

A Living Wage
Strategies for Implementation of the Minimum Wage—The Case of the Indian Beedi Industry

by

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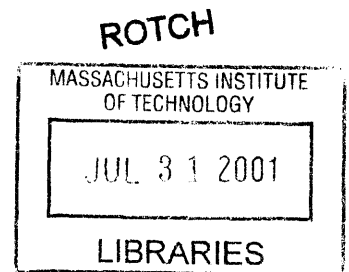
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Abstract

92% of India's total workforce (approximately 320 million workers) is employed in the unorganized sector. Out of these, 4.4 million workers are employed by the beedi (indigenous cigarette) industry. Annually, this industry contributes nearly 13% of the total indirect taxes to the central government.

The beedi industry is highly mobile in nature. It is also one of the most exploitative labor-intensive industries in India. The industry thrives on the cheap cost of production and locates in regions that have low wages. Most of the production in the beedi industry is carried out by sub-contracting, where the workers are exploited in terms of low wages, lack of social security benefits and poor working conditions.

In 1966, the Government of India enacted the Beedi and Cigar Workers (Employment of Conditions) Act to protect the workers from exploitation, provide the workers with minimum wages and social security benefits. The Act allows a state government to fix its own minimum wages. This has resulted in varying rates of minimum wages across states. States that have enforced higher minimum wages have witnessed an industrial flight of the beedi firms, leaving behind thousands of unemployed workers. Further, the enforcement and implementation of the Act has been very ineffective.

The report identifies successful strategies for implementation of minimum wages in the beedi sector by analyzing the cases of the Kerala Dinesh Beedi Cooperative and the Self Employed Women's Association. These organizations have been successful in their approaches because they were able to 1) organize beedi workers into trade unions and cooperatives, 2) garner political support for their movement, and 3) compete with other beedi producers in the country. The report recommends that implementation of the minimum wages in the beedi industry in India can be achieved by a) developing a national minimum wage policy for the beedi industry, and b) increased cooperation between the trade unions, government, NGO's, political parties, employers and beedi workers.

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I dedicate my thesis to all the workers in the beedi industry.

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Chapter 1

1.1 Introduction

The emerging path of progress in developing countries like India depends on striking a balance between the economic goals of the country and the needs of unorganized labor. Unorganized sector workers constitute nearly 92% of the working force in India.¹ Although, unorganized workers comprise a majority of the workforce, it is difficult to identify the workers that fall in this category. Unorganized tends to get mixed up with the connotation for workers who are not unionized and once they get unionized the assumption is that they become organized (Jhabvala 1998). However, the term “unorganized” goes beyond this narrow definition and encompasses a combination of factors. The most important factor is that the workers in the unorganized sector are not adequately protected and work under informal conditions. They receive limited employment security, low wages, no health or social security benefits (Carr 1996).

There are some legislations, like the Minimum Wages Act 1948, Beedi and Cigar Workers (conditions of employment) Act 1966, Contract Labor Act 1970 etc., to protect and address the needs of unorganized workers. But according to Jhabvala (1998), “when we look at the reality, these acts have limited impact and the workers do remain unprotected.” It is difficult to perceive that a semi-socialist country like India, which is sympathetic towards labor, has not developed more laws or schemes for unorganized workers.

Why have these legislations failed to reach the unorganized workers? The problem lies in the official definition of the unorganized sector. According to the Central Statistical Organization (CSO) of India the unorganized sector is defined as “all unincorporated enterprises and household industries-other than the organized ones and which were not regulated by any of the Acts, and which do not maintain annual accounts and balance sheets” (CSO 1980: p.135 as cited in Banerjee 1988). This definition treats the unorganized sector as a “residual” category, but some empirical studies conducted on segments of specific economies labeled as unorganized present different stories (Joshi and Joshi 1976, Papola 1981, Banerjee 1988)².

¹ Ministry of Labor, Government of India <<http://labor.nic.in>>

² Contrary to common perception, the above-mentioned authors claim that the unorganized sector consists of economically productive activities and contributes extensively to the Indian economy. According to CSO 64% of the country's national income is contributed by the unorganized sector (Jhabvala 1998).

According to Banerjee (1988), in the unorganized sector the function of different factors of production is not clearly separated and that is the main the reason why workers are not organized for collective bargaining. Political parties are often unwilling to take up the causes of scattered and casual workers because they fail to get recognized in the public policy of India. Further, it not easy for isolated workers to collectively form a trade union under the domestic system. In many cases, for self-employed workers there is no identifiable employer against whom they can organize. Many of the self-employed compete against each other for customers. Therefore, they do not see a convergence of interests to collectively bargain. The nature of the decentralized enterprises, thus, acts as a barrier against workers behaving as full-fledged members of the working class (Banerjee 1988, pg.74)

It is paradoxical that the unorganized sector, which employs 92 % of India's workforce, has been unsuccessful in organizing workers. This paradox is changing and some organizations, like trade unions and non-profits, have been able to break the above-mentioned barriers and succeeded in collectively organizing the workers in the unorganized sector. These organizations are putting forward the agenda of unorganized workers in the public policy arena. The issue that has been central to the struggle of unorganized workers in those instances, where they have been able to organize, is minimum wage.

Minimum wage has been one of the key factors around which labor movements have been organizing workers in India. Besides organizing, the importance that public policy planners accord to Minimum Wages issues explains its popularity with the labor movement.³ The Minimum Wages Act 1948 was one of the first acts that was enacted by the Parliament after independence and has been often used as a negotiating tool by organizations representing workers group. What the minimum wages literature fails to explain is-why the minimum wages

Additionally in countries like India, the categorization of the organized and unorganized sectors is based on the nature of organization of enterprises and not by their products, techniques and markets. This is due to the fact that the factor roles and the production tasks are not as well defined in the unorganized sector as they are in the organized sector.

³Since minimum wages is considered important by the government, the trade unions in India have largely targeted their campaigns towards government policies. According to Rudolph (1987), in India the state dominates the policy agenda to a remarkable degree. As Stanley Kochanek writes in *Business and Politics in India*, "Policy initiatives usually come from the government... not from the larger society... so most of the groups are forced to take a negative or defensive rather than a positive stance...the pattern of public policy... has concentrated vast powers in the hands of government officials. This power enables them to control and regulate the internal affairs and external conduct of business, trade unions and other organizations...Far from being...an outcome of interest group activity, as group theory would have it, public policy in India exerts a significant impact on group mobilization and on behavior." (Kochanek as cited in Rudolph 1987).

have failed to reach workers in the unorganized sector? This seems puzzling because the basic concept of minimum wages is to provide for fixing and revision of minimum wages in employments in which labor is vulnerable to exploitation on account of their lack of organization and weak bargaining power (AITUC 1984).

To understand this puzzle, the focus of my research is to analyze a sector that had a large concentration of unorganized workers and that fell under the purview of the minimum wage legislation. The sector that matches these criteria is the beedi industry.

The beedi industry is organized in a unique manner. The basic structure of the industry consists of multi-faceted production systems. On one end of the spectrum, the industry is organized as industrial establishment wherein production systems are organized under one roof. On the other end, production is vertically disintegrated into a sub-contracting chain that stretches up to the home-based workers. Therefore it comprises of both organized and unorganized workers.

The industry directly employs close to 4.4 million workers, most of who are unorganized, in fourteen states in India (Annual Report 1999-200). The industry is concentrated in the states of Andhra Pradesh, Bihar, Karnataka, Kerala, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal (Refer to Figure 1 – Geographical Pattern of Beedi Production in India). The industry is well known for its exploitative labor practices -- low wages, inadequate social security, long hours of work, and child labor.⁴ The beedi industry is also politically powerful in states like Tamil Nadu, Andhra Pradesh, Kerala and Madhya Pradesh due to the sheer number of workers that are employed by the industry.⁵

The industry annually contributes nearly 13% of the total indirect taxes to the central government, more than most other unorganized industries. The beedi industry is also the first unorganized industry wherein legislation – The Beedi and Cigar Workers (Conditions of Employment) Act 1966 – has been enacted by the Government of India to minimize exploitation of workers. Chapter 2 analyzes the history of the Minimum Wages legislation in India and specifically examines the nature and the evolution of the Beedi Act 1966 and its effects on workers in the beedi industry. It has been observed that, after thirty-five years of passing the

⁴ The labor practices will be elaborated towards the end of the chapter

⁵ Refer to Table 10 in Chapter 5.

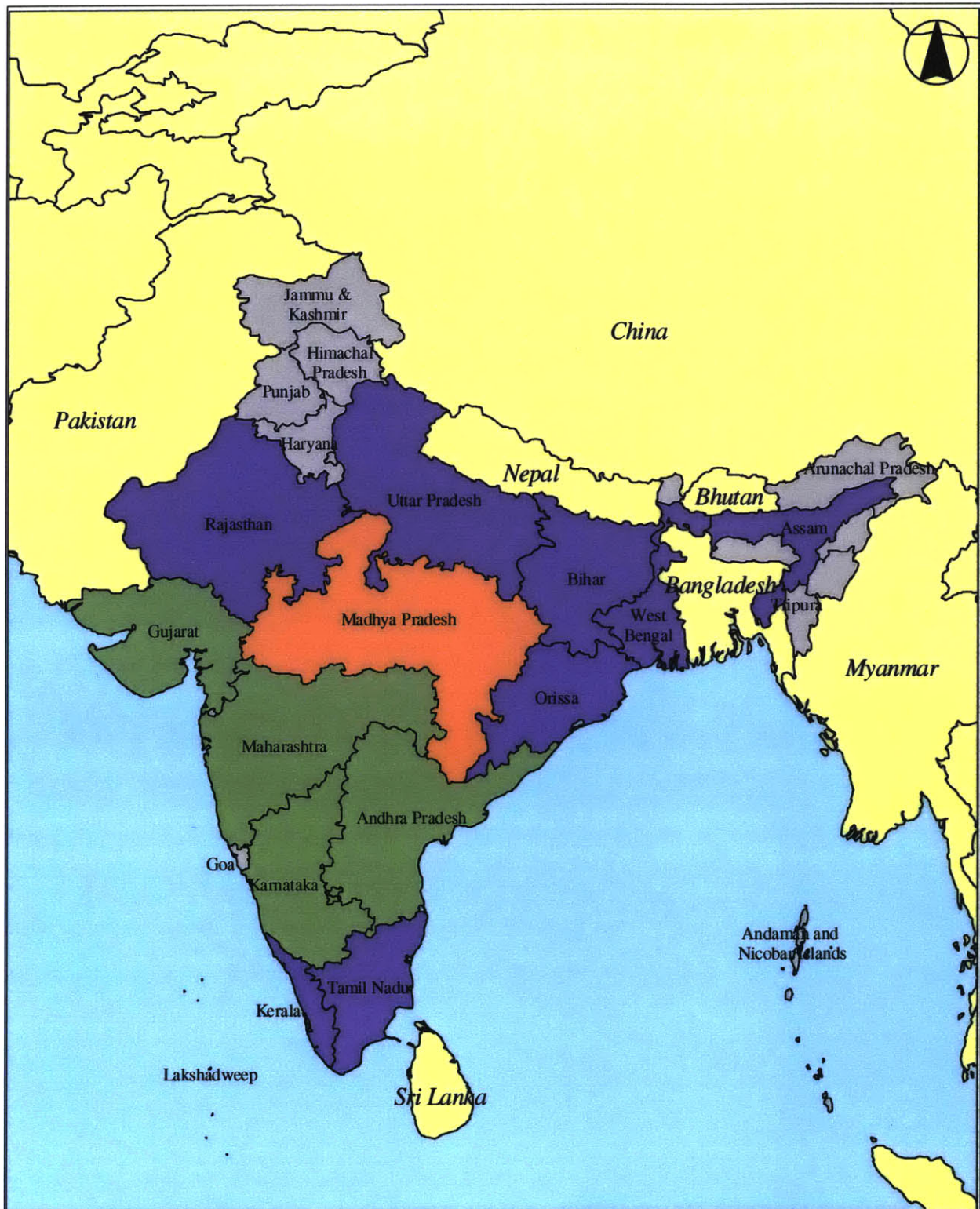


Figure 1: Beedi and Tobacco Production by State

100 0 100 200 300 400 Miles



- Beedi and tendu leaf production
- Beedi production
- Beedi and tobacco production
- Non-beedi producing states

legislation, the workers in the beedi industry continue to face problems of low payment of wages, lack of social security benefits, and employment of children in the production of beedis.

The most common reason that is quoted to explain such conditions of work is the lack of proper implementation machinery⁶ and the ability of firms to get around the legislation. The legislative intent of the Beedi Act is in the interest of protecting labor. But the framing of the rules of the Act⁷ has resulted in marked disparity in minimum wages amongst the states. States that were able to set lower levels of minimum wages achieved higher competitive advantage in the industry, when compared to states that had higher minimum wages. To cite an example, states like Gujarat pay their workers close to Rs.57 per thousand beedis⁸ and states like Andhra Pradesh pay close to Rs.17 per thousand beedis.⁹ The beedi industry thrives on cheap labor, and unequal fixation of minimum wages is resulting in a flight of the industries from regions that have high minimum wages to regions that have low minimum wages (Isaac 1998, Jhabvala 1998, Gopal 1999 and Heller 2000). The neo-classical location theory can explain the mobility of firms in the beedi industry. These theories state that firms locate in regions that make it most efficient in terms of market, labor and materials. Further, capital and labor are the key factors; they are mobile and respond to the regional differences and wages and profits (Krugman 1995).

But, despite the exploitative practices in the beedi industry, some organizations like Kerala Dinesh Beedi Cooperative (KDB) were able to successfully implement minimum wages for unorganized workers in the beedi industry.

Within the existing constraints in the beedi industry the core research question of my thesis is: How has KDB been able to gain inroads in organizing workers in the beedi industry?

⁶ In India, the inadequacy of the implementation machinery is largely blamed on the planning process. Partha Chatterjee (1997, pg.280) in his book, "State and Politics in India," tries to explain the process of planning in India. According to him the planning process that is mainly undertaken by the central planning authority is situated outside the realm of politics and embodies the single, universal and rational consciousness of the state. It is precisely for this reason that there are failures in plan implementation. An implementation failure occurs when a) the planning authorities are inefficient in gathering information, b) when they take so much time to respond to the underlying situation has changed by then, c) when the public agencies through which the plans are to be implemented do not have the capacities to carry them out or d) when the private agencies combine in 'strategic' ways to disrupt the expectations about their behavior, which the planners have taken as 'parametric'.

⁷ According to the Indian Constitution, labor as a subject falls under the purview of state and central government. Therefore, under the Beedi Act, the states were given the autonomy to fix their own minimum wages based on the economic conditions of the state and the industry's capacity to pay. A detailed discussion of this issue is presented in Chapter 2.

⁸ The floor level minimum wage for the beedi industry is set at Rs.35 per thousand beedis. It is set per thousand beedis because the workers are paid on a piece-rate system rather than a daily wage.

⁹ These are official government figures but in reality an average worker gets paid less than half of the amount in either of these states. (Jhabvala 1998).

The main objective of the research is to examine what are the desired conditions or processes required towards an effective implementation of minimum wage policy in the unorganized sector? What explains the success of organizations like Kerala Dinesh Beedi Cooperative in implementing minimum wage legislation for beedi workers? The hypothesis behind the research is: do trade unions play a crucial role in the implementation of minimum wages for workers in the beedi industry?

In order to test my hypothesis, I analyze the case of Kerala Dinesh Beedi Cooperative, located in Kannur District in the southern Indian state of Kerala. KDB emerged out of the 1968 crisis in the beedi industry in Kerala. The cooperative was formed with assistance from the state government of Kerala and was primarily managed by a joint council that comprised of members of formal trade unions in Kerala.

