employed for extraction of silica sand, mica, limestone, etc. They work as contract or bonded labour under highly exploitative conditions. Wages are below par and much less than those for men, they do not get a holiday even one day in a week or during pregnancy or childbirth, no work equipment is provided, there are no toilets or work facilities. These women have very poor access to government health care services and facilities as mines are located in scattered areas away from habitation. As evident from the table given below number of maternity claims made, claimants and beneficiaries have fluctuated across the years. Since the data does not show any set trend it is difficult to assess the outreach and efficacy of maternity benefits.

TABLE 8.5:
Maternity Benefits Paid in Factories, Plantations and Mines in Uttar Pradesh

Year	No. of Estabs. Under MB Act	No. of Estabs. Filing Returns	Avg. Daily No. of Women Employed in Estabs. Filing Returns	No. of Women who claimed MB Benefit During the Year	No. of Claims Accepted and Paid— Fully/Partially During the Year		No. of Cases of Special Bonus	Tot. MB Paid Rs.
					Claims Accepted	Claims Paid		
1	2	3	4	5	6	7	8	9
1999	488	327	3,899	159	154	46	5	2,376,498
2000	488	340	3,359	151	145	137	9	5,849,309
2001	456	361	3,458	182	153	83	4	6,065,027
2002	375	367	6,411	42	37	29	58	385,946
2003	637	131	2,423	64	20	15	138	949,963

FIGURE 8.3:
Maternity Benefits Claims in UP



There is a drop of more than 50% in the number of women who claimed maternity benefits between 1999 and 2003. This decrease is much more prominent in 2002 where the claims dropped from 182

to 42 only. It is worth mentioning here that in the given year the average daily number of women employed in establishment filing returns increased by 46%, indicating a disjunct between number of women employed and MB claims made. In 1999, 97% of the claims were accepted, out of which 30% were paid off, however in 2003, only 31.25% of the total claims made, were accepted and 75% of these were paid off—the reason of such low percentage of claims being paid off against the total claims made could be related to the procedural aspect of the Act.

8.2.6 Rashtriya Swasthya Bima Yojana (RSBY)

This is a new cashless central service scheme for the BPL, unorganised sector worker and his/her family (unit of five), which is yet to be launched fully in the state, though the process of making smart cards has been initiated in 14 districts. As the scheme is new, the payout percentage to beneficiaries with respect to insurance premium money spent and treatment given is extremely low, for instance in the State capital alone the payout to beneficiaries has been only 6.93%. The Smart Card distribution process began only in October 2009, while the scheme was launched much earlier.

Conceptually the RSBY scheme is good as it provides health coverage, including maternal health, for all BPL families. Given the provisions of the scheme, people would be able to access services which may not be readily available through the government hospitals once they are registered. Nevertheless, there are certain areas which need to be looked into during the implementation of the scheme—a) for instance given the migration pattern of most of the BPL families, it is to be ensured that these families are able to access health services where ever they are. b) The government must disseminate information regarding the scheme widely for people to register. c) The registration for Smart Cards has been slow due to the BPL cards being reviewed. d) Presently the scheme has been rolled out in urban and peri-urban areas, the real test will emerge when it reaches out to rural areas. In the rural areas unavailability of proper documentation by clients, unawareness about the scheme, lack of sensitivity towards health issues (particularly of women's health) and poor targeting of BPL families would pose greater challenges.

Women met during the field visits had never heard about the RSBY scheme. In Firozabad, most of the bangle embellishers in Jhalkari Nagar did not have PDS (public distribution system) cards too, as many families had migrated from nearby rural areas and even other districts to seek work here. Other families who had the ration cards were enlisted as APL (above poverty line) and were given yellow cards as shown by some of the women during the focus group discussion. However it was reported by the community members that in some places where people have got the cards, they are unable to access benefits out of them, as cards not functional. ICICI Lombard, the insurance company which was to provide smart cards to BPL families by July 2008 has not accomplished its task as the process of obtaining BPL lists has been delayed. The government has not publicised the scheme on a wide scale for the information of BPL families to access the benefits. Besides this, the BPL lists are under revision across the state.

8.2.7 National Maternity Benefit Scheme (NMBS)

The NMBS was merged within JSY, a scheme for promoting institutional deliveries introduced by GoI, under NHRM in 2005. While the objective of NMBS was to provide nutrition support during pregnancy, the objective of JSY was to give incentives for women to have an institutional delivery. As a result, many women who had a home delivery and were eligible for benefit under NMBS, so they were not getting any benefits under JSY. The Supreme Court in its order of November 2007, clarified that the NMBS must continue and an amount of Rs. 500/- should be paid irrespective of number of children and age of women, 8–12 weeks prior to delivery.

Though the incentive for institutional deliveries is a priority for the State, it overlooks the disbursement of maternity benefits for those women having deliveries at home. This is seen also in the guidelines of the JSY where the benefits of JSY have been extended to all women having a delivery in a government institution irrespective of whether she belongs to the BPL category or not, whereas the BPL criterion remains for the home delivery component. Reports from the field continue to indicate that despite of repeated reminders from the Supreme Court and the Commissioners, in several states it is only those women who are having an institutional delivery are receiving benefits—this also endorses the narrow understanding of ground level functionaries that women having home deliveries are not eligible for any cash assistance by the State.

The Commissioners' recommendations have reiterated that GOI issue clear guidelines specifying that benefit under the NMBS/JSY scheme be provided for ALL BPL pregnant women irrespective of place of delivery, age and number of children. In spite of repeated clarifications and reminders by State agencies/bodies apparently it is believed that women who have home deliveries, those less than 19 years of age and those with more than two children are not to be given any benefit under this scheme. There is also a need to estimate the food security requirements of pregnant women and to account for inflation and raise the cash assistance of NMBS accordingly. The NMBS amount should be raised to at least Rs. 1600 and then must be pegged to the Consumer Price Index for Agricultural Labour (so that it becomes inflation adjusted). The Government must allocate resources for NMBS to cover all beneficiaries, and the state governments must be directed to utilise the entire resources.

UP is one of the states among Assam, Chhatisgarh, Rajasthan and MP where there is less than 20% coverage for home deliveries. In 2007–08, there were 22,82,094 home deliveries. While under JSY deliveries, 91,432 were at home and 7,06,073 were institutional deliveries. There were only 4 per cent home deliveries receiving NMBS benefits in UP, while in Jharkhand, Maharashtra and West Bengal they were 81.9, 40.54 and 34.2 per cent respectively.¹¹¹

8.2.8 Janani Suraksha Yojana (JSY)

JSY is being implemented by the state government under the national NRHM health scheme for the promotion of institutional deliveries among pregnant women aged over 19 years from BPL families. **The cash assistance for hospital deliveries is limited to two live births. But in UP the TFR is high, so women having 4–5 births are unable to access services with incentives for all deliveries.** Central funds include incentive money for the beneficiaries and ASHAs incentive and administrative costs. This is 1% of the total cost at the state level and 4% the total cost at the district level. Administrative costs vary from 2.5 per cent to 6 per cent of allocated funds. The State disburses this amount upon receipts from Centre. Districts further send funds to other levels/institutions and also pay beneficiaries and ASHAs.

In UP, trends show that funds for disbursement to beneficiaries are underutilised. The institutional deliveries are 55% and there, even though there is a substantial shift towards the same, deliveries at home are still at 43%. The percentage of women who have received 3 or more ANC check-ups is reported to be 72.8%, though NFHS 3 shows this to be 26.3% at district hospitals and sub centres. This may be possible because the CHCs, PHCs are under staffed generally, in remote and inaccessible areas. The percentage of ASHAs who accompanied women for institutional deliveries was just 38%. And 35% beneficiaries were motivated by the cash incentive. However, 50% women did not receive the cash incentive. While 5% received the cash incentive before the delivery, only 19.4% beneficiaries received it immediately after or within a week of delivery and 25.5% received the benefit much later.

¹¹¹ Supreme Court Commissioners' Report, 2009, Dr NC Saxena and Harsh Mandhar.

TABLE 8.6:
Receipt of JSY Incentives by Beneficiary Women in UP

Incentive recd. during pregnancy	Soon after delivery	Some weeks after delivery
48%	33.9%	17.4%

Source: MOHFW, GOI, 2007–08.

Some emerging concerns regarding the service delivery are that:

- The important components of JSY such as micro-birth planning are not emphasised.
- The services have not kept pace with the demand.
- The mapping of facilities and their strengthening falls short of increased demand for institutional deliveries.
- Private health sector accreditation for health service delivery has been slow, so there is a rush and pressure on the government hospitals, except in large cities.
- Existing mechanisms of Village Health and Nutrition Day not adequately utilised for creating awareness and completing formalities for registration and ANC check ups.
- Monitoring and grievance redressal systems for cases are not in place.

The Supreme Court Commissioners' Report further highlights that while at one level, the status of institutional deliveries improved from 21.23 lakh (06–07) to 23.25 lakh (07–08) in numbers, but only marginally in terms of percentage. During 2008–09 there were 18.18 lakh institutional deliveries in the state. JSY beneficiaries increased from 1.69 lakh (06–07) to 15.64 lakh beneficiaries in 08–09. (More on JSY in later section)

8.3 CLAIMING THE MATERNITY BENEFITS: CASE STUDIES FROM ORGANISED AND UNORGANISED SECTORS

In the **public sector** undertaking that manufactures telephone equipments and parts was selected. The key reason for selecting the PSU was that in UP it is one of the few public sector units that employ substantial number of women at different levels. Two of their factories—Rae Bareilly and Mankapur—were visited. Even though it is a large Public Sector Unit (PSU), it went through doldrums from the '90s to the present, and is at now being revived. Alternatively, a public sector high growth company, which also employs a large number of women, was also studied. In the **private organised sector** a private chemical company was selected in Saharanpur, western UP, where a large number of private factories are located. Here too women are employed for processing activities.

The women in the **bangle industry** in Ferozabad were selected as they are at one end of the chain of the glass industry, as **unorganised sector** workers in the informal sector.

TABLE 8.7:
Sites of the Field Study

Sector	Industry/Unit	No. of Women	FGDs
Public Sector	Telephone equipments manufacturing company—2 units in Rae Bareilly and Mankapur	35 Women	2
	Insurance Company	14 Women	1
Private Sector	SSI—Chemical unit—Saharanpur	20 women	2
Unorganised Sector	3 Bangle units—Ferozabad	45 women	3

JSY was evaluated in the context of the experience of the bangle workers and also the district level maternity/medical support structures.

8.3.1 Public Sector

In Uttar Pradesh the organised sector accounts for less than 5 per cent of total workforce and around one-fifth of non agricultural workforce. Almost four-fifths of total organised sector employment is in the public sector. Nearly half of the organised sector employment is found in the social services, notably public administration and education. The private sector has a large presence in case of manufacturing sector alone. The proportion of female employees in the organised sector has been increasing in recent years, though they still constitute hardly one-tenth of total organised sector workers. They are mainly concentrated in social services. Strikingly, private sector employment in the organised sector has failed to register any increase in UP since 1990–91. A number of factors have contributed to the decline in the public sector employment. These include the shifts in policy in the wake of the economic reforms in favour of market led rather than state led growth; fiscal constraints on the state budget leading to reduced public investment and poor performance of public enterprises. Private sector industrial sickness and low levels of new investment in the state have further hampered employment opportunities and growth.

Among public and private sector employment, largest numbers of women are employed in organised public sector in Uttar Pradesh. But women's employment in mining/quarrying, manufacturing, electricity, gas, water, construction, sale, wholesale, retail sale and restaurants and hotels, transport, storage and communication services and financial, insurance, real estate, business services are minuscule.

TABLE 8.8:
Women Employed in the Public and Private Sector in UP

Description	Year	India	UP ('000s)
Women employed : organised private sector (Inst. of Applied Manpower Research)	2002	2,04,800	48,500
Organised public sector (**)	2002	28,86,700	1,62,200
Organised public sector by industry divisions (MoLE)	2006		
Division—agri, hunting/forestry, fishing		4,19,770	NA
Mining/Quarrying		6,910	NA
Manufacturing		9,27,990	8,970
Electricity, gas, water		1,210	30
Construction		3,820	10
Sale, wholesale, retail sale and restaurants and hotels		30.29	0.28
Transport, storage and communication services		8.29	0.03
Financial, insurance, real estate, business services		65.07	0.46
Community, personal, social services		585.38	38.72
Total		2048.74	48.5

Public sector (Field Site One: Telephone Equipments Manufacturing Company Rae Bareilly and Mankapur)

The company is a GOI telecommunication equipment manufacturing company. The company has also entered into manufacture of equipments for mobile (cellular) phone systems. The company has six manufacturing units at Bangalore (Karnataka), Naini, Mankapur, Rae Bareli (UP), Srinagar (J&K) and Pallakad (Kerala). Two of the units at Rae Bareilly and Naini are old units started in the '70s, have slowed down considerably, but continue to retain staff until retirement. For instance, in the former unit, 1200 workers were compelled to take retirement (VRS) over the last few years.

Certainly the majority of them were women.¹¹² They form the work force that is involved in the production of cellular mobile infrastructure. The Mankapur unit started in the early 80s, is stronger and with a younger staff profile among women.

TABLE 8.9:
Employees in Field Sites

Mankapur		Rae Bareilly	
Men	Women	Men	Women
907—non-officials	1020—non-officials	2426—non-officials	180—non-officials
1769—officials	149—officials	1230—officials	69—officials

Being a government PSU, it is a good employer in terms of following rules and regulations regarding employee benefits, etc. The company has established fully equipped hospitals in some plants for free treatment of employees and their dependent family members and has also introduced “Authorised Medical Attendant” scheme in all plants, regional offices and GSM projects for employee's health care. Under the scheme, reputed government and private multi super specialty hospitals have been recognised for availing treatment. As per company norms the women employees are entitled to:

- 84 days maternity leave split into 42 days, before and after delivery. This can be extended for another 42 days in case of surgery or doctors recommendation. Also there have been very few applicants for maternity leave in the last few years.
- Employees are entitled to take services of any government’s hospital or five of recommended hospitals, i.e., AIIMS¹¹³ New Delhi, SGPGIMS¹¹⁴ Lucknow, CSMU¹¹⁵ Lucknow, Indira Gandhi Eye Hospital Lucknow, Vivekananda Polyclinic and Fatima Hospital Lucknow, in case of any complications. Their actual medical bills and payments of other investigations are fully reimbursable. There is no limitation of medical expenses across the category of different levels of employees if for prescribed hospitals, but for private hospitals there is a cap as per government rates.
- Medical facilities are available under following schemes-
 - (a) Employee’s Free Treatment (EFT): in its own hospital and other recommended hospitals as mentioned above.) A gynaecologist is appointed and available on a full time basis.
 - (b) Authorised Medical Attendant (AMA): This scheme is regional offices, where very limited (5 to 20) employees are working. Some Doctors/Medical Centres are engaged to take care of medical requirements.
- There is a crèche facility for caring for children, which is well equipped with facilities. Women employees avail this service, free of cost. They are also allowed to attend their child during duty hours.
- Besides this both male and female employees are entitled to avail leave for family planning. This is of 2 days to 21 days, depending on the method of family planning adopted.
- There was no restriction of availing maternity benefits leave up to 3 children. However medical benefits were available even after this limit.