The organizational strategy and the path of development adopted by KDB have made it one of the most successful cooperatives in the country. The strategies that KDB adopted were unique and combined a trade union ideology with a market perspective. This combination helped the cooperative compete with other beedi manufacturers in a highly competitive industry. The relationship of the formal trade unions working with unorganized workers is also very rare because it has been traditionally perceived that the unorganized workers pose as a threat to the formal sector workers (Kannan 1998, Bhattacharjee 1999). From my research it is evident that in the beedi industry such rivalry does not exist. In fact, the formal trade unions have been very pro-active in addressing the issues of unorganized workers in the beedi industry for the past fifty years.

Chapter 3 analyzes the organizational development of KDB, and the conditions under which minimum wages can be implemented successfully. The chapter also illustrates the organizing strategies employed by Self Employed Women's Association (SEWA) in Ahmedabad. SEWA adopted strategies similar to KDB's in organizing beedi workers under different circumstances.¹⁰ The chapter compares the experiences and strategies of these two organizations and identifies the successes of their organizing.

¹⁰ KDB was formed because of the flight of beedi industries from the Kannur District, whereas SEWA organized its workers to protect its workers from exploitation. The organizational structure that these organizations adapted to wage the struggle for minimum wage was very similar.

Chapter 4 presents the contemporary issues concerning the beedi industry. The beedi industry has been facing a myriad of issues in recent times -- loss of image, decreasing revenue, change in production systems, and competition from the mini-production. All these factors have been threatening the survival of the beedi industry and are creating uncertainty about the future of the industry. Some of these factors may be termed transitory (that are largely guided by politics), and others pose wide-ranging implications into the future.

The final chapter recommends the importance of the central government as an intervening agency to develop a uniform minimum wage policy for the following reasons:

- The varying rate of minimum wages amongst the states is exacerbating the conditions of beedi workers. The central government is the only agency that can develop and revise the rates of minimum wages in the beedi industry.
- Under the federal system of governance, state governments are dependant on the central government for the share of taxes that accrue from the excise tax on beedis.
- A uniform minimum wage policy will curb the mobility of the beedi between states.

Finally, the report suggests that there should be coordination between the government, trade unions, non-profits, employers, politicians and beedi workers in the implementation of the minimum wages.

1.2 Methodology

The report is largely based on secondary data. The data for the research was collected from books, journal accounts, newspaper articles. I also conducted informal interviews of people in the beedi industry during a field visit to India this summer.

The next sub-section explains the process of production in the beedi industry and the system of cess in the beedi industry.

1.3 Beedi Production Process:

What are beedis?

Beedi is the indigenous form of the modern cigarette. Beedis are about 6 centimeters long, and are of a shorter diameter than the American cigarettes. The only difference between a beedi and a normal cigarette is that a normal cigarette comprises of a filter and contains fewer amounts of tar and nicotine as compared to a beedi. Beedi smoking is also considered to cause

two or three times greater nicotine and tar inhalation than conventional cigarettes due to the poor combustibility of the beedi wrapper and greater puff frequency needed to keep the beedi alight.¹¹

The process of rolling beedis consists of various steps and is often split among various persons. The beedi workers procure the tobacco and the tendu leaves from the contractors and soak the tendu leaves in water. Once the water drains off, the leaves are cut into rectangular pieces using an 'ace', a rectangular metal strip, for measurement. Each brand had slight variations in their 'aces'. The pieces of leaves are folded in a piece of sack cloth or plastic sheet to retain the moisture till they are rolled.

Cutting the leaves is a very skillful job and is done by the beedi workers themselves. This is the only part of the process that requires some skills in the trade. The tendu leaf is cut in a rectangle, while the tobacco is spread evenly in it. The beedi worker does the main work of actually rolling the leaves placing the tobacco dust inside and binding it with a thread. The final action consists of folding the top end of the beedi using a metal stick. This piece of work is often handed over to younger children, when they are initiated into beedi work because of their ability to perform the task with dexterity (Refer to Figure 2). On an average it takes nearly 6-8 hours to roll a thousand beedis. Sometimes it takes 10-12 hours per day.

1.3.1 Contracting and sub-contracting system in the home-based industry

To establish a shop in the beedi business the contractors and sub-contractors have to possess a central excise license that provides them a) with the authority to obtain tobacco from the local market, and b) an account for the beedis produced and transported.

There are two types of shops in the beedi industry- company shops and commission shops.

Company shops

In the company shop, the trade-mark holding company provides raw materials to the contractors. The contractors, in turn, issue the tobacco and tendu leaves to the workers at the village level and also collect the finished product and deliver it to the company. The contractors for the trademark holding company operate by issuing passbooks to the home-based workers in their name and give them the necessary raw materials to produce the beedis. Once the beedis are rolled the contractors collect them from the workers and pay them wages for the total number of

¹¹Tobacco online report < <http://www.globalink.org/nbtnodigest/T06/msg00010.html>>



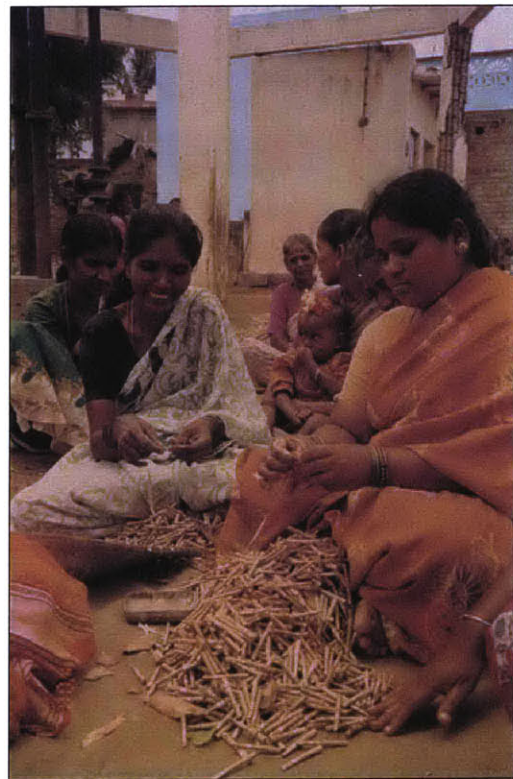
Step 1 – Cutting of tendu leaves



Step 2 – Filling tobacco into the leaves



Step 3 – Rolling the beedis



Step 4 – Labeling the beedis

Figure 2 – The Beedi Production Process

beedis rolled. As per the provisions in the Beedi and Cigar Workers Act 1966, the contractors have to deposit provident fund in the names of the workers with the Regional Provident Fund Commissioner and also allocate 8 percent of the total wages obtained in a month as leave wages. Under the system of commission shop, it is the responsibility of the employer to register the beedi worker with the Regional Welfare Commissioner. The Regional Welfare Commissioner issues the identity cards to the workers. The identity card allows the workers to receive welfare benefits outlined in the Beedi Welfare Fund Act 1974.

It is interesting to note that the Regional Welfare Commissioner maintains the list of names of all the home-workers in the region and this is the only official figure that can determine the number of workers employed in the industry. This figure is usually inaccurate as it fails to account for all the workers who do not possess passbooks. For example, in the Tirunelveli district of Tamil Nadu, the official records for 1988 showed that 1,80,000 workers were employed by various manufacturers. But in 1989, when the Supreme Court of India appointed a commission to inquire into the conditions of work in the beedi industry in the district it was found that, in reality, close to 5,50,000 workers were employed in the beedi industry.¹² These figures reveal that the government estimates are not very reliable in assessing the number of workers employed in the beedi industry.

Besides the provident fund, the contractors also have to distribute leave wages and bonuses to workers every year. Besides the passbook holders, there are workers who roll beedis in a joint status (those who work along or jointly with the pass book holders). They usually only receive wages for the beedis rolled. Most often the joint passbook holders are young children or older workers who complement the workers in producing the beedis. These joint passbook holders are preferred by the contractors don't have to pay towards provident fund, leave wages etc.

In a company shop system the manufacturers are very strict about the quality of their beedis and the reporting time of deliveries. To ensure the high standards of production, employers prefer skilled workers. To retain such workers, employers also provide social security.

¹² Meena Gopal (1999) Disempowered despite wage work women workers in the beedi industry, Economic and Political Weekly April 17-24, 1999.

Commission shops

In the commission shop production system, the company provides the raw materials to the main contractors. The contractor, in turn, passes on the raw materials to numerous sub-contractors who maintain links with the workers, issuing them the raw materials and collecting the finished products from them. In this form of production the Trademark Company is referred to as the principal manufacturing company while the subcontractors are referred to as the commission agents. In the commission system the sub-contractor usually receives a commission ranging from Rs. 0.80 to Rs.1.20 per thousand beedis collected and sold, depending on the brand of the beedis that the main contractor provides them. According to Meena Gopal (1999) “the commission agent collects a bundle¹³ extra for every 10 bundles produced by the worker. In this way a commission agent takes away 100 beedis for every thousand beedis produced. While the passbooks are issued to women, and a few workers are also retained a joint rollers in these commission shops, the sub-contractors of some of the manufacturers, such as Mangalore Ganesh Beedi company, do not issue the passbook in the name of the women but in the name of the male member of the family or even a neighbor to avoid paying maternity benefits.”

Unlike those working under the company shop system, the workers employed in the commission shop system often get cheated by the contractors in terms of raw materials. If the contractor constantly cheats the workers in terms of materials, it is not profitable for the manufacturers to operate in the market, as their production levels fall.

One of the features of the sub-contracting system is that the contractors are not too particular about the standard of beedis. In the sub-contracting system, the workers usually produce for a non-recognized brand that is sold locally in the region. These beedis rarely penetrate regional or national markets. One of the advantages of operating in such a system is that the traders usually get exempted from the provisions of the central excise duty. If the annual production of the manufacturer is less than 20 lakh (two million) beedis they get exempted from the central excise duty.

This system of exploitation percolates down to the worker who is at the bottom of the pyramid. It is this system of exploitation that groups like SEWA and Working Women’s Forum (WWF) are trying to eliminate. With the provision of credit to women, the women often procure the materials from the main contractor on credit and then give him the finished products for the

¹³ A bundle comprises of 100 beedis.

day. Even though the system has sought the elimination of the sub-contractors, the workers at SEWA still face exploitation such as rejection of the beedis produced because they do not comply with confirmed weights of the company, or the size of the beedi is not in conformance with the company's standards, etc.

1.4 System of Cess in the beedi industry

The main motivation for the government to allow the beedi industry to flourish is the industry's annual contribution of nearly Rs.84 crores¹⁴ to the central government as excise duties. The industry contributes nearly 13% of the total indirect taxes to the central government every year. The tobacco industry is a large contributor to the exchequer of the government. Losing such a high revenue-generating industry can be disastrous for the Indian government. Besides the lost revenue, losing the beedi industry will also put 4.4 million workers out of work. In order to protect the workers from exploitation the Government of India established the Beedi Worker's Welfare Fund Act, 1976 (62 of 1972).

The Act provides for a levy as a duty of excise by the way of cess on manufactured beedis at a rate not less than ten paise (Rs. 0.10) or more than fifty paise (Rs. 0.50) per thousand beedis. The proceeds of the levy go into financing the welfare fund for the beedi workers. The labor ministry at the central government disburses the cess to the welfare fund.

Any manufacturer producing less than 20 lakh sticks is exempt from the Act. This clause in the Act provides small beedi manufacturers with a lot of leverage. These manufacturers sell most of their products in the local market in rural India. The small manufacturers are the biggest exploiter of the beedi workers for the following reasons:

- First, they don't contribute towards the welfare fund for the workers by getting exempted from paying the excise tax.
- Second, they exploit the workers by paying low wages and not providing social security benefits.

When the Act was passed, cess was fixed at twenty-five paise per kilogram of tobacco issued by the tobacco warehouses to the manufacture of the beedis. The cess for financing the Beedi Workers Welfare Fund could not be collected under the Beedi Workers Welfare Cess Act 1976 until March 1, 1979 due to the exemption granted by the Finance Act, 1979-80. Therefore,

¹⁴ Annual Report on the indirect taxes, Ministry of Finance, <http://www.cagindia.org/reports/>

the Beedi Workers Welfare Cess Act 1976 was amended in 1981 to provide levy of not less than ten paisa and not more than fifty paisa per thousand manufactured beedis.¹⁵

After the amendment of the Beedi Workers Welfare Cess Act, 1976, the cess was levied at the rate of ten paisa per thousand manufactured beedis, and was consequently increased to thirty paisa per thousand on March 1, 1987 to meet the increasing cost of administering the various welfare measure under the fund. This reflects the nature of the implementation of acts by the Indian government. Even though the fund was formed in 1974, it was only in late 1980's that the central government began to administer the welfare measures for the act. It is interesting to note that while the state government sets the minimum wages, the allocation towards the welfare fund actually comes from the central government. The multiplicity of roles between the state and the central governments leads to delay in the administration and disbursal of funds to beedi workers.

In 1982, the rate of cess was 10 paisa per thousand beedis. This rate was increased to 30 paisa on March 1, 1987 and began to generate an annual revenue of 12.08 crores (Table 1). This rate was kept constant for nearly eight years, before the central government decided on October 17, 1995 to increase the levy to fifty paisa per thousand beedis manufactured.

Year	Cess Receipts
1987-1988	12.08
1988-1999	12.29
1989-1990	12.74
1990-1991	12.03
1991-1992	12.22
1992-1993	12.42
1993-1994	14.07
1994-1995	14.72
1995-1996	n.a.
1996-1997	n.a.
1997-1998	n.a.
1998-1999	42
1999-2000	84

Source: Annual Report on the indirect taxes, Ministry of Finance, <<http://www.cagindia.org/reports/>>

¹⁵ www.indianembassy.org/indiainfo/india_2000/chapters/chp26.pdf

In 1998, the Labor ministry began to observe a decline in the balance of the of the Beedi Workers Welfare fund (refer to Table 2). In order to sustain the existing facilities to the workers and to make provisions for newer schemes for beedi workers, the labor ministry envisaged a need of Rs. 40-50 crores to meet the requirements for welfare fund. The labor minister Dr. Satyanarayan Jatiya proposed an amendment to the current Act, and sought to pass the Beedi Workers Welfare Cess (Amendment) Bill of 1998. The Bill was passed by both houses of the Parliament and incorporated a clause increasing the lower and the upper ceiling of cess to be levied at the rate of 50 paise and Rs.5.00 per thousand beedis rolled.¹⁶ However the rate of cess was kept at Rs.1.00 per thousand beedis and, it was expected that the cess would generate a corpus between Rs. 40-50 crores per year to meet the requirements of the welfare fund as against the Rs. 21 crores that was being generated earlier. Some of the new schemes the government had planned to introduce were opening of new hospitals and dispensaries, and enhancement of the scale of benefits of financial assistance from the existing level of Rs. 9000/- in subsidy under the housing schemes. The government increased the rate of cess to Rs.2 per thousand beedis in the year 2000. This is expected to increase the generation of revenues to Rs. 84 crores.

Year	Opening Income	Expenditure	Closing Balance	Balance
1994-95	33.59	12.46	21.59	24.46
1995-96	24.46	14.70	25.34	13.82
1996-97	13.82	21.20	23.76	11.26
1997-98	11.26	21.90	26.15	7.01
1998-99	7.01	25.07	31.41	0.67

Source: <http://planningcommission.nic.in/mta-9702/mta-ch21.pdf>

What prompted the government to introduce the Beedi Amendment Bill in 1998? The Government of India officially designated 1998 as the “Year of Labor Welfare.” In this year the government introduced major provisions in the existing legislations for protecting the interests of workers in the informal sector. One of the key recommendations of the government was to prohibit the employment of children in industries like beedi, matchstick, carpet and other

¹⁶ <http://pib.myiris.com/>

industries. Further, the Prime Minister of India, Shri Atal Bihari Vajpayee, decided to increase the National Floor Level minimum wages from Rs. 35/- to Rs 40/-. The prime minister required the states to fix, review and revise the minimum wages within a period not exceeding two years or on a rise of 50 points in the Consumer Price Index.¹⁷

In India, the government has been a key actor in protecting the interests of labor. The government's role dates back historically to the pre-independence era wherein it set up committees to study the conditions of labor in the unorganized sector. Chapter 2 analyzes the history of the minimum wage legislation in India. Understanding the history behind the minimum wage legislation helps provide explanations to the factors that led to the establishment of the Minimum Wages Act 1948 and the Beedi and Cigar Workers (Conditions of Employment) Act of 1966.

¹⁷ <http://pib.nic.in/focus/foyr98/101298/100912981.html>

Chapter 2

2.1 History of Minimum Wage Legislation in India – Before Independence

The practice of fixing minimum wages in the industrialized countries can be traced back as early as 1894. New Zealand and Australia were one of the first countries in the world to fix minimum wages by the end of the nineteenth century. The Australian legislation of fixing the minimum wages was extremely progressive. The underlying assumption behind the legislation was to prevent the workers from “sweating.” As early as 1896, the Australian government set up wage boards to look into the conditions of labor that were employed in factories. In 1901, Australia joined the commonwealth of the British Empire and was instrumental in influencing the minimum wage legislation in England. In 1909, following the Australian model, Trades Boards were set up by the British parliament in some industries to enquire into the conditions of workers, where the rates of wages were much lower than the prevailing wages in other industries.

By 1926, based on the recommendations of the trade boards, minimum wages were applicable to 40 trades including coal mining and agriculture. The trade boards were responsible for laying down wages for a given industry that would provide at least a bare maintenance to the workers but at the same time would be consistent with the market conditions of that trade.

An important landmark in the history of the development of minimum wages practices was the ILO Convention No. 26 Viz. ‘ Minimum Wage Fixing Machinery Convention’ passed in 1928 in the 11th session of ILO. The terms of the convention were that “Each Member of the International Labour Organization which ratifies this Convention undertakes to create or maintain machinery whereby minimum rates of wages can be fixed for workers employed in certain trades or parts of trades (and in particular in home working trades) in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low”.¹ The main shortcoming of the convention was that no definite criterion was established for determining the minimum wages.

¹ ILO Convention (No. 26) concerning the Creation of Minimum Wage-Fixing Machinery (Geneva, 16 June 1928) Australian Treaty series <<http://www.austlii.edu.au/au/other/dfat/treaties/1932/3.html>>

In 1928, the ILO ratified Convention No. 26 that established criteria for determining minimum wages. The convention provided the following guidance on the establishment of national minimum wages:

- (1) Before the machinery is applied in a trade or part of trade, representatives of the employers and workers² concerned, including representatives of their respective organizations, if any, shall be consulted as well as any other persons, being specially qualified for the purpose by their trade or functions, whom the competent authority deems it expedient to consult;
- (2) The employers and workers concerned shall be associated in the operation of the machinery, in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by national laws or regulations;
- (3) Minimum rates of wages which have been fixed shall be binding on the employers and workers concerned so as not to be subject to abatement by them by individual agreement, nor, except with general or particular authorization of the competent authority, by collective agreement.³

The ILO convention was not ratified by India immediately but it did lead to the setting up of Royal Commission for Labor known as the 'Whitley Commission'⁴ in 1929. The commission was asked to advise the government on this subject and the report of the commission was awaited before making any decisions. The commission in its report observed that the level of wages in a number of industries which were not organized were very low and that there was a need to create wage fixing machinery for such sweated industries like Bidi, Tanneries, Plantations and Mica factories where collective bargaining was out of question.⁵ However, the government did not take any actions on the proposed recommendations of the 'Whitley Commission' and refused to ratify the ILO Convention.

² From the historical documents it is unclear who fell into the definition of workers.

³ Quoted from ILO Convention (No. 26) concerning the Creation of Minimum Wage-Fixing Machinery (Geneva, 16 June 1928) Australian Treaty series <<http://www.austlii.edu.au/au/other/dfat/treaties/1932/3.html>>

⁴ The Whitley Commission comprised of officials from the public service commission of India.

⁵ The workplaces of beedi workers as recorded by the Whitley Commission (1981:96) were small air boxes, often without windows. The workers were crowded so thickly on the ground that there was barely any room to move between them. Unregulated working hours and piece-rate payments were some of the features of this industry (Singh, Manjit 1990 pg.41).

In 1937 the Congress party came into power in many states in India. The Congress obtained an absolute majority in Madras, C.P., U.P., Bihar and Orissa and a near majority in Bombay. By July 1937 the interim ministries appointed by the British government resigned and Congress ministries were formed in Bombay, Madras, U.P., Bihar, Orissa and C.P. ⁶ These ministries were committed to the improvement of labor conditions in the country. In four states, Labor Enquiry committees were appointed to examine the wages and existing conditions in the country. The committees in Bombay and Madhya Pradesh were to look into the textile industry, while the committees in UP and Bihar were to examine all the industries.

The textile labor committee appointed by the Government of Bombay (1937) developed a terms of reference that would:

- a). Examine the wages of the workers in the textile industry in various parts of the province in relation to the living wage standards and if they were found inadequate, to examine why were they so and
- b). Establish a minimum wage. The committee finally suggested that Rs. 50-55 in Bombay, Rs. 45-50 in Ahmedabad and Rs. 42-45 in Sholapur should be considered as living wage for a month. Similarly the Bihar Labor Enquiry Committee also recommended the fixation of minimum wages. The Kanpur Committee accepted the principle wage and arbitrarily fixed it at Rs.15 per month as a basic minimum wage for skilled worker. Despite the recommendations of all these committees, the government did not undertake any action to appoint minimum wage fixing machineries.

A sharp increase in prices in 1943 drew the attention of the Central Government to the problem of wage fixing. In the 5th session of the Indian Labour Conference (1943) the question was raised on fixing the machinery for minimum wages and also providing social security for labor. The Government prepared a draft bill in the 7th and the 8th labor conferences. The bill was finally introduced in the assembly in 1948 and in March 1948, the Bill became the Minimum Wages Act 1948.

⁶India and the Raj 1919-1947 < http://www.maoism.org/misc/india/india_raj_v2/chap-5.htm>

This Act, however, neither gave a definition of minimum wages nor did it refer to the content of minimum wages. Though the wage fixing machinery was outlined, no guidelines had been suggested for the machinery to arrive at the amount of minimum wages.

In December 1947, an industries conference was convened by the Government of India and attended by the representatives of government, employers and labor, passed the Industrial Truce Resolution, with a view to devise measures to check the deteriorating industrial relations situation. The resolution emphasized that in the interest of enhanced production it was necessary to ensure payment of fair wages to labor and fair return on the capital employed. In the same year, the Government of India appointed a Central advisory Council for addressing this issue.

2.2 Post-Independence

The Central Advisory Council after their first session, appointed a tripartite committee to be called 'Fair Wages Committee'. The basic framework for government interventions in the wage determination process was set out in The Report of the Committee on Fair Wages, 1948. The Fair wages committee for the first time laid down the criterion for minimum wages and indicated three levels of wages – Minimum wage, Fair wage and Living wage. It was stated “The minimum wage must provide, not merely for the bare sustenance of life, but also for the preservation of the efficiency of the worker by providing for some measure of education, medical requirements and amenities” (Report of the Fair wages Committee as cited in Vaidya 1989). Following the recommendations of this Report, the government designed fairly elaborate methods of intervention into the wage determination process. The norms for the need based minimum wages, as laid down by the 15th Labour Conference in 1957 were:

- a) A standard working class family should be taken to comprise of three consumption units (Husband, wife and 2 children) for one earner. The earnings of women and children should be disregarded.
- b) Food requirements-Net intake of 2700 calories per day per consumption unit.
- c) Clothing-Per capita consumption of 18 yds. per year. Total family requirements were 72 yards per family.
- d) Housing- Minimum rent charged by the government in any area for houses provided under subsidized industrial housing scheme for low-income groups.

e) Fuel lighting and other miscellaneous items of expenditure should constitute 20 percent of the total minimum wage.

These norms have been widely used by several wage-fixing authorities like the wage boards and pay commissions. The norms that were laid by the 15th labor conference were perceived to be very idealistic. For some states like Bihar, U.P., Orissa and Madhya Pradesh where the economic conditions for labor were not very developed it was difficult to abide by the such strict standards laid down by the 15th labor conference. The norms were criticized to be idealistic because they gave little consideration to the capacity of the industry to pay and the standard of living of other similar groups of people in the community.

In December 1966, the Government of India set up the National Commission on Labour to study and make recommendations on various aspects of labor including wages, working conditions welfare, trade union development and labor-management relations. The Commission submitted its report in August 1969. The commission recommended that in order to determine need-based minimum wages, it is important to take into account the capacity of the industry to pay the wages. While discussing the issue of whether there should be a uniform minimum wage between the different sections, regions and industries, the National Commission expressed the opinion that a National Minimum Wage is neither feasible nor desirable in the view of vastness of the country and unequal development of the states (Vaidya 1989).

Following the recommendations of the National Commission, in 1978, the Government of India set up the Bhootlingam committee to study the issue of fixing minimum wages and problems connected with quantifying a uniform amount for different industries and states. The committee tried to quantify the national minimum wage, the lowest minimum wage that will be uniform all over the country. In quantifying the national minimum wage, the committee considered several factors like the national per capita income that was Rs.1049 per year and approximately Rs. 87 per month, per capita consumption expenditure of a working class family, trying to set a rate that was not too high etc.

Having considered all these factors, the committee suggested that initial target for the minimum wage; in the sense of an absolute national minimum should be Rs.150 per month at 1978 prices. The committee also recognized the potential difficulties of immediately adopting such a figure. It was of the view that such wage should not jeopardize the employment and

handicap growth of small-scale industries. Therefore it reached a compromise wage wherein it fixed the minimum wage at Rs.100 per month below which no employment should be permitted. The committee also recommended that efforts should be made to achieve the target of Rs.150 per month as soon as possible at any rate within a period of seven years. Ironically, the recommendations made by the Bhootlingam committee were targeted towards the workers in the formal sector than the workers in the informal sector. Traditionally, wages and working conditions in the informal sector are determined by the movements in demand and supply. The argument that is made in the literature, is that, since there is surplus of labor in the informal sector and most of the occupations comprise of unskilled work, it is very difficult for the workers to bargain for minimum wages with their employers. The lack of employment opportunities coupled with the employer's ability to replace workers easily (as portrayed in the case of SEWA) provides limited choices for the workers to move to other occupations.

Within this background the Government of India set up a machinery to fix and enforce minimum wage in the country. In the next sub-section, I will briefly elaborate on the fixing and enforcement of minimum wages.

2.3 Fixing and enforcement of Minimum Wage

In India labor is treated as a concurrent subject i.e. it appears both on the state and the central list. Therefore, either central or the state government has the authority to fix and revise minimum wages in any industry. There are two ways by which the government can do it:

- i) The government may appoint an advisory committee or committees consisting of representatives of employers and workers from the industry with some independent persons⁷. Once the committee is constituted, the committee visits various areas where the industry is located and meets various stakeholders. The committee then arrives at certain recommendations on the types of wages that need to be fixed based on the industry (region wise and state-wise). It is then left upon the states to act on the recommendations provided by the committee. In order to assist the minimum wage committees with adequate data and expertise, the government sets up advisory boards at the central and the state level.

⁷ The independent members will comprise only 1/3rd of the committee.

- ii) The second option that the government may adopt is to place an official notification on the Gazette on the proposed changes that it is planning to make with regards to minimum wages and then call for objections to the proposed wages. If there are any objections they have to be sent to the government within 2 months from the date of notification.

Under the Minimum Wages Act, minimum wages for an eight-hour work-day are fixed for certain types of jobs, where in the judgment of the government, the market conditions make the workers particularly vulnerable to exploitation.

In order to ensure that provisions of the Act are being properly enforced and the workers actually get paid the wages the government has to appoint inspectors under the Act for different geographical areas. The inspectors are given powers to file cases in the court against erring employers. The basic rules concerning the enforcement and wage fixing of minimum wages are very well laid out in the Indian planning system. The major handicap that organizations working with the unorganized sectors experience are the irregularities that exist within the enforcement mechanisms. The only mechanism by which the inspector can verify the eight-hour workday norm is by inspecting the records of the employers. Since it is very difficult for the inspector to monitor on a day-to-day basis, there is a tendency on the part of the employer to fabricate the records. Therefore such a system becomes very difficult to monitor. Why did the enforcement mechanism turn out to be lackadaisical in nature? Part of the issue lies in the importance that given to unorganized workers in the Indian planning system.

Unorganized workers: the least recognized category in the Minimum Wage debate

After independence, the national focus of the planners was geared towards industrial development rather than recognize the needs of the unorganized workers. The policies that were developed with regard to the unorganized sector were largely aimed at improving the economic efficiency of the sector rather than looking into the basic working conditions of the unorganized sector. The issues concerning the welfare of unorganized labor were totally absent from the plans until it emerged in late 1960's when large-scale people's movements began to emerge at the regional level. The characteristics of these movements were interesting. They had strong backing from formal trade unions and were supported by political parties at the state. The main issues'

concerning these movements was to provide protection for unorganized workers in the form of minimum wages and social security.

It is interesting to note that in standard literature on the relationship between the formal trade unions and informal sector is always referred to be antagonistic (Bhattacharjee 1999, Venkat Ratnam C.S. 1999) but the movements in the 60's reflect the opposite. The Kerala case shows that the relationship between the formal trade unions and the unorganized workers can be different under certain conditions and can develop positive outcomes like the Beedi and Cigar Workers (Conditions of Employment) Act 1966.

In this context, I will describe the case of Kerala Dinesh Beedi Cooperative (KDB). This movement is interesting as it portrays the key inter-relationships between trade unions, political parties and the government. It also provides a unique insight into the level of influence that a regional movement contributes in developing a national legislation in a federated structure.

In order to highlight the experience of Kerala, I will briefly outline the dominant public policy that existed for the informal workers in India by examining the Five Year plans.

2.4 Public Policy for unorganized workers

The public policy towards the unorganized sector in India has been targeted specifically to improve the productivity of the sector. India's first five-year plan gave considerable importance to the specific sections of the unorganized sector. Its main priority was to improve the productivity of agriculture and uplift the standard of living of the poor, especially in rural India. It also emphasized the role of rural and cottage industries in reviving the Indian way of life. The expansion and revival of these enterprises were seen to provide opportunities for income and employment to the poor and at the same time expand the supply of indigenous consumer goods. The first five-year plan mainly concentrated on reviving the institutional and infrastructural bottlenecks that had been holding up the healthy growth of these activities. It assigned quarter of the public outlay for programs to develop agriculture, fisheries, forest and animal husbandry (Banerjee, 1988). For small industries, the plan proposed the setting up of several institutions to provide finance to such units as well as liaison on their behalf for the sale of their products at reasonable prices. Though the Minimum Wage Act was passed in 1948, except for agriculture, it provided mere lip service for other occupations like Beedi, Handloom, Cashew workers, Coir Workers etc.

According to Rudolph (1987 pg. 287) “the state’s self-proclaimed responsibility for development was detrimental for labor’s interests. This takes potentially contradictory forms, maximizing industrialization based on capital-intensive investment and maximizing employment based on labor-intensive methods. Both development strategies entail cheap labor. If labor remains a low-cost production under capital-intensive methods, savings for capital formation can be increased. Labor-intensive development methods that spread employment while attempting to meet market competition from manufactured products entail low wages. The state’s development goals accord with a wide range of economic theory that concludes unpalatable as it may be, the economy of India needs a policy of low wages”. This may precisely explain why the wage policies of the state were merely a lip service rather than be put into practice.