In Rae Bareilly, maternity benefits were availed during 1978 to 1991. Here women have been posted both at Executive and non-executive levels and currently, women employees are out of fertility age

¹¹² The team visited the units at Rae Bareilly and Manakapur.

¹¹³ All India Institute of Medical Sciences.

¹¹⁴ Sanjay Gandhi Post Graduate Institute of Medical Sciences.

¹¹⁵ Chhatrapati Sahuji Maharaj University.

group and no new recruitments have taken place since 1979. The last (single) maternity benefit was taken in 1991. Most of beneficiaries availed benefits during period of 1982–85. During this period 30 to 40 women annually had availed maternity benefits.

The two staff officers met during the field visit reported that they were allowed to have flexitime and as they stayed within the campus, they left their children at home instead of keeping the child in the crèche. Both of them used to visit their homes during working hours to nurse their children. Many of the staff (at both levels) availed the services of private doctors through referral services as well as for deliveries. The payments for the maternity benefits were always cleared within a week or so, though a lot of paper work and procedures were to be completed before the payments were cleared. Women met in the Production division had joined as operators between 1978 and 1980. They all availed the complete package of maternity benefits as per government norms. All of them underwent a 12-month training to learn about their work. When they joined work they were 18–19 years of age and up to class 12 pass, however they continued with their education completing graduation including Technical Diploma as well. Of the 15 women met, only one had four children, of which two were born in the company; and three had three children each, all of whom were born in the company. Those who had a third child, their maternity benefits were also covered by the company and did not report any problems in the clearance of payments and maternity leave. They availed the crèche facilities for their children. As regards work time, they said they managed with comfort due to the crèche. If they had any exigencies or unscheduled work then colleagues helped out mutually. The golden phase for the company in Rae Bareilly was in mid 80s and that was the time when the staff was starting their families. Certainly there was work pressure to meet production targets and their experiences about child care practices were slightly different from the women executives. According to them, they were not allowed any flexi-time, also the break that they got for crèche were very strictly monitored because of heavy work demands in the production division at that time. They had a stipulated number of days for Sick Leave and once they exhausted it, they had to take leave without pay.

In Mankapur, 20 women were met with (age group 35—55 years). This was mixed group of production level workers, women's welfare secretary, a welfare officer and two union leaders, who were also officers (though promotees). Majority of them were permanent staff who had joined in the mid 80s, though some had joined later, after 2000. Unlike, in Rae Bareilly and Naini, where over the last 20 years women had not availed maternity benefits, in Mankapur, three women had availed maternity benefits in recent years (one each in the years 2006, 07 and 08). One lady had got provisional leave in 2009, while another was sanctioned 119 days leave without pay in the same year. Also 2 women availed miscarriage leave of 42 days in 2005 and 2006 each. We were informed that women staff, which had contracts for up to five years were entitled to avail (technical personnel) maternity benefits, but not those women employees who were daily wagers. Women informed that in cases of special leave the interest/intervention of the senior or the supervisor helps as he/she gives guidance. Women received an increment if they underwent sterilisation for FP, after the elder child was over 10 years old. Six women had one child each, before joining the company and only had one child delivered in the company hospital. Those days, in 1993 a qualified gynaecologist was deployed at the hospital. Three women who had a third child were also given maternity benefits and leave.

The issues that the women encountered were:

- Lapse of pre-natal leave in the case of children born prematurely/before due date.
- Reduction in post-natal leave when the children were born after the due date.
- Women who were under training as new recruits or those who did not know of the provision of completing the mandatory workdays for confirmation lost out on maternity leave. Two

employees reported loss of maternity leave as they had worked for less than 80 days prior to applying for maternity leave.

- There was the case of one woman's promotion being withheld due her taking 4 months of maternity leave.
- Most women reported availing special leave after the 42 days, post natal leave after a C section or due to anaemia or jaundice (as per norm). But 3–4 had the problem that their leave applications were rejected. They felt that there was a bias of the management in not sanctioning special leave. At the other end the HR manager strongly felt that women took undue advantage of the special leave provision to be absent from work.
- The hospital facilities were adequate only for prenatal and post natal check-ups, not for deliveries. So the majority had availed of private services after referrals.

On the whole the women were satisfied with the maternity benefits and other facilities provided by the establishment. Their main concern was of the bifurcation of maternity leave (84 days) into pre and post natal maternity leave (42 days each) and lapse of maternity leave days as the day of delivery of a child not fixed—could be premature or delayed. Though it has been stipulated in the Act that the information about the maternity benefits should be prominently displayed in the area of work, women staff reported that they were not informed about procedures, rule and regulation regarding MB beforehand. They complained that the same should be made clear from the beginning so that they do not lose out on the benefits if they have not been confirmed on the job. They also felt that somewhere the male colleagues and superiors grudged them the maternity benefits and leave, though did not express so overtly, as these were company rules under the Factories Act and women were entitled to these facilities. They also articulated that similar to Central Government women employees, provisions like child care leave and extended maternity leave should be made available to women employees of PSUs also.

Being part of public sector, the company have been following all the prescribed rules and regulations regarding staff benefits including those mentioned in the MB Act. It was interesting to note while the provisions are equally available to all women fulfilling the criteria, however, in reality its applicability differs from women to women depending upon their post, level in the institutions and other external factors. For instance in, Rae Bareilly, women officers seemed to be better protected than those in the production division, for being at Executive level (or their husbands being at executive positions) they had contacts in the departments for speedy clearances. However the situation was the other way round in Mankapur where women executives felt that those in the production section were at an advantage as they were well supported by the Union, which has active women's representation. In both the cases, the permanent employment status in the Public Sector had a critical impact of women's agency and negotiation power, once they were sure of availing their entitlements and benefits.

Public Sector (Field Site Two: Insurance Company, UP):

The Insurance Company is fully owned by the Government of India. It is one of the leading public sector insurance companies of India, carrying out non life insurance business. In UP the regional headquarter is located in the state capital with 5 zonal offices across the state. This Regional Office employs about a 100 men and 15 women. The women are holding positions at different levels as accountants, in audit, in vigilance as officers and at staff level. Maternity and other benefits available to women are similar to any other Public Sector Company. The women are not entitled to crèche and rest room facilities since the insurance sector does not come under the Factories Act. Women are provided with:

- Medi-claim facilities for maternity under which the company bears 75% of the costs, while 25% is borne by the claimant.
- They can avail the services of any registered hospital having more than 15 beds, provided they submit the verified bills and vouchers.
- All expenses for treatment, hospitalisation and treatment can be claimed within 60 days.
- Maternity leave is for 3 months, a special leave is also granted and leave for miscarriage is also available for 6 weeks.
- For MTP under medical reasons too, leave is available.
- Facility for taking advances for operation or treatment, up to 80% of the cost.
- Facility for direct payment to hospitals is also there, for employees.

Discussions with the group of women (8) revealed that they had all had their children and availed the benefits due to them. They said that they did require crèche facilities as it was difficult to leave the child at home as most of their families were nuclear. Consequently they had to extend their leave by exhausting other leave due to them. One lady kept her child in the crèche in her husband's office in the same vicinity, as there was no crèche. She had to take longer lunch break to go and be with the child. Another lady officer was pregnant when she got a promotion for which she had to accept her transfer. She did not want to be relocated at that juncture but could not forgo her promotion. She somehow spoke to the management to let her join, and to continue to work in the regional office, till after her delivery. Women reported that by and large most of them had one child before they joined service, so they availed the MB for the second child. The four office attenders had been retained on compassionate grounds, so they did not require MB as they had already had their children before they started working in the office. Women also felt the need for an active sexual harassment committee in the organisation where they could seek redressal. Another issue was the lack of proper washroom facilities for women in offices. They had to use those used by men, which was often not very convenient. Even in the regional office the toilet was just 3x3 square feet, with no other facilities for freshening up or disposal of sanitary towels (STs).

Women at all levels felt that:

- MB provisions should be extended to all women—regular or contractual employees.
- Raised maternity leave of six months, as per recent amendment should also be available in the insurance companies.
- Women should not have to compromise on promotions for postings to remote areas. All except one did not take promotions because of their children, the family gets disrupted.
- The company should not follow the roster system as it discourages women to get the benefit of postings and moving up by getting promotions.

The President of the Employees Union, of the four public sector insurance companies—United Insurance Company, New India Assurance Company, Oriental Insurance Company and National Insurance Corporation informed that women's maternity claims are not withheld, they are cleared as soon as the discharge card and all the relevant papers and bills are presented. According to them the main issues were:

- Men had a problem dealing with women employees in that they had to agree with what the women said otherwise any argument would be misconstrued as undue harassment.
- They have not been able to convince the company for paternity leave—they are still struggling for this.

- The companies are not able to provide crèche and rest room facilities to new mothers. The management does not agree to these as this was not mandatory for companies.
- Men felt that women took undue advantage of the post natal maternity leave and also the special leave which was their entitlement only in special condition. They did not need so much leave, particularly special leave, as they already had other stipulated leave at par with all other employees.

Inferences:

- The women in the public sector, even though a small percentage enjoy the maternity benefits to the fullest, barring exceptional cases where there may be some loopholes.
- The majority of them know of their entitlements and claim them when the need arises.
- Some of them have women representatives in the unions/or themselves are union leaders who ensure that women's maternity benefits are secure as per rules.
- There are some differences in the access and availability of benefits to different levels of women employees despite the similar rules and regulations in the companies. Within the same institution there is parity in the entitlement but not in the quality and efficacy of services.
- Companies are compelled to follow norms and regulations and include them in the service and leave rules.
- Male colleagues are to be sensitised about maternity function being a social responsibility.
- The difference between a manufacturing company and service sector company is that crèche and rest room facilities are not under provision in service sector companies, which poses a problem for both women officers and staff.
- Sexual harassment committees are also not the norm in companies, even if they exist they are only on paper. This may not be a part of MB, but is critical for the emotional security of women in the work place.

8.3.2 Private Organised Sector (Field Site: Chemical and Pharmaceutical Industry, Saharanpur)

According to MoLE, in 2001–02, there were 53,030 working in private organised sector in UP which was 2.5% of the total women in the private organised sector all across India. This is much lower than those working in public sector and is 23% of all women in the organised sector in the State. UP has largest share of small scale units in India and within the organised manufacturing sector, women's participation in Small Scale Industries is significant, however 85% remain unregistered. (Refer Table 5 in Annexure).

Aerosol Chemicals and Pharmaceuticals is an SSI, located in Saharanpur, which manufactures feed supplements for animals and vitamins and herbal medicines. The two units employ about 40 women ranging in age from 21 years—55 years, whose qualifications also range from class 8 to MBA. Except for 4 women who are at the office and executive level and 2 supervisors, the rest are involved in the manufacturing and packaging units (packing tablets, filling capsules sealing packages and labelling boxes, etc.). In one unit the supervisors were all men who were in charge of 15 women, all in packaging department.

The women at the three levels had been in the employ of the company from 17 years to one and a half year. Among the casual workers (in one unit) the senior most women worker who had worked for over 17 years was being paid monthly salary of Rs. 3200 only, while the newest incumbent was paid Rs. 1800. Among them five were said to be permanent employees of the company. As regards MB, none of the women had taken leave or were given any benefits as they did not know about it. Even the manager said that such an occasion had not arisen so there were no such provisions or

regulations. In the event a woman gets pregnant while employed, the company would frame some regulations. The casual workers, who were permanent, said they did not need maternity leave, as they had already had children before they joined work here. Four had 3 children, 1 had five children and 1 had four children, while the rest had two children. According to them if at all some employee gets pregnant, she would leave the job as this work is not good for pregnant women and infants. There is no provision for sick leave for them, one worker who had to go for MTP, sat at home for two months without any salary. Two women had undergone hysterectomy and sterilisation, they did not get any health benefits or medical leave or facilities, so had to take leave without pay (one for two months and other for six months), though both were permanent. However, according to the manager permanent employees were registered under ESIC. As per the management there is no insurance, but only PF for those who have worked for more than three years.

In the workplace they were provided with masks, aprons, caps and gloves but no shoes. They were involved in handling chemicals and raw materials while packing and transferring raw materials. They developed sore eyes, skin rashes, itching and allergy for which there were no treatment facilities by the company. When there was a demand for products they worked overtime and were paid extra by the hour, as per their salary levels. Even though employed as casual workers, most of them were educated at least up to class 8. Among them three were High School pass and two were graduates. They felt that if they were better educated then they would have taken up better jobs, like teaching. They had taken the job in the factory because there were no other options—at least for two of them who were widows.

In the second unit of the same group, there were about 25 women employed as casual workers, while there were 3 women at management level—purchase manager, stenographer and a supervisor. Among the latter who were permanent employees, one had received maternity benefits through ESIC, while one could not avail the benefits at that time as she hadn't work for the stipulated number of days. The employer was quite defensive about giving information and facilitated interaction with the senior women permanent employees in his presence, not the casual workers. He said that 6 women employees were registered under ESIC in total.¹¹⁶ They had a permanent doctor who did monthly health checkups, but no medical reimbursement facilities were available to casual staff, only for the regular staff registered with ESIC. There were no crèche facilities or any sort of arrangement for children and infants in both the units. The staff was given PF benefits, gifts during Diwali and they celebrated festivals. Regarding PF he said that casual workers do not like to have PF deductions as they feel it diminishes their take home packet. All this could not be verified as he did not permit the team to interact with the casual workers in the second unit. But seeing that the management of the two units was the same, the staff policy would not be different regarding maternity benefits and PF for casual workers. He felt that the staff was happy to work in their establishment and said that women (casual workers) were better workers though 'illiterate' as they were sincere, obedient and honest. There was clear cut demarcation in the company's approach towards its women staff and women as casual workers.