On the other hand, one of the most important policies of the government in the first plan was to involve trade unions in the formulation and implementation of the five-year plans. In order to make the labor leaders participation more effective at all the levels –national, industry and plant level-the government set up a Central Industries Advisory Council, the tripartite committees and the works committees. The government also made it a practice to consult the Labor leaders in all matters affecting the working conditions and the well being of the working class (Johri, 1967).

Though these policies were being developed by the central government, the southern states of India, specifically Kerala were witnessing the emergence of a new form of struggle that was based on class lines. The role of the trade union in influencing the social policy was crucial for the protection of the workers who were working under deplorable conditions. In contrast to that high levels of social mobilization in developing countries that necessarily overload fledging democratic institutions, class based mobilization in Kerala has actually institutionalized democracy and made it work better (Heller 1999 pg.3). The roots for such strong mobilization lie within the strong network that existed between the trade union movement and the political party at the state level. This was evident in the emergence of the Beedi and Cigar Workers (Conditions of Employment) Act 1966 that was highly influenced by the activists who had participated in the pre-independence movement in India. In the next sub-section, I will analyze the history of the organizing in the beedi industry in Kerala in the post –independence period and identify key factors that led to the establishment of the Beedi and Cigar Workers (Conditions of Employment) Act 1966.

2.5 The beedi struggle – Kerala’s story:

Pre-independence era

The origins of KDB can be traced back to the freedom struggle that was led by the socialists and later the Communists. During the 1920’s, the Kerala society was sharply segregated on the caste and class lines. The communists were engaged in a class struggle that sought to reduce the inequality that existed in the Kerala society. This movement became a part of the freedom movement the early 1930s. According to Isaac (1998) the freedom movement developed a process, wherein the beedi workers of Malabar region developed an activist and democratic consciousness.

As early as 1934, a trade union of beedi workers, the Kannur Beedi Thozhilali Union, was formed. A critical event in the evolution of the Kannur Beedi Thozhilali Union was the General Strike of 1937 called by the Kannur union to press for a charter of demands for beedi workers. The strike lasted for 38 days with very little gain to the workers but it was an important step in raising the consciousness and political awareness of workers and remarkable for the solidarity provided by peasants to industrial workers. One of the demands of the union was that workers be allowed to read when they are not actually at work, and it became a practice (one that still continues at KDB) for workers to take turns at reading newspapers and books out loud to their co-workers (Isaac 1998).

Having formed the union, the region began to witness a shift in the industries from the neighboring states of Karnataka to the Malabar. This move is seen as a turning point for the beedi industry and it’s establishment as a key occupation in the Malabar region. In the next subsection, I would like to elaborate the evolution and the impact of the beedi industry in the Malabar region.

Phase-I: Shifting of the beedi industries from Karnataka to Kerala

In the beginning of the century the beedi industry in Kerala was concentrated in the Malabar Region.⁸ In the early 1940’s the Malabar region witnessed a shift of beedi industry from Karnataka to Kerala. The key reason cited for the shift of the industries from the district of Mangalore in Karnataka to the Kannur District in Kerala were the prevalence of low wages that

⁸ Malabar is located in the northern part of Kerala. The Malabar region borders with the state of Karnataka in the north and the state of Tamil Nadu in the east.

were paid to beedi workers in the Kannur district in Kerala. There was a wage differential that existed between the Kannur and Mangalore. The wages in Kannur were 27 percent lower than Mangalore rates in 1939 (Isaac 1998 pg. 44). In 1943 the wage differential had increased by 50 percent. The lower wages in Kannur caused the large beedi firms from Mangalore such as Ganesh Beedi (1942) and Durbar beedi (1943) to open branches at Kannur. As a result, beedi factories were set up and the industrial employment expanded and average employment in the branches of these companies increased.

In 1940's the Malabar region fell under the jurisdiction of the Madras government. The Madras Government had passed a regulation wherein the Madras government had exempted the beedi industry from the provisions of the Factories Act 1941. Taking advantage of the regulation, the beedi companies were able to employ more workers in their establishments. The provision allowed the beedi industry to pay their workers a much lower minimum wages compared to Mangalore.

It was in 1941 that the Government of India set up an enquiry to study the labor conditions in the tobacco related industries. The trade union movement played a pivotal role in pressurizing the government to publish its report. The government released its report in 1947, and recommended the inclusion of the beedi industry under the newly established Factories Act 1948.

Some of the tenets of the Act were to strictly regulate the employment of child labor in this industry and enforce the payment of minimum wage, Maternity benefits under the Maternity benefit Act and the Workmen's Compensation Act of 1923. The government accepted the recommendations and enacted the Minimum Wages Act of 1948. This move encouraged the factory owners to shift out from a production system that was vertically integrated in a factory to a disintegrated production system that was based on sub-contracting. Companies like Ganesh beedi started to use middlemen under the new trade system. Once the big companies began to adopt such a measure, the smaller companies also started to change their system of production. Therefore decreased wages and the introduction of commission systems increased employment in the Kannur district from 4061 workers in 1951 to 18501 in 1961 and it further increased to 40,378 workers in 1971. Overall industrial (since the beedi industry fell under the purview of Factories Act) employment increased from 14% to 45% between 1951 and 1971.

Some of the reasons explaining the location of large firms in Kannur:

In Kannur 50% of the production was carried out in establishments employing more than 5 workers and the other half consisted of establishments employing more than 20 workers. In the late 1940's, the Mangalore based Ganesh Beedi employed more than 10000 workers in the region.

- The large firms enjoyed significant economies in raw material purchase.
- Since they controlled the raw material purchase they were able to regulate the quality of their products
- By adhering to the certain quality standards, the firms were able to develop brand loyalties and expand their markets.

In 1964, the Government of Kerala introduced the minimum wages for the beedi rolling industry. Even after the introduction of the minimum wages the actual wages in Kannur⁹ were much lower than the rest of wages in Kerala. This trend began to change in the early 70's wherein the share of unrecognized small-scale establishments increased from 24% to 78%.¹⁰ Legally the middlemen owned these small-scale establishments but the workers in the units were not officially employed by the big beedi companies. Since the beedi companies did not employ them, the large beedi firms were exempt from paying them minimum wages and other benefits like maternity benefit etc.

The role of the Trade union movement

Trade union organizing in Kerala has been largely dominated by the communist ideology. In Kerala the communists were engaged in a unique model of organizing. The trade unionists started to organize by creating village or regional division committees that were to become the primary units of the union.

The history of labor organizing between the 1950's and 1960's can be categorized into three major trends:

The first trend comprised of strikes and the agitations that were organized for better wages and other economic benefits. The major issue taken up by the unions was the implementation of the adjudication award of the Minimum wages Act of 1947. In May 1952, a large satyagraha was organized by the trade unions affiliated to the communist party to mobilize

⁹ As explained earlier the wages in Kannur were set a very low rate due to its exemption from the Factories Act 1941.

¹⁰ Since Kannur became a part of Kerala state, it fell under the minimum wage legislation of the state. The increase in minimum wage and the flight of industries from the region explains the huge shift to unrecognized small establishments.

workers from other industries to build solidarity for the workers in the beedi industry. With the mass protest the employers were forced to implement the award. With the formation of the Left ministry in 1957, the Tobacco Workers Union (TWU) secretary C. Kannan was elected to the Kerala state legislative assembly. After a series of strikes by the formal trade unions primarily by the All India Trade Union Congress (AITUC) the government set up the Minimum Wages Committee in 1964 that recommended the payment of dearness allowance to beedi workers. This led to an increase in wages in the Malabar region where Kannur was located.

The second trend in the labor movement was the movement of resistance against workforce dispersal. As wages increased in the beedi industry, the attempts to decentralize production began to increase. Workers resisted the move on the part of the large factory owners to reduce workforce and shift their production to the middlemen who in turn started to favor home-based production. Even though the unions were successful in curbing the spread of the putting-out system, they still could not help the outsourcing the production. It was at this juncture a need for comprehensive legislation was felt among the union movement. The campaign for a comprehensive legislation led to the development of the third trend in the trade union movement in Kerala.

In 1954 the TWU president led a procession that marched more than 400 kilometers from Kannur to Madras (which is located in the neighboring state of Tamil Nadu), touring the major beedi centers en route and demanding immediate legislative action. A memorandum was submitted to the chief minister of Madras after the rally. In response to the rally, The Beedi and Cigar Industrial Premises Regulation Act were passed in the state of Madras in 1956. This was the first Act that was created in the country for the welfare of the beedi workers. The establishment of the Act led to the crisis of the local beedi industry as many of the companies closed their production and shifted to the neighboring states that didn't have any labor regulations. It was interesting, that in the interest of protecting the labor in the state the Madras government in 1958 repealed the Act.

The mobile nature of the beedi industry prompted the union leaders to develop a national legislation. Mr A.K. Gopalan who had a long association with the beedi workers pushed for the Beedi and Cigar Labor Bill in the national Parliament in 1956. Mr. Gopalan was at that time the opposition leader in the parliament. The provisions of the proposed legislation were major theme at the All-Kerala Conference of Beedi and Cigar Unions convened in 1957. Incorporating the

suggestions from the conference, A.K. Gopalan tried to push forward the legislation in the parliament but was unsuccessful. Finally in 1966, the Central Government passed the Beedi and Cigar Workers Conditions of Employment Act. The Act recognized the contract and domestic outwork systems but only attempted to regularize the employer-employee relationship.

The most important weakness of the Act was that though it sought to improve the working conditions in beedi establishments and provide workers with the provident fund, gratuity, maternity benefits and medical allowance, it was left upon the states to draw up their own schedule for the implementation of these provisions. The Act was challenged in the courts for several years and no attempts were made to enforce it until 1974. In 1974 the government of India received numerous complaints from trade union movement across the country over the inadequacy of the state governments to implement the legislation. The government of India set up a committee to enquire into the conditions of labor in the beedi industry. The committee came out with a report and following the recommendations of the report, the government of India passed a supplementary Act known as the Beedi Worker's Welfare and Cess Act, 1976 establishing a levy of Rs.1 per kg. of tobacco used in the manufacture of beedis (Bhatty 1981).

Subsequently the definition of cess has been changing and will be discussed in detail in Chapter 4. The fund was created to earmark funds for improving health-care, housing and recreational facilities for beedi workers.

Why the beedi workers?

Beedi workers were a major support group for the left voting block in all the elections since 1930's in Kerala. In 1957, the left party Communist Party of India (CPI) won the state's first legislative election, becoming the first democratically elected communist government in the world. The party's victory came from a culmination of two decades of social struggle (Heller 2000 pg.13). After taking over as chief minister, E M S Namboodripad introduced a 16-point program including major land reforms, farmers' rights on their land and growth of the agricultural industry. He also appealed to the industrialists to take an active role in progress of the state's economy. In a matter of few days, a historic ordinance was passed by the government that gave agricultural rights to 10 lakh laborers and five lakh sharecroppers and also distributed one lakh acre of agricultural land to landless farmers. All political detenus were released. The

Kerala government also announced that the police would not be used to break any democratic agitation.¹¹

A large section of the population objected to the policies and programmes of the new government. Therefore the opposition parties joined together and conducted a 'Vimochana Samaram' (Liberation struggle) to throw out the government. On 31st July 1959 the E.M.S. ministry was dismissed. The communists perceived it as an act of vengeance from the central government that was being governed by the Congress party (Isaac 1998 pg.52). In 1965, the Communist party split into two entities: The CPI and CPI (M) Marxist. The split was primarily driven by the decision that the CPI would favor a broad alliance with the Congress (I) and the CPI (M) lay on the other end of the spectrum rejecting the cooperation with the congress party and went on to establish itself as a majority party in the Kerala legislative elections in 1967. Though the central Act for the Beedi industry was passed in 1966, none of the state governments implemented the Act. In 1968, the Government of Kerala supported by the left government decided to implement the law in the state.

The employers from the beedi industry moved to the courts and obtained a stay order delaying the state's notification. The unions on the other hand joined the workers in protesting against the employers on the issue of stay order. The employers declared that the communist menace had created an industrial climate that was not conducive to normal functioning (Isaac 1998 pg. 52). On October 15th 1968, the Mangalore Ganesh beedi closed down the operations of all its units in Kerala. Incidentally Mangalore Ganesh Beedi was the same company that had shifted its operation from Mangalore to Kerala due to low wages during 1940's. The closure of the firms led to the loss of jobs for 12,000 workers. The company was willing to open the factories only under the conditions that the unions were voluntarily renouncing their demand for the implementation of the Beedi and Cigar Workers Conditions of Employment Act and accepted the domestic outwork system as a legal form of industrial organization.

For the unions it was a point of dilemma. They had put in years of efforts for struggles of the implementation of the Act for the beedi workers. On one hand, they could not stop the industries from shifting out of the region and on the other hand they were seeing their workers getting unemployed. They were also against the idea of recognizing the industry proposition to recognize the domestic outwork. If the industries had adopted such a provision, it would pose

¹¹ The 1957 elections < <http://www.ganashakti.com/jb/part24.htm>>

problems in terms of union organizing (that in turn would lead to the reduction of the union strength and eliminate the gains from the past).

In the next chapter, I will analyze the union and the state government's to the flight of industries from Kerala.

3.1 The formation of the cooperative

The flight of the large beedi firms from Kannur severely affected the Malabar region. Overnight, thousands of beedi workers were left unemployed and the main source of development in the region had collapsed. The crisis in the beedi industry paved the way towards a new form of social movement. The state government and the formal trade unions supported the movement. According to Heller (1999) the state government in Kerala has actively intervened in the unorganized sector, and the thrust of these interventions has been in direct response to the politics of the class struggle. Through a series of regulatory and organizational measures the state has limited the labor's vulnerability to the market and curtailed the prerogatives and flexibility of capital. To minimize the role of merchant capital, the state actively supported unions in organizing and financing cooperatives.

This is what emerged in the case of KDB. As mentioned in the previous chapter, the unions, supported by the Communist Party of India, were a dominant force in pressuring the state government to implement the minimum wage legislation for the workers in the beedi industry.

In response to the capital flight, the beedi unions in the Kannur district formed a Joint Action Council. The demand of the unions were that:

- The central government should uniformly implement the Beedi and Cigar Workers Conditions of Employment Act in all the states of India.
- The state government should provide immediate relief and intervention for the protection of the workers.
- The employers should reopen their factories.

The proposed demands met with a divided response amongst the various trade unions. On one end of the spectrum, the left trade unions comprising All India Trade Union Congress (AITUC) and Indian Workers Assembly (IWA) strongly supported the demands of the Joint Action Council while the right trade unions comprising the Indian National Trade Union Congress (INTUC) and the Independent Workers Union (STU) were ambivalent about the proposed demands. The right trade unions were willing to lend their support to the campaign at the state level but were hesitant to do so at the federal level. Why did the right trade unions decide to make such a decision? Their decision was influenced by the fact that the key political

supporter of their union (Congress Party) was the majority ruling party in India. The congress party did not want to support an initiative that was sponsored by a state government whose ruling party, The Communist Party of India (CPI), was its rival. Meanwhile, the trade unions affiliated to CPI continued their agitations on two fronts. On one end, they continued negotiating with the state government to provide some form of support to the retrenched worked and on the other hand, they launched numerous agitations to convince the beedi firms to return to Kerala.

These concerted efforts were unsuccessful in convincing the beedi firms to return to Kerala. However, these efforts prompted the state government to develop a policy that would address the concerns of the retrenched. On December 18, 1968, after an arduous debate,¹ the state cabinet of Kerala announced the formation of the worker-based cooperative that would comprise 22 primaries and one apex central society (See Figure 3).

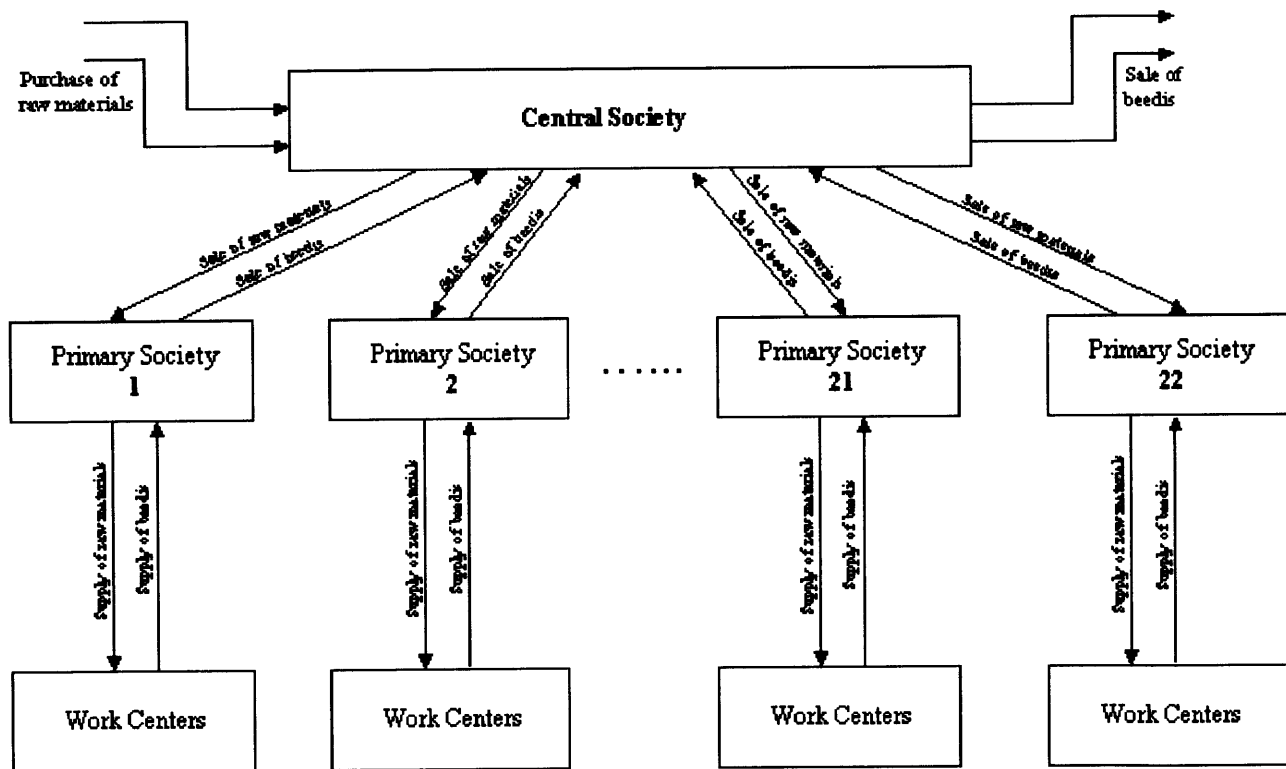


Figure 3: Organization of production at Kerala Dinesh Beedi Worker's Central Cooperative Society

¹ The Kerala government was certain that developing a cooperative was the solution to the problem. There were different opinions that were floating in Kerala on whether the cooperative should be government-owned or worker-owned. The labor minister favored government owned corporation whereas the trade unions affiliated to the right wing were interested in worker-owned cooperatives. Ultimately they arrived on a consensus to form a worker-based cooperative.

Role of the Kerala Government

The Government of Kerala played a pivotal role in providing technical assistance and financing for the cooperative. It was interesting how the industries minister, the industries secretary and their assistants decided to go to the affected region and oversee the initial process of setting up the cooperative. For the state officials it was a crucial task to set up the unit in order to quell the protests of the labor union movement and also to get the cooperative started as soon as possible.

The state officials formed a committee soliciting the suggestions of the trade union leaders and other members in the state government. The main tasks of the committee were:

- To disseminate information among the workers about the primary role and the functioning of the cooperative.
- To draft the bylaws and cut short the procedures required for registering the central society and the primary cooperatives
- To make crucial decisions regarding the production of beedis.

Some of the key issues confronting the committee were: what blend of tobacco should be produced? What would be the ideal brand name? Where would the cooperative purchase its tobacco? Where would they find warehouses to store etc.

By February 1969, three months after the committee was appointed the Minister for industries, Mr. T.V. Thomas, inaugurated the opening of the Kerala Dinesh Beedi Cooperative by providing the cooperative a day's supply of tobacco and tendu leaves. The next crucial step for the government was to raise capital to run the cooperative.

The financing of the Cooperative Society

The state government of Kerala contributed a large portion of the initial financing for the cooperative. The workers who were unemployed for 4 months were unable to purchase the shares of the cooperative that was being offered at Rs. 20 per share. Therefore, the government extended Rs. 19 as a share capital loan so that each worker had to pay only Rs.1 to buy his/her share. The government also contributed Rs. 1.35 million as share capital to the central society and sanctioned a working capital of Rs. 71 million. The government also made arrangements to the tune of Rs.1 million as overdraft facilities with the Kannur District cooperative on government guarantee. Since the government had a large financial investment in the cooperative, the bylaws under the cooperative system required that the state government appoint the

chairman, board of directors and the secretary of the central society. Furthermore, the government also appointed the board of directors for the primary cooperative societies.

The state government's interest in investing such a large sum in the cooperative stems from the dominant public policy that was outlined by the National Planning Commission in the five-year plans. According to the Fourth Five-Year Plan (1969-1974), the states in India were given greater initiative in the formulation of schemes and programs. The plan laid great emphasis on the development of cooperatives in the rural areas. The Planning Commission was of the opinion that the State Plans should be formulated by and large in terms of standard schemes that had been approved by the central ministries and the Planning Commission. To assist the state governments in implementing the policies the central government provided the states with assistance in the form of loans and grants. The Central Plan included the provision of Rs. 545 crores by way of support to the State programs through institutions like the Agricultural Refinance Corporation, Land Development Banks, Rural Electrification Corporation and Indian Dairy Corporation.² These policy measures explain the motive of the Kerala government to invest such a large sum of money into the Kerala Dinesh Beedi Cooperative.

The unique structure of the Cooperative Board

Since the Kerala government had a huge stake in making the cooperative successful, they decided to appoint Mr. G.K. Pannikar, the joint director of industries in North Kerala, as the chairman of the board of the cooperative. This was an intelligent move on the part of the government since Mr. Pannikar who had in-depth knowledge of the industry and was also one of the top ranking civil servants in the Kerala Government who had been instrumental in organizing one of the largest land development cooperatives in Kerala (Pannikar Int: 1993 as cited in Isaac 1998). Apart from the chairman the board of directors of the central society consisted of the nominees from the finance department of the state government and the five worker's representatives from all the major political formations in the district: Communist party of India (Marxist), Communist party of India, Congress party, Socialist party and the Muslim League. The board of members for the central cooperative consisted of representatives from all the major parties in the country. What is most interesting is that some of the parties, such as the Congress Party, were part of the opposition in the state legislature and were ideologically opposed to the

² Fourth Five Year Plan (1969-1974), Planning Commission, Government of India
<www.planningcommission.nic.in>

idea of cooperative, but yet formed a part of the cooperative. The state government's decision to include them in the board of the cooperative was smart and practical, since with such a composition the functioning of the cooperative would likely avoid any major opposition in its.

Establishing a brand and marketing the beedi under a new label

The next step for the state government was to create a brand name and develop a mechanism to market the beedis. The cooperative decided on a blend of tobacco that was similar to its rival, the Ganesh Beedi Union (the same company that had retrenched the workers). The union faced the daunting task of breaking the monopoly of Ganesh Beedi. It was interesting that KDB chose the same color wrapper for the beedis (pink in color) and a similar logo except that the trunks of the coconut tree in the packet of the Dinesh beedi resembled the trunk of the Indian elephant god-Ganesha- who appears on the packages of the Ganesh Beedi. Ganesh beedi initially didn't oppose the KDB logo. However, within the span of twenty months when the sales of the KDB began to increase they filed a lawsuit in the neighboring state of Karnataka in the Mysore District court³ for trademark infringement. The court issued an injunction prohibiting the production and marketing of KDB beedis.

Despite the injunction, the cooperative continued production and decided to appeal in the state high court in Bangalore. KDB argued that it was a fledging cooperative that was being vindicated by large manufacturers like Ganesh beedi (Isaac 1998). Surprisingly the judge accepted the KDB's argument and decided to lift the stay order. The verdict was appealed by Ganesh beedi but it dragged on in the courts for three years. Thereafter, KDB came to an agreement with Ganesh by making some minor changes to its trademark.

The widespread political sympathy that developed among the working population in Kerala worked in favor of the KDB. A large majority of consumers who consumed traditional brand of beedis switched to Dinesh beedis. In this way KDB was able to break into the barriers of brand loyalty.

The outcome of the court case was that KDB's production began to increase. There were three major reasons that contributed to the increase in production of Dinesh beedis.

- First, as mentioned above, the large scale public sympathy that the court case that produced. For an average Keralite it was an issue of state pride and solidarity towards its

³ Ganesh Beedi decided to file the case in Karnataka since it was based out of Mangalore.

workers. The product became a symbol of unequal battle being waged between the beedi barons and starving workers (Isaac 1998 pg.74).

- Second, the pro-active role played by the formal trade unions in promoting the beedis. For example, beedi workers took their products to political conferences and meeting where the leaders would often appeal for a switch to the Dinesh beedi. Some government employee organizations sent circulars urging their members to change over to Dinesh. Further, worker volunteers formed marketing squads who persuaded the distributors and shopkeepers to buy their products.

- Third, the government owned radio; the directorate of audio-visual publicity and leading newspapers spent thousands of rupees of free advertising by reporting even small and mundane events occurring at KDB. (Isaac 1998)

Besides the publicity that the cooperative received from the media, it also developed an efficient system of marketing. The cooperative created a structure of agents who were selected after careful screening to sell the beedis in the open market. KDB developed a mechanism wherein it never sold the beedis to its agents on credit. KDB did not favor the use of credit, since the beedi was a fast moving product and its market had a constant need for liquidity.

KDB developed its marketing strategy based on product differentiation for different regions within the country. For example, in early 1970 it introduced special beedis to capture the market in south Kerala where smokers prefer larger beedis with a different taste. Similarly, small beedis were introduced in the highland regions of central Travancore district, and the “Rajdhani” special beedi was developed to cater to the migrant Keralites in the Middle-East countries. The sale of medium beedis in the northern districts of Kerala contributed to nearly 50% of the total beedis.

The diversified marketing strategy helped the cooperative build a niche market for its products. During periods of excess stockpiling of beedis, the cooperative offered attractive promotions such as the gift coupon scheme. Redeemable coupons worth Rs. 5-Rs.50 were offered to consumers at distribution centers.

All these strategies led to an increase in the revenue of KDB from Rs.1million in 1969 to Rs. 7 million in 1995. Today, KDB is the fourth largest producer of beedis in India. Employment levels in the cooperatives increased with the growth of the market for KDB beedis. In 1991, the employment level peaked at 35,000. Until the early 1970’s KDB absorbed the labor that was displaced by Ganesh beedi. Thereafter, KDB recruited mostly women, who constitute nearly 50

percent of the total workforce. Table 3 shows the trends in wages, benefits and bonus from 1975-1995. The wages are periodically raised according to the cost of living in compliance with decisions of the state minimum wages committee appointed by the government. As a result, wages for rolling one thousand beedis have risen from Rs. 3 to Rs. 39 in 1994 and Rs. 50.10 in 1995.

Primary Cooperatives		Central Cooperatives		Workers						
Year	Membership	Employment	Sales ⁴	Net Profit ⁴	Per capita annual earnings (in rupees)				Nonwage per capita real earnings ⁵	Benefits as a percent of total earnings ⁶
					Wages	Benefits	Bonus	Total		
1969	13,000	3,000	1,100	50	-	-	-	-	-	-
1970	n.a.	5,000	5,200	30	-	-	-	-	-	-
1971	n.a.	7,000	10,800	98	-	-	-	-	-	-
1972	n.a.	8,000	14,100	(11)	-	-	-	-	-	-
1973	n.a.	10,000	16,900	(18)	-	-	-	-	-	-
1974	n.a.	12,000	24,500	92	-	-	-	-	-	-
1975	n.a.	14,000	38,800	(38)	1,550	57	64	1,671	1,006	7%
1976	n.a.	16,500	49,200	34	1,363	90	72	1,525	947	11%
1977	n.a.	18,000	64,900	(27)	1,677	201	133	2,011	1,281	17%
1978	n.a.	18,000	76,100	80	1,766	271	183	2,220	1,354	20%
1979	n.a.	19,246	80,300	66	1,678	311	192	2,181	1,246	23%
1980	n.a.	19,036	93,100	88	1,896	388	236	2,520	1,254	25%
1981	n.a.	22,330	125,400	93	2,131	497	291	2,919	1,275	27%
1982	n.a.	22,065	141,500	114	2,483	607	362	3,452	1,426	28%
1983	n.a.	28,569	171,900	27	2,407	563	350	3,320	1,253	28%
1984	n.a.	27,148	201,500	101	2,718	685	394	3,797	1,266	28%
1985	n.a.	30,590	234,200	315	3,239	791	493	4,523	1,454	28%
1986	47,768	32,633	287,300	708	3,463	852	582	4,897	1,436	29%
1987	46,623	30,658	342,000	3,388	4,061	1,008	799	5,868	1,573	31%
1988	48,510	33,518	361,700	3,151	4,245	1,053	859	6,158	1,532	31%
1989	49,077	32,670	280,800	2,611	3,315	857	943	5,115	1,224	35%
1990	50,727	33,771	456,600	3,892	5,081	1,267	1,051	7,400	1,697	31%
1991	50,051	35,035	531,800	3,217	5,366	1,399	1,102	7,866	1,576	32%
1992	49,120	33,372	587,800	3,642	6,652	1,747	1,399	9,799	1,775	32%
1993	48,604	32,682	638,000	2,706	7,043	2,013	1,519	10,575	1,742	33%
1994	45,775	33,095	714,500	4,821	8,537	2,340	1,949	12,826	1,890	33%
1995	45,224	31,817	736,098	4,111	9,331	2,578	2,148	14,057	-	34%

Source: Isaac 1998, Pg.76

⁴ In thousands of Rupees

⁵ In 1971 Rupees

⁶ Benefits+bonus divided by total earnings

From the previous chapter, the reader can recollect that the Bhootlingam Committee had recommended the absolute minimum wage in 1978 prices to be Rs. 150 per month (that is close to Rs.1800 per year). Table 3 shows that the total per capita annual earnings for a worker in 1978 was close to Rs.2200. This proves that KDB was paying workers much higher than the stipulated minimum wages laid down by the Government of India. In the next section, I discuss the nature of the wage structure that was adopted by KDB.

3.2 The Nature of Wage Structure at KDB- Benefits of organizing

The workers in the cooperative were paid on the system of piece rate. The nature of the piece rate system was such that it provided wages to the workers on the basis of their output. The wages were determined on a daily basis that depended on the ability of the worker to roll the beedis. The wages were based on three criteria: attendance, basic wages and dearness allowance.