Inferences:

- The women casual workers are unaware of their rights as workers, for safe working conditions and other entitlements; being needy they are ready to work for non negotiable wages.
- Very few of them become permanent employees due to the underhand strategies of employers, to be included for ESIC benefits. Even if they are listed as beneficiaries they are unaware of their status.

¹¹⁶ This was verified with ESIC office.

- Employers keep clear distinctions between staff and casual workers. Obvious discrimination between the two sections of women workers with regards to wages, benefits and treatment.
- Maternity benefits are not included as part of HR policy, or salary package; cases are dealt with on an ad hoc basis. Mostly the worker is encouraged to leave and then join back again.
- They are not part of regular factory workers' unions as the factories are small. Even if they are, then the numbers of women workers are too small and the issue of maternity benefits is ignored over other issues, say wages or working conditions, by the male union leaders as this is a petty issue for them.
- Even though they are employed in factories they are kept out of the social security and MB net altogether.
- The labour department is almost defunct as an enforcer of worker's rights and employment issues as inspector raj has ceased (expressed by Labour Department official).
- Women are not part of any rights based NGO or workers networks either, which keep them informed or take up their issues for or with them.

8.3.3 Unorganised Sector (Field Site: Glass and Bangle Industry, Firozabad)

In UP, the proportion of micro enterprises (in services) is relatively higher in rural areas. NCEUS report 2007 states that the largest concentration of micro enterprises was in the state. In terms of total employment in services sector, Uttar Pradesh was the first followed by Maharashtra, Andhra Pradesh, West Bengal and Tamil Nadu. As mentioned above, the majority of women are part of the unorganised sector and they comprise the largest workforce in this sector. In UP, 60 per cent of female workers and 15 per cent of male workers belonged to the category of marginal workers in 2001. They work as part time, daily wagers and continue to pursue economic activities from generation to generation without any social security or protection with diffused employer-employee relationship.

Firozabad, the glass city, produces 6% of bulbs and also has an international reputation as the world capital for beads, exported for use in clothing, accessories and shoes. Apparently Firozabad plays an important part in the economy of India with the more than 50% of its glass products being exported to countries all over the world. With nearly 2 million people employed in manufacturing various items out of glass, it generates an annual domestic and export business of over Rs. 800 crore.

Today there are more than 400 glass industries registered in the city, of which 183 are bangle making units. Firozabad is home to more than a 1000 glass workshops, factories and industries, employing nearly 4.0 lakh labourers. According to Industry Department there are total 349 factories and 2234 SSI in the district with 16,266 and 17,790 daily workers respectively. Employment figures for men and women are actually guesstimates, as no reliable database of workers in the glass industry is available. With changes global economic trends, economy of glass capital of India too is undergoing a meltdown. In the last six months, a significant number of factories have closed down leaving hundreds of workers unemployed. Presently the workers are on strike demanding better wages. However, the factory owners seemed to be in no hurry to get them back to work as the market is low currently. The city produces 90% of the bangles in the country, wherein women undertake 95% of the work to make them marketable. Since all the women workers are home based their work has not been enumerated in any way. It was reported by the women that a single bangle passes through as many as 45–50 hands before it is transformed from a blob of glass to a bangle. Since glass bangles are worn by women all across India, Firozabad has earned the name, *Suhag Nagri*.

During field visits, the team interacted with three different groups of women—*sadhai*—*judai* workers, *katai* and *bharai* workers and another groups of bangle workers in the vicinity of an ECCD

centre run by an NGO, DISHA. The city has many *mohallas* (large neighbourhoods) of bangle workers scattered on Jalesar Road in Jhalkari nagar, Shital Khan and other outskirts areas. Both *mohallas* were cramped areas, with a warren of homes in close proximity. The new areas like the former, settled by migrant workers from other blocks of Ferozabad having a population of about 10,000 where most of the population is Hindu (Kori—OBCs). In these areas the women (and children) are purely working in their own homes for the first step in bangle making—*sadhai* (straightening of the bangle) and *judai* (soldering/joining the bangle). In the *mohallas* in the city, as in Shital Khan, the population is mainly Muslim artisans (women and some men) who undertake the cutting, embellishing and finishing processes on bangles along with packing and wholesale marketing. At another level the control over manufacturing bangles and glassware products and the larger market forces, the controls are with the trader community—*banias* and others.

As no women are employed within the units or factories making glass product, they are only employed in home based bangle soldering and embellishing units where women and children do all the job work, working 10–12 hours a day. They undertake the rigorous and time consuming processes of *sadhai*, *judai*, *mudai*, *Hill*, *katai*, *zari lagai* and *phoont bazai*. All this is done on a piece rate basis for each step in the process. While the men are involved in accessing the glass rings, counting and packing and sale of the ready to market bangles. A woman earns about Rs. 2.5 per *toda*¹¹⁷ for *sadhai* and *judai*, working hunched up in a closed room (without any direct airflow) next to a gas or kerosene flame for 8–10 hours beginning work in the early hours of the day to avoid the heat. Each worker solders as many as 2000 bangles in one shift of 8–10 hours and this process requires a continuously burning kerosene lamp to provide the necessary heat for soldering. Now a large percentage of units have started using gas for soldering the bangles.

Similarly, women or a teenage girl can accomplish *katai* on 5–6 *todas* a day and get only Rs. 80–100, as this process requires better skills. Those who do *hill* or *bharai* earn Rs. 20 per *toda*, or about Rs. 80 per day as the contractor deducts one third of the labour amount, as he supplies the raw materials for *katai* and *bharai*. If the raw materials are not supplied then the worker has to invest in chemicals, colour and gold flakes for the *bharai* process. The remuneration of the piece rate work is done on a monthly basis. Many times it is adjusted against advances taken for illness, weddings, family functions or emergencies. Those who do *sadhai* and *judai* do not get paid cash in hand as their husbands go to deliver the finished product. The income accrues to the family, not in the hands of the women who do the primary work. Single women reported that they are unable to go to the market to purchase the raw bangles, so they buy from the others and then return to them for the money for the completed job. Of course a small cut is involved, but this is business.

The operation of bangle straightening and soldering (*sadhai* and *judai*) units is completely dependent on kerosene. Women reported that they can get only 2 litres of kerosene per month from PDS shop (if they have card), so they have to arrange fuel through the black market; where it costs Rs. 35–40 per litre. Considering a daily requirement of about 2–3 litres of kerosene for bangle soldering units, the additional expenditure on fuel is burden on the economy of the household. Now many households are using gas for the *judhai* and *sadhai* process along with kerosene lamps. The cost inputs for the *judai/sadhai* workers are for the kerosene at one litre per day—Rs. 35–40 per day, and Rs. 20–30 for the *katai* (*cutting*), *hill* (*embellishing*) and *bharai* (*gold filling*) workers, which are deducted from their daily wages.

Whichever the process for bangle making, it involves long hours of sitting bent over the task in a hunched posture. Women bear the burden of work in all stages except for transportation and

¹¹⁷ A *toda* contains 4 dozen bangles strung together. And the Ferozabad dozen is actually 24 to the dozen.

marketing. The mainstay or the backbone of the industry is women's/children's labour in which their own backs are broken by way of physical labour, economic deprivation when payments are delayed, poor health and dependence on men to get them work. Women spoken to said that while working with the fire they always feel a sense of suffocation due to poor ventilation in confined spaces (lack of oxygen), burns and weak eyesight. They felt short of breath, also had chronic respiratory and digestive illnesses, general physical weakness and fatigue, anaemia and malnutrition and postural problems of the spine. For all the chronic problems they either accessed the local 'jhola' doctors, whose advertisements were visible aplenty in Jhalkari Nagar.

As regards maternal health and benefits we had a discussion with 22 women of varying ages in Jhalkari Nagar area of Firozabad, who were primarily Kori (OBC) women involved in *sadhai and judai* of bangles. They reported that none of them had BPL cards. All were residing in this urban basti, where they had settled 10–15 years ago. Of the 22 women 11 were of child bearing age—4 women having 2 children, 5 had more than 3 children, and 2 had more than 3 children. One had recently had her sixth child who was 9 months old, which appeared highly mal nourished. The rest were older women who were grandmothers. They reported that they had not been educated or informed about pre natal check-ups by the AWW or received TT by the ANM. There were two ICDS operational in that area but they had not received food supplements meant for pregnant and nursing mothers from there, though some women said that children went there and they were given *panjiri* (supplementary nutrition). In fact the pregnant women were not registered there, nor were they given any education, information or nutrition supplement as is the norm.

The majority of women reported that they worked at *sadhai/judai* almost till the last day of their pregnancy. After delivery they hardly took a break for 4–6 days. About 25% women reported that they immediately started working after delivery. We did see small children, less than two years old, sleeping in the rooms/courtyard where women were working on the burners for soldering and straightening bangles. They also reported that during and after pregnancy they did not eat any special foods for energy and strength—just *roti dal, roti sabzi*. They said that they start work early at about 4 am and are not able to cook before 12 pm. Very often, they and their children are also hungry till then. Sometimes they just cook once a day, as in by the evening they get tired.

Another group of 11 women, met in the other part of the *basti* were well informed about PNC/ANC and about children's health and education. The majority of them had children delivered at home but four of them had one child each at the hospital (CHC). They said they knew about the JSY scheme and had got themselves registered at the hospital beforehand. They had all received the Rs. 1000 incentive by cheque through the CHC. These women too were involved in *sadhai and judai* work, which they had learnt after settling here; they had migrated from other parts of the district and other districts like Auraiya (about 10–15%). With the recent strike in the factories they were worried about the sustainability of their livelihoods as their skills were less honed for these two jobs and they did not know other kinds of work. Their husbands who were working as labourers in the factories had struck work for higher wages, but the scenario of enhancement in wages was weak as the glass market is also low.

In Shitala Khan area, within the city, which is predominantly Muslim, the girls 6–18 + years are involved in *katai, hill, and bharai* tasks, which require a higher degree of skills as well as infrastructure support like running water, gas supply, electricity. Here, the work is done by children and adolescents who do not go to school or have dropped out. In each family of 3–4 children (or even more) are involved in bangle crafting as it is lucrative employment. The women, who work here, reported that that they hardly take leave of absence for more than 4–5 days after delivery and continue to work till the very last day before delivery. The older girls who work as cutters of designs

on bangles, which are later filled in by *bharai* (gold filling work) workers have better economic options as they are not running homes.

BOX: Information and Action for Maternity Benefits

Early Childhood Care and Development Centre run by DISHA (ECCD project supported by Child Fund India), was found to be in operation in this area. They run 11 such centres for pre-school children providing nutrition (freshly cooked meals, fruit and milk) and pre-school education to the children. To the mothers group they provide information about PNC/ANC, hold adult literacy classes and initiate leadership development among them through self help groups. The project is working in collaboration with ICDS and health department. They tie up with the ANM and inform pregnant women about ANM visits and ensure they complete their immunization schedule. DISHA's community based workers conduct door to door surveys every month, to collect and update information regarding all the pregnant women and newly born children in the area. One woman reported that she got TT shots but no PNC, for her sixth child. She had not gone in for family planning, but was considering so, now as she was unable to manage six children along with her work. Other women did report taking their children for polio drops to the AWC. DISHA is gearing up to hand over the Centres to the ICDS department in the near future. Field Notes: Ferozabad, March 2010.

However, they have some pocket money from their earnings, though most of the income is given to the household pool. They even have a "*bisi group*", saving up to Rs. 1000–500 per month. These savings are used to purchase household goods as part of dowry, during marriage. These girls have better status in their family even if they are not educated, because they are earning about Rs. 2500 per month. This quite in contrast to the situation of the *sadhai* and *judai* workers who do not get cash in hand directly for the work they do. Two women said, "We are earning for the family, my husband gives me money when I need", "whatever I earn is for all of us". Here they are major earners, but have no control over their earnings or even the freedom to spend as they wish. The husbands take loans from the bangle wholesalers on their behalf, for the family, and it is they who have to work to pay off the loan.

JSY—Vignettes from the Field Sites:

Detailed discussions with these women revealed out of 22 women only 2 had accessed JSY, for one child each. Others reported that their children were born at home or at the private hospital. Even though the majority of children were born at home, they did not have any complications. Six women said that they had one or two children in the government hospital, but only 2 had accessed the benefits under JSY in the last 2 years. They had received Rs. 1000 each and no other benefits. The payment was made though a bearer cheque from the hospital within a week. However they had to buy the medicines, such as tonics and other nutrition supplements from the open market and had to pay some grease money to the nurse and support staff. One woman reported that she got TT shots but no PNC, for her sixth child. She had not gone in for family planning, but was considering so, now as she was unable to manage six children along with her work. These women had no information about whereabouts of the ASHA in their *basti (locality)* as they have seen her in hospital only. They reported that they had not been educated or informed about pre natal check-ups by the AWW or received TT by the ANM. They only came to know about JSY, when they went for delivery to hospital, where ASHA told them to register and avail the incentive for institutional delivery. Incidentally, only two women had registered for their third and sixth deliveries respectively. Women said that if the JSY scheme was there earlier then, they would have availed of it.

Chief Medical Superintendent of the District Women's Hospital, Ferozabad informed that institutional deliveries had increased from 1,471 in 2006 to 2,472 in 2007, whereas the number of C sections had dropped from 31 to 19, perhaps women availed private hospitals as such cases were referred to private hospitals since there were only 30 beds in the hospital. Even the women workers informed that complicated cases are taken up the Government hospital—they simply refer them to

Medical College in Agra. In view of the JSY services ASHAs even referred rural cases to the district due to unavailability of services in rural and distant areas. According to her now there were more cases of deliveries, while there was a downtrend in the registration of FP cases. FP has reduced because all para health workers are involved in JSY due to the incentives they receive, though there is no correlation between the two.

According to the Superintendent, women from the area suffered from anaemia due to poor diet and low nutrition, including the fact that they had 4–5 children. Worm infestation and complicated deliveries were also an issue due to poor water quality and bad posture during long hours of *judai and sadhai* in closed rooms. This hospital and other CHCs in the district illustrated the typical scenario in the state that of staff shortage—doctors, nursing staff and attendants. Even though under NRHM, the infrastructure has improved considerably for the district hospitals, the CHCs and PHCs still do not have the required equipment and technical facilities for conducting investigations like blood tests, ultrasound, X-rays, etc. The hospitals may handle 300 out patients on any given day, being managed by just 2 doctors. As per the norms patients have to pay Re 1, for making a registration card, while they are given all the medicines and the maternity benefit. The doctor reported, that some patients insist on being prescribed some medicine from outside so they prescribe a tonic or iron supplement. On the other hand women in the Jhalkari Nagar, Ferozabad said that they are forced to buy medicines from the medical shop outside the hospital due to shortage of the same in hospital.

This District Hospital in Firozabad is reporting zero MMR and minimal IMR which is questionable, as UP has both high MMR and IMR. Perhaps in the government hospital serious/complicated cases are referred to private clinics or other larger hospitals in Agra. Another reason for this could be that ASHAs are neglecting the tracking of pregnant women for pre-natal care, though they are bringing cases for deliveries. Even the women in the Jhalkari Nagar reported that ASHA catches hold of them when they go to the hospital for deliveries and then gets their card made. This hospital and other CHCs in the district illustrated the typical scenario in the state, that of staff shortage—doctors, nursing staff and attendants. Even though under NRHM, the infrastructure has improved considerably for the district hospitals, the CHCs and PHCs still do not have the required equipment and technical facilities for conducting investigations like blood tests, ultrasound, X-rays, etc. The hospitals may handle 300 out patients on any given day, being managed by just 2 doctors.

Discussions with separate group of 11 women met in other part of *basti* were well informed about PNC/ANC and about children's health and education. The majority of them had children delivered at home but four of them had one child each at the hospital (CHC). They said they knew about the JSY scheme and had got themselves registered at the hospital beforehand. They had all received the Rs. 1000 incentive by cheque through the CHC. These women had migrated from other parts of the district and other districts like Auraiya (about 10–15%). With the recent strike in the factories they were worried about the sustainability of their livelihoods as their skills were less honed for these two jobs and they did not know other kinds of work. Their husbands who were working as labourers in the factories had struck work for higher wages, but the scenario of enhancement in wages was weak, as the glass market is going through a slump.

The way forward is to improve JSY to achieve 15–20% annual incremental growth in institutional deliveries by 2012, would mean focusing on health facility up-gradation and improving the quality of services. Adoption of a quick payment system cheque payment system and increased partnership with private sector is essential as there is a shortage of government service providers.

- Streamlining fund flow to districts and sub-district levels is critical for outreach of timely payment of cash incentive to beneficiaries.

- Early ANC check-ups and completion of formalities can help in timely payment.
- Women should not be charged for diagnostic tests.
- ASHAs be given advance payment to render support for referral transport—this is not mentioned by ASHA or the women.
- Better information to beneficiary women on incentives, assistance for planning for birth will help them (e.g., date and place of delivery, transport, etc.). Women need to be made aware of health benefits of institutional deliveries and risks of home delivery—both for the mother and the neonate.
- More channels of communication like NGOs, self-help groups, village bazaars, religious congregations, etc., should be used to reach out to women in remote distant location in urban areas and villages.
- Establishing monitoring mechanisms at all levels—district, block, Panchayat and village and through the Roji Kalyan Samitis.
- System of public disclosure and time-bound grievance cells—encourage social audit too.
- Inclusion of those women for MB who are having more than 2 children.
- Including women from non BPL families too and those have children at home.

Inferences:

- Unorganised sector workers are the worst off regarding Maternity Benefits as they are ignorant about MB and other rights and entitlements. Even if they are accessing the benefits, it is often times a struggle.
- Due to their socio-economic positioning, lack of education they are at the lowest level of workforce which puts them in a non negotiable position. Thus negotiating for wages, or even the JSY benefits is a problem for them.
- MB provisions are for two children while most of them have more than 3 or more children. The Smart Cards too are for only BPL families with 2 children, so the non BPL poor families and BPL families with more than 2 children are out of the social security net.
- Information dissemination and outreach services are poor and many times far from where the women are living—making it difficult to access.
- There is no concept of leave or compensation for workdays lost during maternity/delivery period, so there is no experience of women taking off from work They work till the day of delivery and start a couple of days or immediately after delivery.
- The support services like ICDS centres are far from workers places or dysfunctional. Even PHCs and sub-centres do not have the necessary infrastructure for immediate ANC/PNC assistance.

8.4 CONCLUSIONS AND KEY RECOMMENDATIONS

As is evident in the general employment and health scenario in the State as well as in the case studies from organised and unorganised sectors, the organised sector workers, particularly in public sector, have reliable and sufficient access to maternity benefits and social security through secure jobs and salaries which are adjusted to inflation over the years of employment. They are legally protected against loss of income from—illness, disability, maternity, old age, etc., during the course of their employment and also after retirement.

The coverage rate of public schemes of social insurance, in organised sector varies from scheme to scheme—for instance Government Provident Fund has 54% of coverage while Pension scheme and

Employee Provident Fund covers 48.7 and 25.1 per cent respectively. On the other hand coverage rate for Contributory Provident Fund is at 4 per cent only. In the unorganised sector the coverage of social insurance programmes, particularly public schemes are minimal. Maximum coverage rate (23%) is for Life Insurance (endowment) which is a commercial scheme.

The greatest challenges are faced by the unorganised sector workers who do not have sufficient and reliable protective social security or maternity benefits. Though they are covered by the JSY under NRHM, PDS for food supplies, nutrition under ICDS, health insurance under RSBY and rural employment under MNREGA programmes, the access to these programmes is affected by mis-targeting, inefficient delivery and pilferage in the delivery system. Lack of promotional social security has led to unemployment and insecure employment, migration in search of employment, work at low wage rates, limited access to education and health delivery systems and resultant poverty and deprivation¹¹⁸. **Another major issue is that the women workers are a heterogeneous group, unorganised even in their specific sectors and their needs too are varied to motivate them to seek or demand maternity benefits and social security with a unified voice.**

As was visible, in the case study with bangle workers, they were the ultra-poor who could not meet their maternity needs, as they did not have the income levels to break even from subsistence economic levels. The majority of women in similar conditions are those who take up multiple economic activities over the year find it difficult to participate in any social security activities. They find it difficult to contribute for social security due to insecure livelihood opportunities and under employment. In the case of small scale private sector casual workers in factories, even though they were upwardly mobile poor women, they too lacked the ability to contribute towards social security like Provident Fund which was available to them. Even the employers are hesitant to include them in any form of social security benefits, because they feel that the workers may move jobs for better opportunities. They even miss out on the maternity benefit schemes for being above the poverty line. Hence, their social security is as much in a flux as are their options for steady employment.

Insurance schemes like ESIC and RSBY insurance are contribution based, the former for persons employed in formal sector and the latter for BPL families. In India where many people are denied their basic human existence and survival, any contributory social security scheme can prove dysfunctional and problematic. This was illustrated where women employees in SSIs did not desire even PF deductions from their salaries. On the other hand BPL families did not have the relevant support documents to actually get Smart Cards made as they are often on the move, migrating between jobs for economic sustenance. This automatically denies and excludes the right to social security to millions of women and men, who are not working, who do not have any capacity to contribute and who do not have any other support to rely on.

The ESI Act does not cover unorganised sector workers. ESIC benefits are available to only organised industrial workers with wage/salary is from Rs. 15,000 per month. The field study showed that employers ensure that casual workers do not get paid a salary up to this level, thus denying them social security, for which the company has to contribute as well. Consequently, they do not get registered for ESIC, even though they may have worked in an organisation for 10–15 years. At even those registered under ESIC, in certain establishments are unaware that they are registered, and if registered, have not claimed any benefits.

Another issue is the MB Act does not cover all establishments. Casual women workers are denied these benefits. Pregnant women are very often denied employment or asked to take unpaid leave and join after the delivery of the child. Since they are unaware and have low levels of literacy, women

¹¹⁸ D Rajshekhar, Centre for Decentralisation and Development, 2007, ISEC.

find it impossible to raise claims to proper authority/court due to the lack of unionisation in the private sector.

At another level, community based self-help schemes indirectly rely on women's 'invisible' work. Micro-credit was conceptualised as a social security product and network, but research shows that it has excluded the poorest women; and often becomes a debt trap for them, when access to resources is denied in times of crisis. As a form of social protection for poor families and women headed households, this shifts the burden on to the already over-worked and economically burdened women.

There is a critical need to ensure that every woman's basic rights for health and maternity and childcare are protected and promoted with adequate affirmative actions and proper information dissemination. The Labour Ministry India should develop a comprehensive policy for social security for all women, including the unorganised sector, which ensures non contributory, non insurance based universal coverage of basic rights (food, income security, health and maternity benefits, shelter, education, water, sanitation) to all—rural and urban, BPL and non BPL, migrant and sedentary workers, full time and part time workers.

There has to be a comprehensive framework with standardised basic working conditions for wage workers and home workers in the vast unmapped unorganised sector. The laws that exist are also poorly implemented because of the inadequacies of the implementation machinery and the lack of voice among unorganised workers.

While a number of promotion initiatives for the unorganised sector are available, no single agency provides an overview of the problems and constraints facing this sector, or is able to mobilise the necessary resources to help the sector overcome such constraints and facilitate its growth. Therefore the government should take a number of necessary steps to protect and promote these livelihoods through appropriate policies and programmes.¹¹⁹

8.5 RECOMMENDATIONS FOR UP

- Increased workforce participation of women is desired in the organised public and private sectors to enable women with more formal work opportunities for economic self reliance. This should be backed by educational and technical skill building, competency enhancement opportunities from school level upwards as well as accessibility to more and better work opportunities.
- Improvement in the quality of employment is desired for some sections of workers in both the private organised and unorganised sectors. Government should intervene through the labour department/other agencies to prevent the increasing trend of informalisation of employment of women. Stricter monitoring and follow up mechanisms by the labour department are needed to ensure effective implementation of legal provisions in these sectors.
- Policy reforms should include women workers outside the organised sector employment so that they can enjoy labour security and thereby maternity benefits and social security too. The government should encourage the support for formulation/reinvigoration of Workers Welfare Boards in different sectors, with insistence on inclusion of women and their health/maternity interests. This would enable women workers in the private and unorganised sectors to retain their legal employment status and take care of their health and that of their children through maternity protection.

¹¹⁹ Report on Comprehensive Legislation for Minimum Conditions of Work and Social Security for Unorganised Workers, 2007.

- Wider information dissemination and education of employees and workers to seek their entitlements and maternity benefits is also crucial as this is often not broadcast to enable employers to shrug off their responsibilities. Sensitization of male colleagues should also be part of the organisational education on maternity functions, rights and benefits. The government should recognise women's reproductive role and compensate them for unavoidable absence from work during maternity.

Broad Overview of Findings

The goal of achieving maternity protection for all working women can only be attempted if there is a situational analysis of the labour and employment sector, the social protection approaches as currently being implemented, the broad legal framework and its interpretations and the actual ground realities in terms of implementation of existing entitlements and schemes as well as their lacunae. This report spread over ten chapters has comprehensively covered each of these requirements.

The broad objectives of this study are dealt with in the following sections, indicated in parenthesis.

1. Assess the efficacy of the schemes for the formal sector – MB Act and ESIC schemes. (Part I)
2. Provide an overview of existing maternity benefit schemes and their coverage, for the organised and unorganised sectors. (Part II)
3. Assess the current coverage in the unorganised sector through Central and State level schemes for maternity benefit/assistance. (Part II)
4. Bring to light the implementation related issues. (Part III)
5. Highlight the knowledge gaps, resultant lessons, similarities and differences in best practice among the various schemes and provide recommendations legislative and operational improvements.

PART I: EFFICACY MATTERS

The adequacy and effectiveness of the coverage of maternity protection schemes and programmes hinge on the nature of women's work and how it is conceptualised at one level and what is the match between the policy framework and women's labour force participation. The following sections highlight the distribution of women workers, barriers to access the benefits, limitations of the two major Acts – MB and ESIC and the case for universal maternity protection.

9.1 WHAT DOES THE MACRO-DATA POINT TO?

Based on the provisional population estimates of Census 2011, there are, in the country, an estimated **309 million women** in the reproductive cohort (15 to 49 years). They constitute 52.7 per cent of the female population. Of this a little less than **101 million or 32.6 per cent are workers**. Of these 22 million are subsidiary workers and 79 million are principal status workers. The principal status workers consist of 50 million workers in the agricultural sector; 11 million self-employed non-agricultural workers and 17 million paid (regular and casual) non-agricultural workers. These are the women who would be eligible for maternity benefit cover in accordance to their constitutional entitlement. Under the present arrangements, a little more than **100 million women or 99.7 per cent** are not eligible for maternity benefit cover. Only around 0.28 per cent of workers are eligible for some kind of maternity benefit cover. By comparison, the number of women insured under

Employees State Insurance Corporation (ESIC) is 2.6 million (2.5% of the workforce) – made up however of women over 18 years (not merely the reproductive cohort). Among the reasons why the estimates based on NSS data differs from that of the ESIC is because the latter is the number of women workers 18 years and above on the live register of the ESIC, while the latter comprises women workers 15–49 years only.

Assuming, based on National Family Health Survey (NFHS) - 3 that 7 per cent of the workers in the reproductive cohort give birth during the year, the number of claimants number a mere 7.05 million.

TABLE 9.1:
ESIC Coverage, March 2010

ESIC Coverage (As on 31st March, 2010)	
No. of Insured Person family units	14,300,000
No. of Insured Person family units	14,300,000
No. of Employees	13,896,150
Total No. of Beneficiaries	55,484,000
No. of Insured women	2,600,250
No. of Employers, etc.	406,499

Source: www.esic.nic.in

The high maternal mortality rate for 2009 of 212 per 1,00,000 deliveries (SRS, 2011) and the promotion of institutional deliveries as a solution is going through a slow change. It is evident that demand and supply side aspects need to be addressed in order to improve access and health outcomes. For women, being engaged in wage or income earning work is a ‘hobson’s choice’. Women bear double work burden of production and reproduction with little state support. Poor access to health infrastructure on the one hand and lack of access to maternity benefits on the other, compound the overall effects on women and their household. Due to lack of financial support women go back to work earlier than warranted failing in the process to get adequate rest essential for the good health of both mother and child.