In 1993, in order to register for the wages, the worker had to produce a minimum of 600 beedis per day. The basic wage that was paid to a worker was Rs. 14.5 per 1000 for rolling up to 800 beedis. Therefore if a worker produced 800 beedis, he/she would receive Rs.11.62 per day (14.5 x 8). If the worker produced 801st beedi, he/she would be eligible for a one-shot cost of living payment called the “Dearness Allowance” (DA) from the cooperative. Besides the dearness allowance the rate of Rs.14.5 gets set again. Therefore for rolling 801 beedis a worker gets paid Rs.38.1. In 1993 the dearness allowance was Rs.18.9 A worker rolling 1000 beedis per day earned the official wage + dearness allowance, which totals to 32.4. Table 4 provides an example of beedi rolling wages for selected outputs as of 31st march 1993.

Beedis Rolled	Wage	D.A.	Total	Rupees per thousand
700	10.2	0	10.2	14.5
800	11.6	0	11.6	14.5
801	11.6	18.9	30.5	38.1
900	13.1	18.9	32.0	35.6
1000	14.5	18.9	33.4	32.4
1100	16.0	18.9	34.9	31.7
1500	21.8	18.9	40.7	27.1
2000	29.0	18.9	47.9	24.0

Source: Issac 1998, pg.122

As Table 4 shows, the system of wages that was adopted by KDB provides an incentive to workers to produce up to 801 beedis per day but no more.

This limitation on the cooperative's production capacity has been one of the biggest criticisms of the cooperative. The dearness allowance applied as a fixed amount at the 801st beedi and did not increase after that. As a result workers who produced more did get higher wages but the marginal increase in the wages was negative. Why did KDB adopt such an irrational structure?

The beedi industry functions in a peculiar manner. Under the piece rate system adopted by the private sector, the wages are set on the basis of the total output. The common practice is to pay the workers per thousand beedis produced. Most often the workers are cheated on the basis of weight or the size of the beedis and barely receive the minimum wages since they are not able to produce the thousand beedis.

The trade unions that had been fighting for the workers realized that this was common practice and fought for a minimum wage to be established. After the passing of the Beedi and Cigar Workers (Conditions of Employment) Act 1966, the state government set the minimum wage under the piece rate system at thousand beedis per day. It was also left up to the states to determine the DA for the workers. In Kerala, the DA was also fixed on the basis of a day's work.

In 1984, the minimum wages committee of Kerala made a decision wherein it tied the DA to the piece rate structure. The committee arrived at this due to pressure exerted by the trade unions. The formal trade unions argued that beedi rolling demands tremendous dexterity. After a few years the workers in the profession face occupational and health hazards like smoothing on the skin on the tip of fingers that makes rolling difficult and arthritis. Therefore by the age of forty a worker's ability to roll beedis declines. In order to compensate the workers for such a loss in productivity, the DA system should be built to protect the workers from increases in the cost of living. As a result, younger workers would subsidize older workers. Based on these arguments the minimum wages committee agreed to set the minimum number of beedis that would be eligible for a DA to 800.

This form of DA system really harmed the productivity of the cooperative (as we can observe from Table 4) and the management of the cooperative worried about the long time viability of the cooperative. After a long debate within the cooperative, in 1996 a new system of DA was introduced. According to the new system, the minimum wages were set at Rs. 30 per

1000, plus a DA of Rs.20.1. In this case the DA kicked in at the 901st beedi. The result of the policy was such that a worker who was unable to produce 900 beedis per day lost the DA for the day. But if he produced 700 beedis on Monday, then produced 201 on Tuesday he would get the DA on Tuesday. Though it hurt the workers, it was seen as a compromise against the rising costs of beedi production and the sluggish sales experienced by the cooperative. This whole shift was only possible due to the pressure put by the board of directors that comprised the trade union leaders.

Besides the DA system, KDB offered a much higher benefits to its workers compared to the home-based workers in the neighboring Karnataka-Kerala border. In order to compare the differences in benefits and wages between the home workers in the Karnataka –Kerala Border region and the workers in KDB, Isaac (1998) provides us with the perfect illustration.

	Home Workers in the Karnataka-Kerala Border Region	Workers at Kerala Dinesh Beedi in Kannur
1. Wages for rolling 1000 beedis: Basic Wage	Rs.14.50	Rs.14.50
Dearness Allowance	Rs. 14.50	Rs.18.90
2. Sunday Wage	None	All Sundays
3. Holiday Wage	None	14 days
4. Casual Leave Wage	None	15 (1 per 20 days)
5. Medical Allowance	None	Rs. 50
6. Maternity Benefit	None	Rs.400+ and 3 Months leave
7. Bonus	11.75%	16.5%
8. Gratuity ⁷	-	15 days wages
9.Provident Fund ⁸	6.25%	6.25% of the wages
10. Retirement Benefit	None	Rs.3000
11.Death Benefit	None	Rs.5000
12. Pension	None	Rs.150 per month
13. Thrift Loan	None	Rs.600

Source: Isaac, Thomas, Franke Richard and Raghavan Pyarelal (1998) Democracy in an Indian Cooperative Pg. 13.

From Table 5 above it is clear that the home-workers in the Karnataka-Kerala region hardly received any benefits compared to the workers at KDB. It is interesting to note from Table 5 that the home-workers and the beedi workers at KDB received similar wages. Besides providing provident fund and minimum wages, states like Tamil Nadu, Bihar, Orissa and Andhra

⁷ Gratuity is a lump sum paid on retirement only to workers with at least five year's service.

⁸ Provident fund is a fund to which both employer and employee contribute in equal amounts; it is distributed as a lump-sum payment on retirement.

Pradesh provide housing subsidies for beedi workers. The government of Tamil Nadu is implementing a scheme for providing housing for beedi workers.⁹ This reflects a trend in the beedi industry that in some regions the workers seem to be receiving better social security provisions besides minimum wages. This trend would not have been possible without the contributions of the various organizations that have built their struggle to reduce the exploitation of beedi workers.

I would like to elaborate the experiences of another success story of Self Employed Women's Organization (SEWA)¹⁰ in Ahmedabad. Since there have been numerous studies (Selliah 1989, Kalpagam 1994, Sebstad 1982 and Chen 1996) conducted on the history and origin of the SEWA movement, I would like to specifically analyze the strategies that SEWA adopted to implement minimum wage legislation for beedi workers. Finally, I would like to draw some of the commonalities between the two cases and identify the factors that helped them successfully organize beedi workers in the unorganized sector.

3.3 The SEWA story

SEWA's intervention in the beedi sector began after the Government of India enacted the Beedi and Cigar Workers (Conditions of Employment) Act 1966 and the Beedi Welfare Fund Act in 1976. SEWA's work with the beedi workers began in 1978 in the town of Pathan, situated 90 km, outside of Ahmedabad.¹¹

Before SEWA's intervention, the main problems affecting the women employed in the beedi trade in the region was the lack of access to medical facilities in local hospitals. According to the provisions of the Beedi Welfare Act 1966 (Appendix) the employer of the establishment was required to provide medical facilities for the workers. In the case of Pathan, the government had set up a health clinic for the beedi workers under the Beedi Welfare Act but in order to access the medical facilities the workers had to possess identity cards that were issued by their employers.

⁹ According to the scheme, the government provides a subsidy of close to Rs.20, 000 or 50% of the construction expenditure whichever amount is lesser. For the balance amount Housing Urban Development Corporation (HUDCO) provides a long-term loan to the workers. <Policy note on Labor in Tamil Nadu 2000-2001 www.tn.gov.in>

¹⁰ SEWA was formed in 1972 in the city of Ahmedabad and is one of the most well-known and commonly cited organization of informal workers in developing countries. It has a membership of 2,25,000, largely comprising of women. SEWA has a unique organizational structure. It is registered as a trade union under the trade union act of 1926 and also operates as a cooperative.

¹¹ Ahmedabad is the capital of Gujarat and it was also the city where SEWA was founded.

It is important to note that when the rules were framed for the Beedi Act, they were developed keeping in mind the interests of workers who were employed in industrial establishments. The Act recognized the home-based and outwork system but was based on a narrow definition of an employer-employee relationship wherein the home-based worker had to work with a defined employer. These provisions posed a great difficulty for the home-based worker to define such a relationship in a sub-contracting system with multiple employers. Most of the beedi workers were employed by contractors who were not willing to get their workers registered because they would have to pay for their social security benefits, including dearness allowance, provident fund, maternity benefits and most importantly the minimum wages for their workers.

The employers' non-compliance with the Beedi legislation posed the biggest problem for the beedi workers. In order to avoid their legal responsibilities, the employers would not register women in their books. This fetched them big advantages. First they could avoid paying the maternity benefits to the women. Second, it relieved them of long-term financial commitment to the workers, such as the gratuity fund, provident fund or the scholarships for children. The most common tactics used by the employers to avoid registering the women on the books was to either enter fictitious names on the books or register the names of the males in the family and not register the females (Rose 1986).

Besides the problem of compliance the beedi workers suffered from other serious issues like health diseases. Working with tobacco made them sick and their diet lacked nutrition due to their meager income of Rs.4 per day. The inhalation of the tobacco often caused tuberculosis among the workers. Further, the medical facility in Pathan was totally inaccessible to them due to the identity card issue. One of the beedi workers -Chand bibi¹² took an initiative and approached SEWA to provide assistance to the workers who were being exploited by the contractors in terms of wages and benefits.

When SEWA workers decided to work in the region, their first proposal was to organize the beedi workers. During the course of mobilization they realized that their mobilizing strategy was generating fear among beedi workers who feared the reprisal of the workers from the employers. The contractors occupied an important position in their community and working against them would eventually lead to the loss of their livelihood. The footloose nature of the

¹² Chand Bibi had heard about SEWA's work from her relatives in Ahmedabad.

industry and the abundance of labor in the region also provided the contractors the leverage to easily replace workers from neighboring regions. Therefore, the incentives to mobilize were very low and were viewed as risky by the SEWA workers.

Having recognized these factors, SEWA workers realized that the only way to assist the beedi workers was to seek the assistance of the labor commissioner of the region and the labor minister of the Gujarat. The labor minister was supportive of the workers' cause and forced some of the contractors to meet the SEWA organizers, beedi rollers and some of the labor and welfare officers.¹³

The labor officers pressurized the contractors to issue identity cards to the workers but the contractors were intransigent. The contractors started to threaten workers with dismissal, despite the pressure exerted by labor officers. It was at this juncture that Chand bibi suggested that instead of relying on the contractors to issue them identity cards, the government assume the responsibility directly. Based on Chand Bibi's suggestion, the SEWA workers approached the welfare commissioner with the suggestion to issue the identity cards. The Welfare commissioner was not too forthcoming with this suggestion and the situation reached a dead-end.

Having reaching the deadlock, SEWA organizers developed another strategy, different from their traditional approach of organizing women. This strategy basically involved educating the women about the Beedi legislation and the legal rights that they were entitled to under the beedi welfare legislation. SEWA workers requested the officer from the Central Board of Worker's Education to conduct classes for beedi workers on labor laws and labor court

¹³ The pressure exerted by the Ministry of Labor at the Central Government to the state governments to implement the act for beedi workers may explain the labor minister's intervention in the case of SEWA. It started out with a petition filed by M.G. Beedi Works (M.G. Beedi Works vs. Union of India, 1974 II lab.I.C. 1237 as cited in Zaheeruddin 1985). The petitioner claimed that the act was invalid on the grounds of lack of legislative competence. It was held that the pith and substance of the Act is regulation of conditions of employment in the beedi and cigar industry. They claimed that the Act deals with particular subject matter as regards the establishments and industrial premises. These matters are the regulation of conditions of employment in the industry and the industrial relations between the employer and the employee. Therefore the parliament had no right to intervene and enact the legislation. The Supreme Court of India ruled that the Parliament had the legislative competence of making the act and the provisions of act were valid.

The verdict passed by the Supreme Court prompted the ministry of labor to hold consultations with the state governments over the implementation of the act. The labor minister's conference (1974) felt the need for immediate action on the part of the state governments to issue licenses to beedi manufacturers. A small working group of representatives from the state governments met in 1975 and outlined the steps required by the state governments to inspect the premises of the beedi establishments. It recommended the setting up of state level tri-partite boards and underlined the uniformity of wages in different states (Zaheeruddin 1985). The group also suggested that enforcement mechanisms must be strengthened to ensure that the beedi workers are able to get the welfare benefits under the Beedi and Cigar Act 1966.

procedures. The board agreed to conduct five-day worker education classes for groups of 50 women each, and to pay each woman a stipend to compensate her days of work (Rose 1986 pp.124).

These classes had a wide –ranging impact on the motivation level of the women workers. It is interesting to study the impact that education brought in the lives of the women. Having realized that the legislation provided a legal recourse for the workers’ demands for minimum wages in 1981, the beedi workers decided to organize a procession in the town and convinced the men and the women in the beedi trade to join the struggle. The procession attracted close to 700 workers and hit the headlines in the local newspapers. The main demand on their agenda was to convince the contractors to pay the minimum wages. Their procession culminated in the office of the labor commissioner who was pressurized by the workers to discipline the employers and the contractors.

The labor commissioner did take some stern measures against the employers and the contractors and that led to the negotiation process between the employers and the beedi workers. The employers agreed to raise the wages by Rs.2 for 6000 workers in the region. The agreement reached between the beedi workers and the employers produced wide-ranging implications for the workers in the country.

During that year, a Member of Parliament noticed that the collections to the Beedi Welfare Fund were increasing rapidly but very little expenditure was being made. The labor minister of Gujarat was questioned on this issue in floor of the parliament. He immediately ordered the welfare commissioner to spend the money. The commissioner, under pressure, approached SEWA and agreed to issue identity cards to the workers. This led to the issuance of 1500 identity cards in Patan.

3.4 Lessons learnt

The experiences of SEWA and KDB highlight that importance of organizing labor as a key tool in implementing minimum wages for the workers in the unorganized sector. Without organizing workers, it would have been difficult for the organizations to negotiate for minimum wages. This raises an important question: what makes the experiences of SEWA and KDB unique compared to other organizations that are organizing unorganized workers? The reasons that make these two organizations unique are:

I). In the case of KDB, the formation of the cooperative went beyond the traditional pluralist model of organizing.¹⁴ The dominant role of public policy in supporting the formation of the cooperatives was important in shaping the organizational structure of KDB and SEWA. In the formative years, the political patronage that KDB received through the Communist Party of India to help establish and market the cooperative within the state of Kerala was crucial for the growth of the cooperative.

In Kerala KDB emerged as the most profitable cooperative in the Kerala compared to other cooperatives in the cashew processing, toddy tapping and coir industries (Heller 1999). This could be attributed to a different model of organizing that was dependent on:

- a). It's alliance with the trade unions and political parties; and
- b). The market centered approach that encouraged competition with other beedi manufacturers.

The model provided KDB some key advantages:

- First, KDB developed a smart strategy to compete with other companies in the beedi industry (mainly their rivals in Karnataka) and was able to capture a significant percentage of the production in the beedi industry. This is a key factor for the survival of the industry. Today KDB is ranked the fourth largest beedi producer in the country. The high profits accruing to KDB (Table 1) allowed the workers to receive higher wages and other benefits that were rarely provided to the workers in the unorganized sector. It is important to acknowledge that KDB as a cooperative could pay higher wages and remain competitive in the beedi industry. The argument that is often made by the economists is that under conditions of surplus labor, if you pay workers higher wages then you lose the competitive edge. In the case of KDB, it did not lose the competitive edge by paying higher wages but simultaneously created a pool of workers that were loyal towards the cooperative and were rewarded to perform efficiently.¹⁵
- KDB was also smart in separating the trade union activities with the day-to-day functioning of the cooperative. It utilized the strength of the trade union towards lobbying and settling issues concerning dispute resolution. This was precisely the same strategy that SEWA pursued in it's organizing strategy. On one hand, the trade union status provided SEWA the

¹⁴ Banuri and Amadeo (1991) describe the pluralist model as "organized labor in a somewhat dependant situations; labor groups wield power only through alliance with other identifiable political groups, most importantly established political parties or ethnic groups.