Women’s position in the labour market is weak – their participation is low and so is their representation in the total workforce. They are concentrated in the lower echelons, working longer hours (domestic and market work), frequently as unpaid family workers and earning low and gender differentiated wages in paid work. It is not surprising therefore that they lack voice and bargaining power and less than 0.1 per cent get some kind of maternity and health care cover.

National Sample Survey data pertaining to the 66th round (2009–2010), the latest available has been used in this report supplemented by NFHS-3 to describe some of the relevant characteristics of women’s employment.

The main features of employment for women in the reproductive cohort are summarised below.

- Traditionally work participation of women has been low in India, especially in the urban economy compared to their male counterparts and to women elsewhere in the world. However the participation rates for women of the reproductive cohort is higher than the average for all women. In 2009-10 UPS WPR for women in the reproductive cohort was 38.4 per cent for rural and 19.6 per cent for urban women.
- Peak childbearing is between 20 and 29 years but peak labour market participation is between 35-49 years.
- There has been a declining trend in employment for all women, but especially women in the reproductive cohort since the 1990’s, the period of unprecedented growth of the Indian

economy. The decline has been spread across all age groups but has been sharpest for the group 30+ years and for poor women. Not only has employment declined but also women's labour force has shrunk. The decline can be explained in terms of increased enrolment in education – but only to a limited extent and only in the case of women under 25 years. Much of the decline has been due to the withdrawal of poor women into domestic work. The underlying factors remain to be explored.

“The ESI and MB Acts are designed to cover workers in the organised sector. The Acts are biased in favour of permanent, full-time workers, workers with identifiable employers and/or a designated place of work”

- The greater part of female (principal status) workers (80%) remains in rural India. In terms of sectoral distribution, around 64 per cent remain entrenched in agriculture – a sector whose contribution to the gross domestic product has been dwindling and a sector in crisis.
- In rural India, agriculture is the predominant sector offering employment to women (77%). Only 8% are in manufacture and the rest in services – mostly in public administration, education and health (6%) and in construction (5%). Nearly half the rural workers are self-employed (49%) – 3 out of 4 as unpaid family labour; the majority of the remaining works as casual labour (45%) and only very small percentage works as regular or salaried employees (6%).
- In terms of occupation, women are concentrated in low skill, low level, elementary jobs (44%) in agriculture and allied occupations (40%) and craft and related trades (7%). That leaves hardly 8% in all other occupations – managerial, technical, professional and clerical.
- In urban India employment pattern is different. Though overall levels of work participation is low compared to rural areas, the quality of employment is somewhat better with women concentrated in services (62%) and manufacture (27%), in paid jobs - regular and salaried jobs followed by casual labour (66%) as against self-employment (34%). Although occupational clustering at the level of elementary jobs, the distribution is more balanced across other professions.
- The poor and the socially marginalised – Schedule Tribes and Scheduled Caste are represented in greater proportion in casual labour in both rural and urban India, and in self employment in rural areas. Their self-employment is a survival strategy.
- Informalisation has increased over the years in manufacturing and services. Informal workers constitute 98.4 per cent of non-agricultural paid workers.
- Educational attainments amongst female workers despite considerable improvement over the years, remains dismal: 34 per cent are illiterate and 38 per cent have middle school or lower levels of attainment.

9.2 WHAT IS THE EFFICACY OF MB ACT AND THE ESI SCHEME?

The implications of the nature of women's employment in terms of the suitability and adequacy of the current provisions for maternity protection are serious. The ESI and MB Acts are designed to cover workers in the organised sector. The Acts are biased in favour of permanent, full-time workers, workers with identifiable employers and/or a designated place of work. Although 'contract workers' are included, they need to be shown on the books of the employer to be eligible. Finally, ESI and MB schemes suffer from an urban bias since they focus on non-agricultural sector and regular salaried workers. *Thus maternity benefit cover is restricted largely to the tiny segment of formal workers in the organised sector.*

Workers in the organised sector form a miniscule percentage of the total female workforce. Coverage of even organised sector workers is segmented and incomplete because:

- (a) the ESI covers only those earning less than Rs15000 per annum (although workers earning more than Rs15000 in establishments covered by the ESI, are in principle, eligible for coverage under MB Act they are rarely covered in practice). There is no such wage ceiling under MB Act but it has problems arising from the fact the employer is solely and completely liable for payment of maternity.
- (b) The eligibility of a sector or class of establishments for coverage under the ESI and MB Acts is largely decided by state governments and is variable across states, as is geographical coverage of establishments;
- (c) the organised sector is increasingly resorting to outsourcing and employing informal and temporary workers, who are not likely to be shown on the books of establishments. Also there is a great deal of confusion and lack of uniformity as to the sections of workers to which the two maternity benefit legislations apply.

“It is imperative to bring informal workers, particularly the self-employed, into the ambit of maternity protection by suitably modifying the existing arrangements”

Hence, the overwhelming majority of workers (more than 95%), being informal workers, is out of the ambit of the two Acts. Workers in agriculture, unorganised manufacturing and services and informal workers in the organised sector are thus without maternity cover. The NCEUS foresees further informalisation of the workforce. The existing schemes thus need to be modified taking into consideration the increasing informalisation of women’s work. Only a fraction of this segment (the BPL) is eligible for the meagre maternity assistance under JSY.

The women workers left out of ESIC and MBA coverage may be distinguished into 3 categories based on the ease of inclusion into the present system of maternity benefit:

1. Most easily brought into the purview of the current Acts are the workers in the non-agricultural establishments (proprietary, partnership, private limited companies and co-operatives, associations and trusts) where workers have a designated site of work and an identifiable employer. The majority of these workers is casual or contract workers. This includes several women in private hospitals, educational institutes, hospitality industry, retail industry and a range of services.
2. More difficult to include within the existing arrangements, are the workers in the monetised agricultural sector that is, the self-employed or cultivators belonging to landed households, regular or salaried workers and casual labour. Workers in the agricultural sector form the single largest block of those out of the ambit of present arrangements for Maternity Benefit. Their maternity protection needs are only partially and inadequately met by the JSY, ICDS and the NREGS.
3. Last and most difficult are the migrant workers, home-based and personal workers in private households as well as the self-employed who often do not have a designated place of work or a identifiable employer – almost invisible, routinely under-enumerated in our statistical systems and out even of the JSY/IGMSY net. The working and living conditions of these women are among the worst. These are also among the poorest of women, who are unable to afford health care and forced to get back to work earlier than warranted, with implications for the health and well being of their children and household

The existing schemes thus need to be modified taking into consideration the increasing informalisation of women’s work.

9.3 WHAT IS THE JUSTIFICATION FOR UNIVERSAL COVERAGE?

The case for universal maternity cover not linked to worker status is compelling after examining the age distribution of female worker force.

Greater share of women (61.6% of rural and 80.4% of urban) in the reproductive cohort remain out of the ambit of any employment-linked Maternity Benefit cover. Further, the data on prime childbearing age and the peak work participation age (35-49 years), also suggests that even amongst workers, most complete their family size before entering the labour force.

“Failure to provide maternity support may imply high economic costs to the country in terms of poor health of mothers, children and citizens of the country”

Although it is true that in terms of vulnerability, rural scheduled tribe and scheduled caste women with no or low levels of education form the prime constituency of women requiring maternity protection, especially because they are also among the poorest, the persistently high infant (2010) (53) and maternal mortality rates (2009) (212 per 100000 live births) make a strong case for the universalization of maternity protection. That is, maternity protection/support should be demand-driven and based on self-selection.

Further, changes in economic policies have also had a major impact in reducing women’s employment in the organised sector. Part of the reason is export orientation which puts a premium, on the one hand, on high technology which is capital intensive (like IT and ITES) and, on the other hand, out sourcing and subcontracting at low end skill level to unorganised sector such as in garments and other industries. So the country registered economic growth with no commensurate growth in employment particularly in the organised sector. Flexibilisation and casualisation of labour and production systems have had adverse effects on women workers’ conditions of labour and employment rendering it uncertain, temporary, risky and devoid of any kind of social security. As women move frequently in and out of the labour market, they are in need of a system of maternal protection that they can fall back on regardless of their work status.

The only maternal support available to women out of the workforce, in the form of cash compensation through the JSY and similar schemes including support in kind through the ICDS, is too meagre and available only to BPL women. The limitations of these schemes are well known. Of the most important is the exclusion of the poorest due to lack of awareness and high transaction costs (Lim et al 2009). The JSY in particular suffers from exclusion due to its conditionalities: it covers only Below Poverty Line (BPL) women who are over 19 years and can receive this support only up to two children. The minimum age for eligibility ignores the existence of fertility below 19 years as a result of marriage before the legal age and early motherhood. The limit up to two children ignores the high fertility among vulnerable groups such as ST/SC and the poor. Further, the scheme shares many limitations of any targeted scheme. Although JSY has been shown to have a significant effect on increasing antenatal care and in-facility births, it has also been shown to have left the poorest and least educated women out of its reach. Further, poor quality health care services renders many more women who could have had a safe home delivery face the risk of delays in receiving care after having travelled long distances. A recent case of 18 maternal deaths in a Government hospital in Rajasthan due to contaminated intra-venous injections points to the dangers of medical negligence and iatrogenic health hazards that women face on attempting to seek hospital care¹²⁰.

The Significance of Maternity Benefit for Workers

As regards workers, Maternity Benefit or work-linked maternity support, which encompasses several provisions including leave, wage compensation, nursing breaks as well as strictures against discrimination of women on account of reproduction, is an important tool that levels the playing field

¹²⁰ Preventable Deaths: What do the 18 maternal deaths in Jodhpur within a month say about our priorities? (Editorial). The Economic and Political Weekly, March 26, 2011, Vol xlvI no 13.

for women in the labour market. It reinforces the social and economic importance of women's reproductive role and recognizes the extra cost that women bear when they enter the labour market to do productive work in addition to reproductive work. Maternity Benefit moreover is the constitutional right of every working woman in India.

Further, Maternity Benefit could be an important means of increasing participation of women in the labour market. Although social mores and attitudes, lack of education and skill formation as well as lack of suitable opportunities have a role in keeping female work participation in India at abysmally low levels, there is a strong possibility that the provision of maternity protection and childcare facilities will increase the participation of younger women (20 to 30 years) in the labour force by reducing the costs to the woman and her family of entering the labour market. This will in turn increase their participation in education and skill formation, thus opening up avenues for empowerment.

Finally, NFHS-3 data clearly shows that employment does not necessarily ensure higher utilisation of maternal healthcare services. In fact, a higher proportion of non-working women receive maternal care than working women. Among women age 15–49, who had a birth in the 12 months preceding the survey, a lesser percentage of employed women received at least 3 antenatal care visits compared with non-working women (43 per cent and 58 per cent, respectively). Percentage of women who had institutional delivery and delivery by a health professional is also higher amongst non-working than amongst working women. ***The low utilisation of maternity care services amongst employed women makes an additional argument for the provision of work-linked Maternity Benefit coverage—leave as well as wage compensation- to all working women.***

Since poor women cannot remain idle and need to work, they bear a cumulative burden of low nutritional and poor health status. They also experience poverty and its effects more intensely than male members of their households. Even women of non-poor households experience multiple deprivations. Moreover, maternity is synonymous with financial crisis for the unorganized worker. ***Hence, availability of Maternity Benefit ought not to be used to exclude workers from other maternal support programs. Employed women must be eligible for both Maternity Benefit coverage and maternal support programs.*** While the former preserves their income and basic nutritional levels, the latter provides the additional care and supplementary nutrition so essential during pregnancy and childbirth that may otherwise be unaffordable. ***While the former addresses women's rights as citizens the latter their rights as workers.***

In the case female workers, lack of Maternity Benefit may cost the economy in terms of low participation, low productivity, and absenteeism due to frequent or chronic ill health on account of mothers giving up recuperation time to join work earlier than warranted after childbirth.

9.4 WOMEN'S ENTITLEMENTS UNDER THE MB ACT – OFTEN CONTESTED

The exposition in Chapter 4 points to the continuous evasion and contestation of MB Act. Over the years, the Courts have had to deal with several cases from aggrieved women workers who have alleged denial of benefits under this Act despite, according to them, being eligible for the benefits. A content analysis of around twenty judgments among the cases filed for relief under this Act, to help comprehend, among other things:

- Categories of workers who have been denied, or, given less than entitled benefit
- Nature of establishments that deny such benefits
- Reasons cited by establishments for denying benefits
- Reasons for Courts' acceptance or rejection of arguments by employers/petitioners

Among the important themes covered in the Judgments studied is the recurrent manner in which the Constitutional validity of Acts [including that of the MB Act, 1961] enacted for the benefit of workers has had to be established by the Apex Court of the country before workers can access its beneficial provisions.

A related aspect to the above is the lack of clarity regarding how the Maternity Benefit Act, 1961, is expected to interface with Factories Act and/or Service Rules of different establishments governing conditions of employment.

Since, there has been no mandatory requirement that other Acts, Service Rules of Establishments have to be amended in the light of the provisions of the MB Act, 1961, the examination of the cases reveal that an important grievance of workers has been the constant attempt of employers, including the Government as Employer, to pay the woman employee a lesser [than would have admissible under the Maternity Benefit Act, 1961] quantum of benefit, be it leave or money.

It is interesting to note that, while the MB Act, 1961, itself does not fix any ceiling on the number of deliveries made by a female worker there are several cases where Service Rules of Establishments, including those of certain state governments explicitly deny maternity benefit beyond two living children citing GOI's population control policy.

In a landmark judgment [delivered on 08/03/2000] that touched the core of the nature of employment of large numbers of women in this country, the Supreme Court ruled that the Maternity Benefit Act, 1961, was applicable to daily wage earners and women employed, temporarily, casually and/or on contract. However, while the process of achieving justice through this judgment has been arduous and time consuming, this judgment has led to further litigation arising out of linking woman's nature of employment to her being eligible for maternity leave/benefit. Women continue to be denied benefits under the MB Act, 1961, by their employers, who, among other things:

- Circumvent application of beneficiary legislation through enactment and/or by citing Government Resolutions
- Not only truncate quantum of maternity leave but also terminate women employees from service [the latter is illegal under the MB Act, 1961]
- Cite Consolidated Mode of Payment of Salary as rendering women ineligible for Maternity Benefits

This exposition of the effects of laws, such as the MB Act, 1961, has enabled to demonstrate how structures, social and legal, embody norms that inherently render women workers different so that legislations directly aimed at facilitating woman worker's maternity role instead become instruments not only for their subordination but also for their dismissal from work.

PART II: MATERNITY PROTECTION MODELS

9.5 WHAT DOES THE ASSESSMENT OF MATERNITY PROTECTION MODELS TELL US?

Maternal health supported by cash benefits is one of the crucial elements of maternity protection. These cash benefits are differently supported either by employer or by contribution or by state support. The broad assessment of the three models in the earlier section brings out the strengths and weaknesses of each of the models. The employer liability model emerges from the socialist and welfare paradigm that was dominant in post-independent India and the period till late 1980s. This perspective governed the support that women workers received. This model is applicable where all workers are in the organised form of labour. India is confronted with a reality with the presence of a large unorganised sector that is poorly organised and does not fall within the ambit of this model. As

opposed to the employer liability model the contributory social security model relies on a contribution from the employer and the employee, with a higher share of contribution by the employer. Though the size of the enterprise and the levels of technology in use determine which enterprise falls within the ambit of this model, there are enforcement issues with reliance on a cadre of inspectorate that creates room for corruption to ignore evasion. Further, smaller enterprises that attempt to keep the labour cost low, would suppress wages and do evade protection to workers. The conditional cash transfer model, discussed here, is focused on improving institutional deliveries. It does not recognise women's work status or compensate for women's loss of wages. Also the model is being targeted at women below poverty line living in the most backward districts.

“Maternity benefit should focus on risk reduction and capability enhancement. Excepting the employer liability model none of the models are neither comprehensive nor supportive of women's work and maternity”

Even though social insurance schemes facilitate resource mobilisation via contributions, they may not be the most effective vehicles for extending coverage to the majority of the population, particularly women who have tenuous connections to “formal wage employment”.

So each of the models as they are conceptualised as Acts or schemes or programmes leave out the need to address risk reduction and capability enhancement. Over and above all this, these social protection models do not recognise women's contribution to social reproduction and care work. And do not acknowledge the fact that women's choices and decisions to participate in labour are mediated by several household and community factors.

A brief review of each of the models and recommendations are presented below:

9.5.1 Organised Sector—Employer Liability Model

The employer liability model being implemented by the organised sector, particularly, the public sector units (PSUs), is progressive and supportive of women's maternity and care work linked to child rearing. The provisions of the Act with six month maternity leave and the newly introduced care leave of two years as per the Sixth Pay Commission recommendations, places women in the PSU in far superior position and well taken care. Women from this sector, therefore, enjoy their entitlements, which widen the gap between them and the rest in the unorganised sector (Swaminathan, 2009).

Apart from the regular women employees, most of the PSUs also have several unorganised women workers on temporary or contractual basis. Many of these workers are not receiving any support. Women are not unionised and are insecure about asserting their rights. The ESIC Act applies to all contract workers employed by a principal employer to whom this Act applies. The principal employer has the liability of paying the contributions for the employees covered under the Act. However, women hired through contract companies for various services are not covered for maternity or access to health care through ESI or any private insurance.

Banking and Insurance, Hospitality, Information Technology and Information Technology enabled Services, Media and Communication, Pharmaceuticals, Construction and Real Estate, Telecom, Retail, Health, Transport and Education have been identified as emerging sectors (India Labour Report 2008). A wide gender gap is evident in these sectors in terms of employment. However, Education, Retail, Construction, Health and Hospitality have high proportions of women workers. It has been observed through our fieldwork and interactions with researchers and trade unions that, women in these units are neither enjoying the MB or the ESIC Act related entitlements.

There is a greater preference among employees to hire younger and unmarried women, to ensure that their 'liability' to maternity and social reproduction is minimized. The female work participation rate among never married women is quite high across ages compared to that for currently married women.

Among the many facilities and provisions being made for creating an enabling environment for entrepreneurs and industrialists to set up businesses and factories, it is the workers' rights that are being given a go-by. Employers are unevenly committed to covering maternity benefits. Unionisation is discouraged.

This labour market bias against women's reproductive roles undermines the value of women's procreation for the regeneration of future labor force. Countries with negative birth rates, incentivise maternity to secure future supply of labour. Whereas in India, the economy is riding free on women's reproductive roles and poorly paid productive roles. This is unjustified and needs to be addressed. A brief overview of international examples of maternity protection is provided in the Annexure 9.1.

9.5.2 Employees Social Insurance Scheme: Contributory Social Security Model

The contributory social security model adopted by the ESIC covers for male and female workers and their families against various health problems, injuries and disability. The model *per se* works well if the employer adheres to it and the employees are aware of their entitlements and utilise the same. In reality, however, there are shortcomings and areas that need strengthening.

The recommendations emerging from the study to improve the efficacy and reach of the ESIC is presented below:

- The ESI notified areas should be expanded and should also include all establishments covered under Shops and Establishments Act.
- Number of women insured under ESI should increase. This is possible only if the number of establishments registered under ESI also increases.
- Workers having incomes below Rs. 15000 are in the ambit of ESI. It is important to broaden the income groups that could be brought into the ambit to net greater number of workers who deserve but are not in a position to seek private insurance.
- The ESI dispensary/hospital network should be more widespread and better equipped so that employees can have easier access making their contributions more meaningful for regular medical assistance too. In the urban context, a carefully designed partnership with private health institutions through an accreditation process can be attempted.
- Governance needs to be improved. The sharing of responsibility between State governments (medical services) and ESI (cash benefits) is a source of friction, which adversely affects the worker. A mechanism needs to be devised to remove this hurdle.
- The ESIC should also make sure that all establishments collecting contributions should make the remittances to the Corporation so that the workers are not deprived of benefits.
- All private schools, private nursing homes and hospitals should be brought under the purview of the MB or ESI Act.
- Paid leave for maternity under ESI should be extended up to 120 days at least. 84 days benefit given at present is not sufficient. Childcare and ante and postnatal care should be covered through ESI leave and creche facilities should be provided.

- The ESIC could fund the setting up of well-equipped ‘model’ crèches in industrial areas for workers in general and women workers in particular. Mobile crèches, on the lines of the NGO mobile crèche programme could be developed with the support of the ESIC in other areas so that working mothers can return to their jobs or may seek employment since child care is taken care of.

Insurance schemes like ESIC and RSBY (Rashtriya Swasthya Bhima Yojana) are contribution based, the former for persons employed in formal sector and the latter for BPL families. In India, any contributory social security scheme can prove dysfunctional and problematic. This was illustrated where women employees in SSIs (small scale industries) did not desire even PF deductions from their salaries. On the other hand BPL families did not have the relevant support documents to actually get Smart Cards made as they are often on the move, migrating between jobs for economic sustenance. This automatically denies and excludes the right to social security to millions of women and men, who are working intermittently, seasonally and in different locations. Most of them are one episode of catastrophic illness away from falling in the ‘poverty trap’.

The dependence on an inspectorate for registration of units/workers and monitoring of implementation is still a necessity but in the absence of checks and balances to deal with corruption, this will not benefit women.

9.5.3 Public Safety Net Models & Conditional Cash Transfers (CCT)

The supplementary nutrition programmes of the ICDS and the JSY within NRHM were closely studied for their coverage, performance and perceptions of women about these programmes. Empirical studies on JSY and its performance indicate an increase in institutional deliveries and the potential for decline in maternal and infant mortality.

The following are the broad observations based on interactions with women in the unorganised sector:

- Streamlining is necessary between the ICDS and the NRHM with regard to the execution of the Janani Suraksha Yojana (JSY).
- JSY is simpler to administer than various boards established for specific occupations like beedi workers or construction workers, which require employment evidence cards.
- Women working in the unorganised sector such as the brick kilns, construction, tendu leaf plucking, sugar cane cutting, rag picking etc do manual labour till the day of the delivery which is very hazardous to their health as well as to the health of the unborn. The CCT only incentivizes institutional deliveries, it does not provide for wage compensation to help women rest before and after childbirth.
- The untied fund at the Sub Center ought to be spent for travel reimbursement and other contingency expenses.
- Food supplement through the ICDS should be made available to all lactating mothers who are poor regardless of caste.
- A people’s committee on which there are women who also work on issues of health and reproductive rights should monitor this programme.

The IGMSY was not under implementation when the field studies were carried out. However studies reveal that –

- It suffers from high exclusion errors due to the conditionalities imposed. The Scheme needs to be universalised without any conditions of eligibility.

- The incentive is neither sufficient for nutritional needs nor as compensation for wage losses. It thus dilutes worker's rights.
- The resource weakness of public health care and of the ICDS needs to be rectified.
- Finally child support services such as crèches are critical for the effectiveness of maternal support programmes.

PART III: FIELD STUDIES – WHAT DO THEY POINT TO?

9.6 WHAT DO THE FIELD STUDIES OF THE PUBLIC, PRIVATE AND INFORMAL SECTORS POINT TO?

The broad observations emerging from the field-based studies in the four states, namely Kerala, Orissa, Uttar Pradesh and Maharashtra are as follows (Refer to Table 9.2 for sector-wise findings):

MATERNITY PROTECTION: WHOSE BABY IS IT ANYWAY?

Maternal and infant health is a subject matter that cuts across the Ministries of Labour & Employment, Health & Family Welfare and Women & Child Development. Disaggregated data on schemes, programmes and beneficiaries is inadequate and are poorly maintained. There are serious methodological and definitional issues in the information that it makes assessment or evaluation of the programmes difficult. It is important that the Ministry of Labour, Health and Women and Child Development engage with maternity protection and maternal health synergistically. Proportional budgets can be allocated by each of the ministries to meet the requirement of maternity benefits to organised and unorganised workers. An attempt has been made to estimate the number of women and workers requiring maternity protection cover and the number of claimants in Chapter 10.

ORGANISED SECTOR WORKERS ARE WELL PROTECTED

The organised sector workers, particularly in public sector, have reliable and sufficient access to maternity benefits and social security through secure jobs and salaries, which are adjusted to inflation over the years of employment. They are legally protected against loss of income from – illness, disability, maternity, old age, etc., during the course of their employment and also after retirement.

However the coverage rate of public schemes of social insurance, in organised sector varies from scheme to scheme—for instance Government Provident Fund has 54% of coverage while Pension scheme and Employee Provident Fund covers 48.7 and 25.1 per cent respectively. On the other hand coverage rate for Contributory Provident Fund is at 4 per cent only.

MB Act stipulates annual return forms to be given to Labour Commissioner regarding disbursement of benefits under MB Act in establishments. However with gross under reporting by establishments on the number of women employed, few women are able to avail of maternity benefit. Even the establishments in the organised sector are progressively depending more on contract labour and daily wagers to cut costs and save on social security for the workers.

UNORGANISED SECTOR WORKERS ARE UNEVENLY AND INADEQUATELY COVERED BY SOCIAL SECURITY MEASURES

The unorganised sector workers who do not have sufficient and reliable protective social security or maternity benefits face the greatest challenges. Though they are covered by the JSY under NRHM, PDS for food supplies, nutrition under ICDS and IGMSY, health insurance under RSBY and rural employment under MNREGA programmes, mis-targeting, inefficient delivery and pilferage in the

**TABLE 9.2: COMPARATIVE INFORMATION ACROSS STATES
TYPE OF WORKERS AND MATERNITY BENEFITS WOMEN WORKERS RECEIVE BY SECTOR AND INDUSTRY**

Type of Sector/ Name of the Unit	Type of Workers	Maternity Benefits Women Workers Receive	Maternity Benefit Cover Under	Remarks
UTTAR PRADESH				
<i>Organized sector - Factories in Ferozabad</i>	<i>Daily wage workers</i>	Receive no maternity benefits; Awareness of various maternity benefit schemes is low.	ESIC	
<i>Organized sector - Factories in Saharanpur</i>	<i>Permanent and contract workers</i>	Negligible number received maternity benefits.	ESIC	
<i>Organized sector PSU - Telephone Company, Rae Bareilly & Mankapur</i>	<i>Permanent, contract and daily wage workers</i>		MB Act	Lapse of pre-natal and reduction in post-natal leave in case of premature or post due date births. Loss of benefit due to lack of information on eligibility in terms of number of days worked. One case of promotion being withheld on extension of maternity leave. Company Hospital not adequate for deliveries.
<i>Organized sector PSU - Insurance Company</i>	<i>Permanent and contract workers</i> Large number of women employed.	Receive maternity benefits as per rules. Mediclaim facility where 75% borne by company; can avail of services in registered hospitals having 15 beds; claims on provision of bills are settled within 60 days; maternity leave is for 3 months and special leave of 6 weeks in case of miscarriage.	MB Act	No creche or rest room facilities as Insurance companies do not come under Factories Act. No provisions for exempting pregnant women from transfers on promotion.
<i>Organized Private sector Chemical and Pharmaceutical Industry, Saharanpur</i>	<i>Permanent and casual workers</i>	No maternity benefit in HR policy; Case dealt with on ad hoc basis. Workers encouraged to leave and join back after confinement. Awareness of maternity benefit schemes and their rights is low; No union to represent them.	ESIC	Working conditions risky for pregnant women. Few workers become permanent due to strategies followed by employer. Discrimination between staff and casual workers in wages, benefits and treatment.