¹⁵ In the primary societies of KDB, the worker who produces the highest number of beedis per month is given a cash incentive.

legal recognition to challenge the government policies and also gave them a representative status in the tri-partite committees. On the other hand, the cooperative strategy helped its workers in the beedi industry to become independent of the exploitative sub-contracting chain.

II). Analyzing the history of these organizations provides us some insights into their success. Both SEWA and KDB emerged during the late 60's and early 70's at a time when command politics was slowly paving way to demand politics¹⁶ (Rudolph 1987). This was an era that witnessed a wave of increasing political mobilization via demand groups. These organizations emerged in the shadow of the demand politics seeking to work with unorganized workers. The support that KDB received from the state of Kerala and the political parties significantly contributed to their success. For organizations like SEWA that claim to be apolitical, the selective and temporary ties that they formed with the trade unions to make an impact on national politics (Sanyal 1991) was key to their success.

With the declining importance of the trade unions in the era of structural adjustment (Jenkins 1999), the key question that emerges for organizations working with the unorganized sector is: what form of alliances will they have to build in order to influence policies at the state and the national level? Will the strategies adopted by SEWA and KDB work in the present scenario? From my visit to India it was clear that new, more broad based alliances¹⁷ (comprising the formal trade unions, informal trade unions, government agencies and NGO's) are being developed to address the issues concerning the informal sector.

III). One of the important lessons that can be learnt from the experiences of these two organizations is the importance of education, which is often understated as a key organizing strategy. In SEWA's case, education instilled a sense of confidence among women to question the exploitative practices and empowered the women to present their case to the labor commissioner. Education is also a wealth that can be transferred to other occupations during

¹⁶ According to Rudolph "demand politics threatens governability when mobilizations overrun established channels. It jeopardizes regulated conflicts and the representational infrastructure, and undermines a government of laws. Even so, mobilization that articulated perceived needs and inequities can contribute to governability by making the states respond in ways to foster support and legitimacy. Command politics holds out to the potential for governability and discipline but can be rationalization for the authoritarian suppression of demands that jeopardizes legitimacy, support and labor movement. "(Rudolph 1987 pg.217)

¹⁷ One of the most vocal alliances- National Campaign Committee for Central Legislation for Construction Workers (NCC-CL) was formed in 1998 to address the issues concerning the implementation of minimum wages and other social security measures for the construction workers in India.

times of crisis. In the next chapter, I would like to highlight the importance of education during times of crisis.

IV). The movement towards the implementation of the minimum wage would not have been possible without the intervention of the judiciary. The pro-active role of the judicial system in India is pivotal in determining and shaping the path of public policy. When M.G. Beedi Works filed a petition in the Supreme Court of India questioning the constitutional validity of the Beedi and Cigar Workers Act, the court came back with a strong verdict supporting the Parliament's authority to enact such an Act. If the court hadn't passed a verdict on the Beedi and Cigar Workers Act 1966, the Act would have been powerless. The pressure exerted by the court on the state governments led to the establishment of the Beedi Welfare Fund. The court's intervention also lends greater strength to the existing trade union movement. Today the workers in the beedi industry have some form of legal recourse to question the exploitation occurring in the industry.

IV). The strategy of involving the personnel from the Ministry of Finance was crucial for KDB. Most often organizations that work with unorganized labor confine their struggles to the Ministry of Labor. In countries like India, the Ministry of Labor is constrained by manpower. Engaging the Ministries of Finance and Commerce allows for a greater impact, as demonstrated by KDB's success in engaging these agencies in the development of the cooperative. The agencies' stake and liability in the cooperative gave them incentive to make the cooperative function efficiently.

V). Finally, the Beedi and Cigar Workers Act 1966, is criticized as being unenforceable. Instead of critiquing the Act for its limitations, it is important to acknowledge the value of the existence of the Act and the direct implications it has for worker's organizations. SEWA and KDB grew to be prominent because they developed innovative strategies to overcome the deficiencies of the Act and cooperate with other union groups to get better wages rather for their workers.

From these cases it has been clear that the unionization strategy has been the most effective mechanism of bargaining for minimum wages for the unorganized workers in India. In the next chapter, I would to discuss some of the key factors that have been affecting the beedi industry over the past decade and its implications for unions and cooperatives working with beedi workers.

Chapter 4

4.1 Analyzing the changing nature of the Beedi industry

Towards the end of the 90's a new debate began to emerge in the tobacco industry. The debate centered primarily on the ethics of tobacco production and the harmful effects of smoking tobacco. To understand the debate it is important to understand the pattern of tobacco consumption in India. In India, out of the 200 million people who consume tobacco only 19 percent smoke cigarettes. Nearly 81 percent of the population either smokes beedis or chews tobacco. India is currently a major contributor to the international tobacco market. It is the world's third largest producer of tobacco and the eight largest exporter of tobacco products. It is also responsible for around 6% of the world trade in tobacco.¹

In 2000, over \$2.25 billion worth of raw and manufactured tobacco was exported, an amount greater than 5 percent of the total agricultural exports. The estimated taxes from cigarettes in 2000-2001 are Rs. 6507.12 crores.² The World Health Organization predicts that these numbers are going to change drastically by the year 2020 wherein 33 percent of India's population will start smoking cigarettes.³

Though the industry is a huge source of revenue for the government, there are several factors that are threatening the existence of the beedi industry. These factors have created wide impacts at the macro and micro-levels of the industry. Some of the key explanatory variables that can help explain the changing environment of the beedi industry are:

- a) Growing awareness in the country on the ill effects of tobacco consumption. In this context I would like to discuss the anti-smoking policy of Kerala and its implications for the beedi industry.
- b) The impact of the CBS news story on the employment of child labor in the beedi industry and its effect on the export market for beedis in the United States
- c) The emergence of the market for mini-cigarettes and the competition that it poses for beedi industry

¹ "Marginal Fall in Tobacco Exports", The Times of India, 8 September 1998.

² "Hitting where it hurts" The Indian Express, 25 August 2000.

³ ITC to double cigarette output, Tobacco International, August 1996

d) The decline in production of beedis and the social impact that it is creating in the beedi industry

Finally, I will describe some of the responses that organizations like KDB have evolved to adapt themselves to the changing nature of the beedi industry.

4.2 Growing awareness of the ill-effects of tobacco consumption

The biggest concern that is being raised in India is the number of deaths from tobacco use. In 1998, WHO estimated that 6,30,000 people die annually from tobacco use in India.⁴ Half of cancer in men and a quarter in women are caused by the use of tobacco. The Voluntary Health Association of India estimates that tobacco-related illness cost the government close to \$11 billion per year.⁵

All these factors have led to protests from the anti-smoking lobby in the country, demanding the ban of tobacco in public spaces. Based on strong public opinions, states like Kerala have already banned smoking in public places. Last year, the Government of India introduced the Tobacco Products (Prohibition of Advertising and Regulation) Bill 2000 in the parliament that bans smoking in all central government offices and public places throughout the country. This is going to present serious repercussions for the survival of the beedi industry. The ban on smoking in public places has started affecting the overall sales of beedi in Kerala. If the ban gets implemented all over the country it can lead to drastic effects on the lives of tobacco farmers and of the workers employed in the tobacco industry.

The decision to ban smoking has evoked sharp reactions from the tobacco growing states. In India, tobacco-growing states have a powerful lobby in the legislative assembly of India. This is due to the fact that the tobacco industry employs six million farmers and laborers. The Government of India provides subsidies to farmers in the form of loans, seeds, transport, water, electricity and saplings to cultivate tobacco. These subsidies make tobacco farming far more profitable than other cash crops.

In addition to farmers, the industry supports government run departments that promote tobacco's growth and export. Since small farmers, laborers and beedi rollers are large vote-banks for the politicians, any attempts to push the tobacco control legislation in the parliament gets

⁴ "WHO warns India of growing epidemic of tobacco use" Press Trust of India, 31May 1998.

delayed (with the sole exception of Kerala wherein the High court intervened to ban smoking in public places). For example, Chandrababu Naidu, the Chief Minister of Andhra Pradesh is a staunch supporter of the tobacco-growers and is certainly not interested in seeing the bill pass.⁶ With all these diverse interests involved, the future path of the beedi industry is uncertain. This uncertainty also presents direct implications for the poor who are largely dependant on this industry for their livelihood. In order to understand the impacts of the ban, I will analyze the case of Kerala to reflect the crisis that is resulting in the beedi industry.

Kerala's case

On July 12th 1999, the state of Kerala imposed a ban in smoking in public places. The ban was based on a landmark judgment delivered by a Division Bench of the Kerala High Court. A college teacher and an advertising designer filed the petition to ban smoking in public places. When the case came before the division bench, which consisted of Justice A.R. Lakshmanan and Justice K. Narayana Kurup, the judges took an unusual course of action. They increased the list of respondents from an original nine people to 52, including every possible agency of the government, the civil administration and the police. They also ensured that any action that flowed from the judgment was swiftly executed.⁷ The penalty for smoking in public was fixed at Rs.100 for first time offenders and Rs. 500 for repeat offenders. Such a high penalty deterred a lot of people from smoking in public spaces. The landmark judgment prohibits smoking in public places including theatres, bars, restaurants, schools, shops, railway stations, railway compartments, bus stands and footpaths.

For the tobacco industry, such a move proved disastrous. The tobacco industry in Kerala employs over 1,00,000 people out of which close to 45,000 are employed by Dinesh Beedi. Besides the beedi producers the industry also supports a large number of retail traders, including cigarette vendors. The total income generation to small traders from the tobacco sales amounts to close to Rs.900 million-Rs.950 million per day.⁸ Since the public and the government authorities

⁵ "India" in Tobacco or Health: A Global Status Report (Geneva: World Health Organization, 1997)

⁶ "Government puts tight filters on tobacco companies" Indian Express 2 July, 2001.

⁷ Parthasarthy Anand, Smoking ban in Public Places- Kerala 1999

<<http://www.indianetwork.org/demog/0034.html>>

⁸ Jose, D. Kerala Cigarette and Tobacco Dealers Association as cited in Kerala court ban on cigarettes ignites industry anger <<http://www.rediff.com/business/1999/jul/29keral.htm>>

take the enforcement of the tobacco ban seriously, the tobacco industry in Kerala is facing a major crisis. With this backdrop, the beedi industry is trying to retain its competitiveness and is slowly looking at other options to diversify. The state is also losing a lot of excise revenues. Such problems led organizations like KDB to develop innovative mechanisms to diversify and develop alternatives for their workers.

From the minimum wage perspective, the ban on smoking and the decline in the production of beedis made it increasingly difficult for the employers to pay minimum wages. The common argument that is presented is that they are unable to meet their production costs and therefore they cannot comply with the government's minimum wages requirements. In KDB's case the cooperative was unable to employ any additional workers. In coming years, the situation is going to worsen. At the end of the chapter, I shall discuss some of the strategies that KDB is adopting to prevent its workers from retrenchment.

4.3 CBS news story

The second major factor that is affecting the image of the industry is the employment of child labor by private firms in the industry. In 1999, The public image in the western countries of the beedi industry suffered a huge blow following a news telecast by the American news channel CBS on the employment of child labor in the beedi industry. The feature portrayed the case of Ganesh Beedi, the largest manufacturer of beedis in the country, and its practice of employing children at very low wages and long hours (nearly 12 hours a day in poor conditions) to produce beedis in its factory.

The news story had a major impact on the beedi industry in India. Following the news telecast the Clinton Administration banned the import of the beedis into the US. President Clinton also imposed a detention order preventing the product (i.e. beedi) from being marketed in the US. Beedis have been available in the US market for a decade and are widely popular with the urban youth, since beedi sales are less stringently regulated than cigarettes. The beedi-smoking fad has also been largely hyped by trendy marketing of the beedi with candy-like flavors: chocolate, vanilla and strawberry. More recently, with increasing demand and rising popularity, beedis have been sold in exotic flavors like grape, cinnamon watermelon, menthol etc that are specifically targeted towards the youth. The most common brands that are available in

the US are Darshan, Shivsagar, Magalore Ganesh and Ranvir. Among the leading importers are Kretek International, Colorado-based Quintin USA inc. and the California based company Smoker's choice. In 1999, Kretek was selling about 3,00,000 cartons of beedis each year, 10 times more than 1996. The beedis are also priced very lucratively at around \$2 for a packet of 20. The same pack would cost less than 30 cents in India.⁹

Having recognized the popularity of beedis in the US some groups like the Booker T. Washington Community Service Center in San Francisco have launched advocacy campaigns around the health impact of smoking beedis and the working conditions of children in the beedi industry.¹⁰

The ban imposed by the US government has also affected beedi exports from India. According to Government of India statistics, beedi exports to the US in 1998 were valued close to \$9.113 million. After the ban the value of beedi exports to the US dropped by approximately 100%.

Year	Quantity in tones	Value (in crores of Rs.)
1996 - 1997	76.65	1.794
1997 - 1998	109.52	2.291
1998 - 1999	137.17	9.113
1999 - 2000 (till May)	5.84	0.003

Source: Information provided by Mr. Murasoli Maran, Union Minister for Commerce and Industry to the Rajya Sabha. Reported in the Press Information Bureau of India, May 2000.

Table 6 provides some statistics on the changing nature of exports to the US in the beedi industry. The sharp decline in exports coupled with the growing rise of the mini-cigarette industry reflects the slow demise of the industry.

4.4 Competition from the Mini Cigarette Industry

The beedi industry in India has traditionally been protected from the powerful capital-intensive cigarette industry by the government largely because the beedi industry employs a large section of population in the country and suffers from a weak capital base and organizational vulnerability from external competition. Over the years, the government

⁹ Rajghatta C. US bans Indian Beedis after CBS expose, Indian Express, 24 November 1999. <<http://www.expressindia.com/ie/daily/19991125/ige25086p.html>>

licensing and taxation policy has shown favor in protecting the beedi industry in almost every budget by increasing taxes on cigarettes far more than taxes on beedis.

In 1994-95 the central government of India made some changes in the central budget towards the mini-cigarette industry to attract foreign investment into the country. The government announced in the budget the reduction of excise from Rs.120 to Rs.60 for cigarettes less than 60 mm in length that were popularly known as mini cigarettes.

In India two types of cigarettes are available in the market- filtered and non-filtered segments. The excise duty varies according to the size of the cigarette in both the segments. In the 1994-95 budget, the government reduced the duty on mini cigarette by 50 percent while it increased the duty on all the other brands. For example, a filter cigarette measuring between 70mm to 75 mm in length faced an increase of excise duty from Rs.830 to Rs.950 (for thousand sticks).¹¹ The duty on non-filter cigarette measuring between 60 to 70 mm increased from Rs.80 to Rs.200 per thousand sticks (The Economic Times, May 17th 1995).

The reduction in the excise duty for mini-cigarettes led the traditionally large cigarette companies to produce non-filter cigarettes that were less than 60mm in length. The production of mini cigarettes resulted in interesting changes in the consumption patterns in India. Prior to the introduction of mini-cigarettes, beedis and cigarettes were consumed by different income groups, with beedis being consumed largely by the lower middle-income groups and cigarettes being consumed by the rich. This strong division began to blur with the advent of the mini-cigarettes.

A packet of 10 minis cost between Rs. 1.75 and Rs.2. This amount would fetch a bundle of 16 beedis. The price difference between the two products slowly became negligible and cigarettes were being associated with a superior social status. This was reflected in the increased production of mini-cigarettes from 100 million sticks in 1994 to 500 million sticks in 1995. The industry was also targeting a production of 1 billion sticks per month (The Economic Times, May 17th 1995).

¹⁰Global Tobacco Campaign India < <http://tobaccofreekids.org/campaign/global/casestudies/india.pdf>>

¹¹ A beedi attracts an excise tax of Rs.1-Rs.5 per 1000 beedis. A sheer comparison will explain what makes beedi production so attractive.