Type of Sector/ Name of the Unit	Type of Workers	Maternity Benefits Women Workers Receive	Maternity Benefit Cover Under	Remarks
<i>Unorganized sector</i> Factories, plantations, mines, etc.	<i>Agricultural labourers work part-time as daily wage labourers</i>	Minimum wages paid; Few receive minimum maternity benefits. Work conditions are difficult especially in the mines and have very poor access to medial facilities as workplace is far from the habitation.	None	
<i>Unorganized sector</i> Bangle industry, Ferozabad	<i>Contract and home based workers</i> All women workers are home based.	Receive minimum maternity benefits; Awareness of maternity benefit schemes and their rights is low.	JSY	No reliable employment figure available. Working conditions bad due to lack of space, kerosine fumes and lack of ventilation. Incidence of chronic respiratory, digestive illness, general fatigue and aneamia high.high TFR.
KERALA				
<i>Organized private sector</i> Kerala Smallscale Industries Association	<i>Permanent workers</i>	Women earning less than Rs. 10,000 receive maternity benefits; women who are registered receive maternity benefits as per rules; can seek treatment in nearest ESI dispensary/hospital; receive medical care and medicines; no restriction on the number of children who can receive care; no difference in treatment on the basis of salary; cash benefits differ by salary; get 84 days of paid leave.	ESIC. ESIC coverage extends even to units with 5 workers.	The recruitment policy of the State Bank of India is evidence of the resentment amongst employers in giving maternity benefit: recruitment policy stipulated that women who are pregnant or likely to become pregnant at the time of recruitment shall not be given immediate posting.
<i>Organized Private sector</i> IT sector	<i>Permanent workers</i>	Women receive maternity benefits; some companies give 90 days paid leave with no creche facility; some companies do not have extension of leave without pay and employee has to resign if leave needs to be extended.	Organization specific social security measures which are mostly contributory schemes.	

Type of Sector/ Name of the Unit	Type of Workers	Maternity Benefits Women Workers Receive	Maternity Benefit Cover Under	Remarks
<i>Organized sector</i> Big establishments - Nationalized bank	<i>Permanent workers</i>	Many big establishments resent long absence of women workers for maternity reasons; some like SBI even adopted a recruitment policy which stipulated that women who are pregnant or likely to become pregnant at the time of recruitment shall not be given immediate posting;		
<i>Organized Public sector</i> Health sector - Government hospitals	<i>Permanent and temporary (contract) workers</i> Large number of women are employed.	Permanent workers receive all maternity benefits; Temporary workers receive no or limited benefits; NRHM staff who manage the JSY programme have no maternity benefits; Many places temporary workers have to resign if they get pregnant.	Permanent workers - MB Act, Temporary workers - ESIC, JSY, ICDS	
<i>Organized Private sector</i> Health sector - Private hospitals, clinics, etc.	<i>Permanent and temporary (contract) workers</i> Large number of women are employed.	Permanent workers received maternity benefits as per rules of the scheme they are covered under; Contract workers were not registered in any scheme and receive no maternity benefits;	Permanent workers - MB Act/ESIC; Welfare board	
<i>Organized sector</i> Education sector	<i>Permanent and temporary (contract) workers</i> Large number of women are employed.	Maternity benefits are at the discretion of the employer and vary between institutions, and permanent and temporary workers; the only benefit many institutions give is leave without pay; Many places temporary workers resign during pregnancy and rejoin after delivery; No union to represent them	Organization specific social security measures at the discretion of employer	Education sector is not considered an industry and therefore outside the purview of MB legislations.

Type of Sector/ Name of the Unit	Type of Workers	Maternity Benefits Women Workers Receive	Maternity Benefit Cover Under	Remarks
Fisheries sector - Trivandrum, Alleppey and Ernakulam districts	<i>Self-employed, cooperative worker, permanent worker, contract worker (daily wages or monthly salary)</i> Women workers are mostly in the unorganized sector and are employed in the post harvest activities; Irregular employment as it varies depending on season and harvest.	Permanent/contract workers of only registered units get covered under ESI as per rules; Workers of some units are covered by welfare boards through which women workers who are above 19 years of age receive Rs. 500/- for each of the two live birth; Many women had BPL cards; some women received cash benefits under JSY but some had to pay doctors in case of any complication and also had to purchase medicines from outside; many were registered under RSBY; health workers like ASHA did not always work as per rules; Majority of the women availed of food supplementation and iron tablets under ICDS; many do not get paid leave after delivery.	ESI, ICDS, JSY, RSBY, Fishermen welfare board (Matsyafed)(contrib utions from central government schemes, financial institutions, worker's contribution, etc.)	These three industries have a mix of private limited, unincorporated units, co-operative units as well as home based workers - both contractual and home workers with highly diverse conditions of work and wages.
Coir industry - Trivandrum and Alleppey districts	<i>Permanent and contract workers</i> Majority of workers are women and are mostly employed on contract basis and work from home; Few men are employed as permanent and work at the factory; Irregular employment.	Depending on where they work, maternity benefits vary among the workers; women work in home units, private sheds, self-help groups and cooperatives; majority are from BPL families and are members of welfare board but have received no benefits even under JSY; received child related benefits like education and nutrition and some mothers received antenatal care from ANM and nutrition supplements under this ICDS; only one women received cash benefit for inst delivery; women who work from home are not employed by the firm; such women not included under ESI; women who delivered in govt hosp have to pay for medicines due to shortage; some received cash benefit or vikas patra for girl child delivery; women had only heard but never met ASHA and did not know about her role.	RSBY, JSY, ICDS, Coir Welfare board	

Type of Sector/ Name of the Unit	Type of Workers	Maternity Benefits Women Workers Receive	Maternity Benefit Cover Under	Remarks
Cashew industry - Kottayam district	<i>Permanent and contract workers</i> Majority are women workers; Women work in factories as <i>permanent workers</i> and many work from home as <i>contract workers</i> .	Permanent workers in big factories receive maternity benefits as per rules under ESI; big factories provide creche facilities and allow feeding breaks; Contract workers mostly work from home and are paid low wages and receive no maternity benefits; some women are members of welfare board but do not know about JSY or RSBY.	ESI, Cashew Welfare board	
Unorganized workers in shops, hospitals, medical stores, fuel pumps, hotels, telephone booths, etc.	<i>Contract and daily wage workers</i> Majority are women workers.	Receive maternity benefits similar to ESI.	Kerala Shops & Establishments Welfare board	
ORISSA				
<i>Organized sector</i> PSU - Main plant, Bhubaneswar; Plant site, Koraput	<i>Permanent workers, maintenance workers and casual labour</i> Women maintenance workers mostly work in the site area.	Permanent workers receive all maternity benefits; Contract workers are made to do work in the site area even when they are pregnant and receive minimum maternity benefits; Rest room, creche facility, etc. are provided in site area.	MB Act, JSY	
<i>Organized sector</i> Chemical industry	<i>Permanent workers</i>	Receive some maternity benefits	ESIC, JSY	
<i>Unorganized sector</i> Beedi workers, Sambalpur district	<i>Factory based, out-work system and contract workers</i>	Contract workers receive the least benefits; after delivery workers can apply along with identity card and receive Rs. 1000/- for upto two live births; some avail of cash benefit through JSY as the procedure is much easier; Awareness of the maternity benefit schemes and benefits is low;	ESI act, Factory act, Welfare board, JSY	

Type of Sector/ Name of the Unit	Type of Workers	Maternity Benefits Women Workers Receive	Maternity Benefit Cover Under	Remarks
MAHARASHTRA				
<i>Organized sector</i> Sugar cooperatives	<i>Permanent, contract and migrant workers</i> type of worker depends on the nature of work; <i>permanent workers</i> are few and majority of them are <i>contract labourers</i> who are mostly migrants; women workers who do certain type of work (like cane cutting) are not recognized as workers and do not get paid at all	MB under company-specific scheme in some units. Contract worker receive no or minimum maternity benefits; Awareness is low; Migrant workers have no access to programmes for poverty alleviation and education as they migrate from poorer districts; Union is active but fights for wage related issues only and not for security and maternity benefits for women workers.	Not covered by ESIC because of seasonality of activity. MBA should apply but does not seem to. All decisions taken by State sugar federation.	Industry has huge army of unorganized workers in the form of migrant agricultural labour. They are considered as employees by neither the sugar factory nor the farmer.
<i>Organized sector</i> MSME - Two units in Nasik MIDC area - packaging unit; iron foundry unit	<i>Permanent workers and contract workers</i> Women workers do mostly manual work.	Permanent workers in packaging unit are covered under RSBY; Contract workers are not covered under any labour law and so maternity benefits given to women are at the discretion of the employer/owner.	No coverage under ESIC or MBA.	In 2002 MSME units with upto 25 workers with power and 50 workers without power exempted from Factories Act by Government of Maharashtra. Implications for MB legislations not clear.
<i>Organized Public sector</i> PSU - Chemical and Fertilizer Company	<i>Permanent and contract workers</i>	Permanent workers receive maternity benefits; Contract workers get medical care in case of an accident but no maternity benefits; Contract workers are totally at the mercy of the contractors who employ them and are paid low wages; Active union exists to fight for their rights.	Maternity benefits as per company policy	
<i>Organized sector</i> Nurses and para medical professionals - Government and private hospitals, clinics, etc.	<i>Contract workers</i>	Hospitals except government and Zillah Parishad covered under MBA. Receive low wages and working conditions are difficult; No job security; Only some receive social security and maternity benefits.	None	NHRM workers are on contract and not eligible for maternity benefits.

Type of Sector/ Name of the Unit	Type of Workers	Maternity Benefits Women Workers Receive	Maternity Benefit Cover Under	Remarks
<i>Unorganized sector</i> Informal workers in Dharavi - Leather, garment and recycling units	<i>Repeated short-term contracts, casual workers and home workers</i> Women work mostly as contract workers.	Paid low wages; Most of them are not recognized as workers and hence, are not covered under any scheme; Receive no social security and maternity benefits; no leave is provided after delivery; no other leave, it is work daily and earn daily.	None	Hazardous conditions of work for pregnant women and children.
<i>Unorganized Workers</i> Domestic workers	<i>Contract workers</i> Majority of workers are women and children;	Not covered under any labour laws and are not recognized as workers; do not enjoy legal protection, rights and dignity; Receive no type of security benefit; wage, leave facility, medical benefits and rest time are at the discretion of the employer; Awareness of rights is low.		Domestic Workers Social Security Act in limbo.
<i>Unorganized Workers</i> Trade union of waste pickers, Pune	<i>Self-employed and daily wages worker</i> Most workers are considered as ' <i>invisible workers</i> ' as such work is not recognized under any law; daily wage amount varies by number of years in service.	Workers formed a union to establish their identity and status as 'worker'; most of them have BPL cards; many of them availed of the cash benefit under JSY for institutional delivery; some delivered at natal home and so could not avail of these benefits; many incurred costs towards medicines, transportation, food, etc., do not get any maternity leave and hence, get back to work within 3-12 days after delivery; no creche facilities and feeding breaks.	None	Could be a best practice case.

delivery system affect the access to these programmes. Lack of promotional social security has led to unemployment and insecure employment, migration in search of employment; work at low wage rates, limited access to education and health delivery systems and resultant poverty and deprivation. In the unorganised sector the coverage of social insurance programmes, particularly public schemes are minimal. Maximum coverage rate (23%) is for Life Insurance (endowment), which is a commercial scheme.

MULTIPLE ECONOMIC ACTIVITIES AND MULTIPLE EMPLOYERS HINDERS CONTRIBUTORY MODEL

The majority of women takes up multiple economic activities over the year and find it difficult to participate in any social security activities. They find it difficult to contribute for social security due to insecure livelihood opportunities and under employment. Women in small scale private sector casual work in factories, lack the ability to contribute towards social security like Provident Fund which is available to them. Even the employers are hesitant to include them in any form of social security benefits, because they feel that the workers may move jobs for better opportunities. They even miss out on the maternity benefit schemes for being above the poverty line. Hence, their social security is as much in a flux as are their options for steady employment.

UNORGANISED WORKERS IN PRIVATE ESTABLISHMENTS – TOO MANY GAPS

Employers ensure that casual workers and contract workers are denied social security by not maintaining records are not recording continuity of employment. Consequently, women do not get registered for ESIC, even though they may have worked in an organisation for 10–15 years. Even those registered under ESIC, in certain establishments are unaware that they are registered, and if registered, have not claimed any benefits.

Pregnant women are very often denied employment or asked to take unpaid leave and join after the delivery of the child. Since they are unaware and have low levels of literacy, women find it impossible to raise claims to proper authority/court due to the lack of unionisation in the private sector.

MULTIPLE SCHEMES, MULTIPLE PROCEDURES AND POOR GOVERNANCE

The maternity cover for all the workers should be the same. Presently, there is no uniformity in the maternity cover in the Welfare Boards prevalent in some of the states. There is no central authority to ensure convergence, awareness generation and mobilisation of the women to ensure full access and utilisation of various schemes that cover maternity. The model of the Kerala Shops and Establishments Welfare Board could be followed as it not only helps to register workers but also is a viable payment for small establishment owners. There is lack of convergence on the issue of maternity benefit/protection amongst the multiple agents such as Govt departments, Welfare Boards and corporations.

WEAK UNIONS AND POOR ACCEPTANCE OF THE UNORGANISED WORKERS

Trade Unions are not actively working to mobilize and organise workers in the unorganised sector. Contractual workers in public sector units do not get much support from unions. Further, many women functionaries like the *anganwadi* workers are not regarded as ‘workers’. They are treated as volunteers and paid honorarium. The Boards function well in Kerala because of strong unions and conscious and aware workers. In the other states, Maharashtra, Orissa and UP, it is evident that the ethos is not enabling for women unorganised workers to be acknowledged or unionised by mainstream unions. The case of rag pickers and domestic workers unionising in Maharashtra with support from NGOs and women’s movements, demonstrate this.

WOMEN INTENSIVE SERVICE SECTOR – LEAST COVERED

Women in the hospitality, nursing and education are least covered by any of the existing Acts. The presence of women in the growing service sector is visible and evident, but this is a sector that is least protected. Unions of teachers, nurses and so on are present in the organised sector. The growing private schools, tutorial classes, colleges in the education sector and nurses and other functionaries in the private sector are least covered and often undocumented. Similarly the domestic service sector is receiving marginal attention. Maharashtra has an Act, but not operational, while other states do not even acknowledge the presence of women in the domestic services sector.

It is time that high female intensive service sector is brought under the scanner of labour laws and registration.

RURAL MIGRANTS – NEITHER HERE NOR THERE

There are several factors that contribute to seasonal, cyclical rural – rural and rural – urban migration in India. This study has observed several endemic regions in Orissa and Maharashtra, where tribal and rural women and children migrants do not get access to the reproductive health services, ICDS, PDS and any maternity benefits at the point of destination. Most of the rural migrants who work for sugar cane factories, in brick kilns, construction sites are not covered by any of the existing schemes and programmes.

Migrants as a category to rural and urban areas need special attention in order to ensure that they have entitlements as citizens independent of their contractual or employment status. This would be immensely useful as a social protection measure.

MATERNITY PROTECTION SANS HEALTH INFRASTRUCTURE

A significant component of maternity protection is about safe delivery and access to ante-natal and post-natal care. Maternity protection related provisions would only be fulfilled if the necessary health infrastructure were available and accessible. Despite the existence of the JSY, the long distance to be travelled to access health care service delivery, the prolonged procedures to receive the money and the higher out-of-pocket expenditures create barriers for families to support institutional deliveries. So policies and programmes have to go hand in hand with improved and accessible health infrastructure. This is linked to increasing the health budgets for health infrastructure.

POOR AWARENESS OF WORKERS' RIGHTS AND SOCIAL PROTECTION SCHEMES

Across all the states (where the study was conducted) barring Kerala, women had poor knowledge of their rights as workers and about schemes/programmes. Women's knowledge of their rights is significantly linked to the presence of active unions, women's participation in participatory planning for women's component plan at the village level and the presence of active women's groups.

Seeking maternity benefits and other protections is a means for empowerment of the women workers to access their entitlements.

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Position of Maternity Protection in Other countries

The idea of maternity benefit originated at the end of the nineteenth century in Germany where maternity protection became a part of the insurance scheme. This was followed by other developed countries, including UK and Australia. Three Maternity Protection Conventions have been adopted by the ILO since its inception: 1919 (No.3), Revised (1942) (No. 103) and 2000 (No. 183) with its recommendation No. 191. The latest Convention entered into force in February 2002. Convention No.3 was ratified by 33, Convention No. 103 by 40 and No. 183 by – member states. Although these are small numbers, according to an ILO publication (2005) maternity protection laws exist in most countries. The United States has no national maternity, paternity, or parental leave policy. However Federal laws concerning family and medical leave do exist. Maternity leave under these laws is unpaid and eligibility is linked to length of employment, hours of work and the size of the enterprise. In the UK the Employment Rights Act 1999 (as amended by the Employment Relations Act, 1999) and the Maternity and Parental Leave Regulations 1999 (amended in 2002), provide the right to maternity leave, the right to time-off for antenatal care and the right to maternity pay apart from protection from unfair dismissal because of pregnancy. A quick review of the maternity protection available in South Asian and selected Asian countries is attempted in order to provide a basis for the comparison of what exists in India.

Most countries in the South Asia—India's closest neighbours—with the exception of Bhutan and Maldives have various levels of maternity protection. Maternity protection in each country has been provided for under a specific legislation. Afghanistan, Bangladesh, Nepal, Pakistan and Sri Lanka all have employer liability schemes. Only India has a mix of social security and employer funded schemes. Bangladesh, Pakistan and Sri Lanka, like India offer 12 weeks of maternity leave. Afghanistan offers 90 days and Nepal offers 52 days. All countries offer full wages for the entire period of maternity leave. Details of the provisions of the two maternity protection legislations are set out below.

Maternity protection in Sri Lanka is mandated under two legislations—the Shop and Offices Employees Act No. 19, dated 9 August 1954, as amended up to act No. 44 of 1985 which covers women in and about business of shop or office; and the Maternity Benefits Regulations, the Maternity Benefits Ordinance No. 32 of 1939 as amended by Ordinance of 8 January 1957, Gazette No. 11, 046 of January 11, 1957 which covers all other workers. The first act entitles women workers to 42 days of maternity leave of which 14 days are to be utilised before and 28 days after confinement. The employer is obligated to pay the entire benefit in the form of 100% wages. The second Act entitles women workers to 12 weeks of leave, of which 2 weeks are to be utilised before and 10 weeks after confinement. This applies only for the first and second surviving child. In case of the third and each subsequent surviving child and in case of a stillborn child the entitlement is restricted to 6 weeks of which 2 weeks are to be taken before and 4 weeks after confinement. The employer is obligated to pay six-sevenths of the wages that a worker would have been entitled to if she had worked, subject to the minimum one rupee per day. Where the woman has worked any number of days during the two weeks before confinement, she is entitled to use these days after the ten or four weeks of postnatal leave with prescribed pay. After joining work post-confinement the woman is entitled to 2 nursing breaks of not less than 30 minutes each where a crèche or equivalent facilities exist and of 1 hour each if such facilities are lacking. She is entitled to pay for these breaks. Employers are allowed with the prior permission of the prescribed official to offer alternative maternity provisions. Such benefits include, (a) the use, for the confinement, for a period of not less than ten days of a maternity ward or a lying-in-room, approved by the Commissioner; (b) the services of a mid-wife at the confinement; (c) food for the labourer during the period she remains in the maternity ward or the lying-in-room; and (d) the payment of cash benefits to the labourer. A worker who refuses to accept the alternative benefits shall not be entitled to the "normal" maternity benefits. Employers are also prohibited from employing pregnant and lactating women workers in dangerous jobs injurious to the health of mother or child.

Thailand's Labour Protection Act, 1998, grants women 90 days of maternity leave, with 45 days funded by the employer at full wages and the rest by the National Security Fund (established in 1990). There is no prescription pertaining to the distribution of maternity leave and workers are thus entitled to start the leave as early or as late as they wish. Employees are protected from dismissal due to pregnancy, are entitled to a temporary change in the kind of work either before or after childbirth but no provision has been made for breast feeding breaks (Surinder 2009).

China follows the employer liability model. Women are entitled to protection from dismissal and to compulsory maternity leave of 90 days, including 15 days before confinement. Allowance of extra 15 days of leave is to be granted in case of dystoxia and for each additional baby born in case of multiple births. Two 30-minute feeding breaks with an additional 30 minutes for every child for multiple births, has been allowed. Maternity protection, however, is restricted to the first child only, in consonance with China's one child policy.

Maternity Protection: Recommendations

The exposition in this report provides insights into significant descriptors of the situation of women workers at the macro and micro levels. The overarching macro picture tells us:

1. Legal frameworks to cover maternity were developed keeping the western industrial model in perspective, thus relegating large percentage of male and female workers who work and contribute to their families, communities and society outside the remit of the legal framework.
2. The redistributive mechanisms of social policy, which provided some, reprieve, have weakened in recent years as equality and redistribution as core values under pinning public policy have been displaced by a market-oriented logic that introduces individualised methods of risk and benefit calculation into social insurance programmes.
3. High proportion of women seeks employment after completing their reproductive commitments to the family.
4. Less than 2 per cent of women have entitlements like pension/PF, gratuity and health care including maternity.
5. Various schemes and programmes continue to address different segments of women's lives and health, without covering protection and vulnerability in comprehensive ways.

Field based exploration point to the multiple ways by which women are inserted into the various sectors and that formality and informality, organised and unorganised co-exist seamlessly. Women's lack of awareness of their rights coupled with the insecurity in asserting for their rights is evident. Women seem to be absorbing silently the rampant culture of providing a semblance of 'job protection' at the expense of 'maternity protection'. Service sector (for example, education, health, hospitality, retail industries) with preponderance of women across various states rampantly evade covering women under the ESIC. The growing segment of women in self-employment and in the unorganised sector such as home-based workers and migrant workers are outside the pale of the current schemes and programmes due to lack of social insurance and poor portability of welfare based entitlements. The informal sector workers are also not sufficiently organised as a political constituency, since they do not have any primary consciousness as workers. Efforts by women's movements and NGOs provide pointers to how maternity benefits and protection need to be understood within a context of multiple vulnerabilities that women experience.

The recommendations here are divided into two parts. Part 1 provides a set of recommendations that are enforceable in the near future with concerted efforts to develop all the necessary mechanisms to bring about change. Part 2 provides an overarching framework for 'non-contributory' maternity protection as social protection. Estimates of number of women requiring maternity protection cover and the number of claimants provided across different (overlapping) characteristics of women.

10.1 RECOMMENDATIONS

10.1.1 Specific recommendations with regards to MB Act and ESI scheme

1. The application of the Maternity Benefit Act for those women who are covered by the same, to continue.
2. The application of the Employees State Insurance Act to those who are covered by the same to continue.
3. The Maternity Benefit Act, 1961, is expected to interface with other Acts and/or Service Rules of different establishments governing conditions of employment.
4. The maternity benefit may be increased to 180 days to ensure exclusive breast feeding of the newborn.
5. The application of the Employees State Insurance Act to be extended to those workers who are working in establishments covered under the Act but who are earning more than Rs. 15,000/-. The application of the Act to be extended to all workers working in establishments covered by the Act.
6. Development and disseminating of government guidelines on employers' obligation under the MB Act and ESIC be taken up at the national level to increase women's awareness of their entitlements and employers' responsibility to women workers. Efforts need to be made to make sure that such efforts do not jeopardise women's right to work and livelihood.
7. All service sector establishments where women are found in large numbers have to be brought into the ambit of the MB and ESIC.
8. The performance of the Inspectorate in encouraging establishments to register, to inspect the implementation of rules is uneven. Hence, in the place of providing external mode of regulation and surveillance, a scenario of women being aware of their rights would help greatly.
9. The Ministry could introduce a rule that all wage/salary payments of men and women have to be made through banks or post offices. This in turn becomes the basis for providing an employment proof. The mode of registering of women workers through the employer can be replaced by self-registration of women workers at designated banks, post offices through a recognised designated officer with the responsibility to do so.
10. Employer contribution to maternity (specifically) can be delinked to number of women employed, period of employment and monthly wages to the sheer presence of women in the establishment. All employers would make a contribution to a common pool of the ESIC. Such a methodology of providing maternity benefit would take care of current leakages in registration and implementation.
11. The application of Employees State Insurance Act to be extended to all persons holding a Job Card under MNREGA and who have either asked for work or worked during the current year. The state concerned to be considered "employer".
12. The application of Employees State Insurance Act be extended to all persons who are employed by an employer (that is all workers except self employed workers) and covered under the Unorganised Workers Social Security Act and the Schedule I of the Act be suitably amended to include the Employees State Insurance Act and not the Janani Suraksha Yojana.
13. The self employed workers covered under the Unorganised Workers Social Security Act be continue to be covered by the Janani Suraksha Yojana with modification that all workers and their families be covered by the Yojana without exception. Hence the JSY will be applicable to all women self employed workers and family members of self employed workers covered under the Act irrespective of their age at the time of delivery, the number of children that they deliver

and their income. Hence the restrictions of age (19 years), delivery (only first 2) and income (Below Poverty Line) do not apply to beneficiaries under the Act.

10.1.2 Recommendations for Ministry of Labour & Employment

- Women component planning to be taken up by the Ministry of Labour & Employment to achieve gender equality in the employment sector.
- The newly Constituted National Social Security Board should be women inclusive and its mandate be clearly identified.
- The RSBY card should give priority to list the names of the women who are in the reproductive age in the family.
- Many State specific schemes, which have components of maternity benefits need to receive broad guidelines from the Ministry to streamline allocations, implementation and utilisation. Safety net for wage compensation and job guarantee during the advance stage of pregnancy should be provided in all the schemes.
- Functioning of the various welfare boards should be clearly defined and available in public domain. Women should be included in welfare boards. New Welfare boards need to be constituted for agriculture and allied farming sector; and self-employed or home-based workers.
- Worker's card should be ensured to all the workers.
- The number of hospitals under welfare Boards should be increased and gynaecologists should be appointed or contracted to serve these hospitals. Functioning of the state Boards needs to be assessed on these parameters.

10.1.3 Convergence of Ministries of Labour, Rural Development, Health and Women & Child Development on maternity entitlements

- Village level database on sex disaggregated basis of migrant labourers should be maintained in order to create portability of entitlements to nutrition, maternity benefits and access to health care services.
- Migrant women should be entitled to get all facilities of ICDS, JSY, RSBY or any other at the destination site
- There is a role of the Women Self Help Groups in ensuring that all women get maternity protection through the various schemes.
- Inaccessible areas (mainly tribal areas) need to be given strategic attention to provide maximum benefits to women.
- The travel expenses component of the JSY should be enhanced for remote and hilly terrains in different states

10.2 PROGRESSIVE RECOMMENDATIONS WITH TRANSFORMATIVE POTENTIAL

Maternity protection and benefits are essential parts of social protection for women whose vulnerabilities in employment and in the labour market have to be countered by prevention, mitigation and transformative measures (Cook, Kabeer & Suwannarat, 2003). Maternity protection as part of social protection is not a stand-alone instrument. It has to be in-built into the development agenda, as an integral part of social development in developing countries. A non-contributory model can be explored. A case in point is the South African Old Age Pension (OAP) system. It is a non-contributory scheme financed from general revenue rather than individual contributions (Razavi, 2007). Social protection requires strong linkages to development policies, labour market policies; and diversification (Gentilini, 2005). Developing a framework for social security not linked to a clearly

defined formal work status, identifying the resources and be able to deliver the protection is a challenge, but worth attempting to take on (Justino, 2003).

The example of SEWA that had broad based understanding of women's vulnerability and the mitigation of the same through multiple strategies—credit, training, access to markets, health insurance, etc.—lead by identity formation, voice and representation had far reaching implications for women in this sector (Unni & Uma Rani, 2003; Unni, 2004; Kabeer, 2003; Chatterjee, (2004).

Key recommendations:

- 1. Need to extend maternity protection to all women on the basis of their citizenship – without restrictive conditions and on the basis of self-selection.**
- 2. Need to expand and modify present arrangements for Maternity Benefit so as to cover all workers. Availability of workers' benefits should not exclude them from other means of maternal protection.**
- 3. Levy of a 1 per cent Cess is suggested for financing of Maternity Benefit and Maternity protection.**

CONCLUSION:

The present report attempted a thorough review of maternity benefit related policy and programmatic situation in India. Through various chapters, the report has attempted to establish that the maternity benefit support that women are getting is inadequate and is covering a small proportion of women in the organised sector. The report provides a strong ground to understand the current employment context of women in India through a thorough analysis and compilation of secondary data. Range of recommendations that can be taken on a short term basis and on a long term basis with various related Ministries (Health, Women & Child) have been indicated. The extension of maternity protection to women in India is a much needed entitlement that would help achieve gender equality and women workers' rights and increase the participation of women in work and education.

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