According to the WHO, the Multi-National Corporations (MNC's) in India engaged in an aggressive campaign to persuade the bidi smokers to switch to the Mini-cigarettes that specifically targeted men.¹² This competition posed by the mini-cigarette industry has been causing a strong decline in the sale of beedis. The Karnataka state beedi federation predicts that the increased competition from the mini-cigarettes will lead to the loss of 75 lakh beedi workers in India.¹³ The problem is worsened by the fact that most of the beedi workers are employed on a commission basis. However, due to the lack of data, policy makers have found it difficult to identify the impact of the introduction of the mini-cigarette industry on the beedi industry.

According to a study recently conducted by the National Institute of Rural Development in the Telangana region in Andhra Pradesh, beedi agents and workers have been observing a reduction in their work due to the emergence of mini cigarette industry.¹⁴ As a result of the fall in the demand for beedis, according to the *munims* and agents, the beedi companies are reluctant to continue the production on the same scale. As a consequence, the raw material supply has been reduced, leading to a reduction in the number of available work days (i.e. from six days a week to three to four days) and a reduction in the supply of individual worker's quota of raw material to evenly distribute the effect.¹⁵

4.5 Decline in production and it's social impact on Beedi Workers

Competitions from the mini-cigarette industry, the ban on smoking and the import ban on beedis from the US have created a wide-ranging impact on the beedi industry. Adding to these factors, certain anomalies in the government policy toward the beedi industry have exacerbated the economic and social conditions in the beedi industry.

¹² ITC, a British company that sells tobacco in India has hired a famous director to make a series of short films to convince people that smoking small cigarettes made men Masculine in nature. Commercials depicting a famous Indian movie star beating up villains and wooing women with the help of small cigarettes were screened in all the movie houses in India. The whole campaign increased the sales of cigarettes from 0.6 billion cigarettes in 1994 to 18 billion by 1996. Jenny Barraclough, "Tobacco barons wage war on a third world nation" Dawn/The Guardian News, 12 March 1998.

¹³ Meet will mull ways to save beedi industry, Times of India, 9 January 2001

<http://www.timesofindia.com/190101/19mban41.htm>

¹⁴ Prasad R.R and Rajeshwar D. "Economic Liberalization, Mini Cigarettes and Beedi Industry, a case study of Telangana region of Andhra Pradesh" National Institute of Rural Development <http://www.nird.org/clic/RESFIND/15.htm>

i). The taxation policy on the beedis is very skewed. On one end of the spectrum the large beedi manufacturers are being charged excise tax for producing beedis and on the other end of the spectrum manufacturers who produce less than 20 lakh sticks of beedis per year are exempt from the excise tax.¹⁶ The manufacturers who fall in this category are mostly small sub-contractors who employ not more than 10 workers. These manufacturers are the principle culprit in the industry because a). they fail to contribute towards the beedi workers welfare fund and b). they cheat the workers with low wages.

In the poorer regions of the country where most of the beedi industry exists, such forms of sub-contracting are rampant. The failure of government to tax these enterprises raises the issue as to whether it is fair to pursue such a policy of protecting these small industries when the industry as a whole is experiencing a decline in production. It also raises another issue, under the changing industry scenario, as to whether it is economical for the government to pursue such a policy and whether it is fair to the other tax-paying producers. Finally, such a policy directly hurts the poor beedi worker because the lack of employer contributions to the welfare fund reduces their welfare opportunities. This is evident from the following table 3:

Year	Opening Income	Expenditure	Closing Balance	Balance
1994-95	33.59	12.46	21.59	24.46
1995-96	24.46	14.70	25.34	13.82
1996-97	13.82	21.20	23.76	11.26
1997-98	11.26	21.90	26.15	7.01
1998-99	7.01	25.07	31.41	0.67

Source: Planning Commission of India <http://planningcommission.nic.in/mta-9702/mta-ch21.pdf>

Table 7 shows that the beedi welfare fund diminishes while the expenditure increases. . One of the mechanisms that the government can develop to increase the contributions of the welfare fund is to adopt a stricter stance on such enterprises.

¹⁵ Ibid

¹⁶ Under the provisions of the Beedi Welfare Fund Act 1974, manufacturers who produce less than 20 lakh beedis per year are exempted from excise tax.

ii). The governments of Madhya Pradesh and Andhra Pradesh (who are the main producers of tendu leaves) have introduced a new policy of inviting tenders¹⁷ for the sale of tendu leaves. Traditionally beedis could be easily procured from the warehouses of these states government. The new policy has made it difficult and cumbersome for branded manufacturers to procure tendu leaves on time. The difficulty in procuring tendu leaves is creating a serious impact on beedi production, and on daily wage workers .

States like Kerala, Madhya Pradesh and Gujarat are experiencing an exodus of beedi industries to the poorer pockets of West Bengal, Bihar, Orissa, Andhra Pradesh, Tamil Nadu and Karnataka where labor is cheaper and the workmanship is better. In the case of Madhya Pradesh, a small policy change that was introduced by the government towards tobacco manufacturing is leading to a wide-ranging impact in the state.¹⁸ As mentioned in Chapter 1, the main attribute that makes the industry profitable is the low costs of the factors of production i.e. labor and raw materials. The mobile nature of the industry is creating serious impacts on the local beedi production. One option that is being suggested by parliamentarians is to introduce training policies for the beedi workers and gradually transfer them to other

¹⁷ The tender policy that is being introduced by the government is interesting. It was introduced to provide income for people who collected tendu leaves. The whole idea of the scheme was to abolish the system of contracting of tendu leaves. Instead the scheme provides employment to the tribals during the lean season of May and June when it is difficult to collect leaves. In this scheme the tribals are employed to make bundles of leaves that are sold in the open market. The total produce of beedi leaves are sold in denominations of standard sacks. Each sack contains 1000 bundles of 50 leaves. The manufacturers of beedi have to bid for these bundles and then purchase it from the Forest department. There are totally 334 beedi units in the state of Andhra Pradesh that sell close 7.23 lakh of standard sacks. The state government nets close to Rs. 66 crores and the forest department nets Rs. 21 crores. The money that is collected from the scheme is then put towards forest conservation and tribal leaf collector's welfare fund.

< New AP leaf Collection Policy, Hindu Business Line , 25 January 1997
<<http://www.indiaserver.com/businessline/1997/01/25/BLFP14.html>>

¹⁸ Madhya Pradesh is facing the same problem that Kerala witnessed in the 70s. Madhya Pradesh is the largest producer of tendu leaves in the country. For beedi firms it was economical to locate near the source of production where it would save them the transportation costs. In 1989, the chief minister of Madhya Pradesh, Mr. Arjun Singh announced the nationalization of tendu leaf collection. As a consequence the prices of leaves rose from Rs.5 to Rs.30 per kg. Further the state government directed that the leaf collectors be paid a DA at the rate of 2 paise per point increasing the wages to Rs.30 per 1000 beedis. The manufacturers claimed that this would push the overall cost of production to Rs.87.45 compared to Rs.64.97 in West Bengal and Rs. 58.22 in Orissa. The manufacturers have filed a petition in the court to revoke this policy and the case is still pending in the high court. On the other hand, since the operational costs have risen tremendously, the manufacturers have found it easier to transport the leaves and produce it in some other state. The annual beedi production in the state has declined from Rs.7700 crores in 1984 to Rs.5200 crores in 1997.

industries that require labor-intensive production.¹⁹ This is the option that KDB is exploring and will be discussed in detail at the end of the chapter.

The decline in production is giving rise to a new phenomenon. It is interesting to note that the political clout of the industry in traditional beedi states like Madhya Pradesh is slowly declining.²⁰ As mentioned earlier, beedi is a highly politicized industry. In states like Madhya Pradesh, politicians are dependent on beedi industry for their campaign funds. Traditionally, it has been in the interest of the politicians to keep the industry functioning in its exploitative form due to its profitability. When the Congress Party came to rule the state in 1987, on one hand, it reversed some of the protection that the industry faced because it wanted to promote the cigarette industry²¹. On the other hand, it also adopted a pro-labor agenda by introducing progressive labor policy for the tendu-leaf collectors to calm the growing agitations that was emerging from the Tendu-picking lobby who were supported by NGOs, Trade unionists and International agencies like ILO, UNICEF. These organizations were putting pressure on the Indian government to regulate the industry and introduce better work practices in the beedi industry.

Beedi workers viewpoint

The decline in the industry is severely affecting the livelihoods of the beedi workers. This was evident from the interviews that I had conducted with the CITU²² workers in Chennai and the beedi workers in Vellore district in Tamil Nadu. According to the beedi workers in Vellore, two years ago they could easily find work for 6 days in a week. Today (Summer of 2000) the beedi workers were able to procure only 3 days of work. The key reasons cited for the low availability of work in the beedi industry are:

¹⁹ 10th Lok Sabha debate <http://alfa.nic.in/lsdeb/ls10/ses3.htm>

²⁰ Smoked out India Today October 6, 1997

²¹ It has been claimed that the India liberalized its economy in 1991. In fact, the policies that were pursued by Rajiv Gandhi regime in the late 80's placed a lot of importance in making India competitive in the world economy and provided emphasis to private sector. (Brass 1990). Some of the policies promoted by the Rajiv Gandhi were a liberalized export-import regime and reduced taxation to businesses. It is very clear from the trends in the tobacco industry, that the industry was paving way to competition from the MNCs.

²² Interview with the beedi workers in the Vellore District of Tamil Nadu

a) The rising cost of production from higher minimum wages is cutting into the profits of the employers. The high costs are prompting some of the employers to cut back the level of production relative to three years ago. With seed money being provided by the local NGO Working Women's Forum, some of the workers are trying to take up other occupations like vegetable vending, jewelry shops, grinding rice and flours etc.

b) There is increasing pressure being exerted by the government on employers to strictly enforce the payment of minimum wages and benefits to the home-based workers in the beedi industry. For example, the collector of Vellore district sought the assistance of local unions and NGOs to solve the beedi workers' problems. Beedi worker could address their grievances to the local unions or NGO's who in turn report to the collector if an employer is not abiding by the rules. Strict enforcement standards are forcing the beedi contractors to shift to other regions like Tirunelveli District in Tamil Nadu.

4.6 Alternative Options adopted by KDB

The beedi industry in Kerala has been facing a recessionary trend from 1990-91. Though Kerala's Dinesh Beedi has since then remained one of the most efficient cooperatives in the country, the cooperative has realized that the decline in the demand of the beedis and the smoking ban imposed by the state government of Kerala really has affected its efficiency and viability in the beedi industry. The beedi sales had recorded a drastic decline of 21 per cent during the period between 1990-91 and 1996-97. While the total number of beedis sold in 1990-1991 was 727.02 crores, it fell to 569.3 crores in 1996-97. The profit plunged to Rs 99.69 lakh as against Rs 2.8 crores in 1993-94. This is despite an increase in sales turnover from Rs 71.45 crores to Rs 74 crores in 1996-97.²³

In 1994, the retail price of a packet of Dinesh Medium beedis was Rs.50 as compared to Rs.42 for Ganesh beedis and Rs.38 for another brand of beedis called Surya beedis. According to the KDB Chairman Mr. Kunhiraman, KDB paid its members one of the highest wages in the industry, and incurred a cost of production of 14-15 paise per beedi. Whereas, the unorganized, home-based manufacturers' production cost amounted to around 7-8 paise per beedi.²⁴

²³ Dinesh beedi staff society unit launches coconut cream unit, Indian Express, 17 November 1997.
<<http://www.expressindia.com/fe/daily/19971118/32255293.html>>

²⁴ Dinesh beedi staff society unit launches coconut cream unit, Indian Express, 17 November 1997.

Over the past two to three years, the cooperative has not been able to recruit any new beedi worker with the fear that the cooperative may become unviable. The cooperative also had to explore alternative options to protect 42,000 members from retrenchment. At present the cooperative is in a comfortable position and possesses assets worth over Rs 260 million. However, in order to operate efficiently the cooperative will have to consider options to diversify into other industries and absorb the retrenched workers into these industries. Some of the options that were explored by the cooperative are as follows:

- KDB is exploring the use of intermediate technologies that can use labor –intensive processes. One of the industries that the cooperative has started to diversify into is the food sector. The agro-processing sector is highly labor intensive and also does not require a lot of investment in plant and machinery. In 1997, The cooperative has signed a memorandum of understanding with the Regional Research Laboratory (RRL) at Thiruvananthapuram (the state capital of Kerala) wherein RRL will provide technical assistance and machinery support to establish a plant for coconut cream manufacture that would have a capacity to process 150 nuts per day. The product marketing will be done through the society's network of 96 dealers.²⁵
- Besides manufacturing coconut cream products the cooperative plans to start a second plant that would manufacture pickles. On this project KDB collaborated with Central Food Technology Research Institute (CFTRI) at Mysore.
- In 1998, The Kerala state government²⁶ introduced a new thrust in its public policy and began to provide technical assistance to organizations at the district level to invest in information technology services. KDB was one of the first cooperatives in Kerala to take advantage of the government's policy and decided to launch a project that would develop a technology park at Kannur. It signed a Memorandum of Understanding with the Electronics Research and Development Corporation (ER&DC), a research organization under the Telecommunication Department of Kerala that would assist the cooperative in framing the syllabi for computer courses and recruiting teachers. One of the biggest advantages that KDB

²⁵ <http://www.expressindia.com/fe/daily/19981206/34055494p.html>

²⁶ For more information on the information technology plans refer to <http://www.doitkerala.com/>

faced was that it had a large pool of literate men/women in its workforce. All they required was some form of training to introduce them to computers. According to the initial plan, the ER&DC would set up a router to provide Internet access and develop information technology units in Kannur. The state government had already appointed a specialist from the software park in Thiruvananthapuram to provide technical assistance to the cooperative. In the second phase of the project, a data entry center would be established to provide support to some of the work that was being done in the software technology parks in the country. Finally a technology park would be set up in the district with the technical assistance from the Software Technology Parks of India and ER&DC.²⁷

- The cooperative's long-term vision is that if their pilot projects in coconut cream and the pickle manufacturing enterprises prove successful, the cooperative will go on to make value-added products from cashew apple, prawns, mussels, mushroom cultivation etc. that were readily available in the northern districts.

The declining production in the beedi industry presents a magnitude of a task for planners in India to rehabilitate close to five million workers. The government possesses limited options. It can either work towards a diversification plan on the lines of KDB or keep the industry viable in the face of public opposition towards the industry. There are no cookie-cutter approaches for such complex situations where a multitude of interests and stakeholders are involved. In the next chapter, I will recommend some of the feasible options for the central government for the implementation of minimum wages.

²⁷ Computers to aid jobless Kerala beedi workers, Financial Express 07/12/1998
<<http://www.expressindia.com/fe/daily/19981206/34055494p.html>>

Chapter 5

5.1 Recommendations to the Central Government

The issues confronting the beedi industry are complex: On one hand the industry is experiencing a decline in beedi production and there is uncertainty regarding the future of 4,40,000 workers who depend for their livelihoods on the beedi industry. On the other hand, the working conditions in the industry are extremely hazardous and the workers compensation levels are amongst the lowest in the country¹. Most workers don't even get minimum wages stipulated by the government. This presents a dilemma for policy makers whether they should emphasize that the benefits be provided to labor or help retain the competitiveness of the industry maintaining current labor standards.

I would argue, that from the industry's standpoint, the decline in the production of beedis is smaller concern than the concern for the overall productivity of the industry. The ban on smoking and slump in the exports are politicized events² and, therefore, the outcomes of these events are unpredictable. These trends might have affected a small segment of the industry³, but the overall sales revenue of the industry tells a different story. According to the All India Beedi, Cigar and Tobacco Workers' Federation, the total turnover of the industry in the year 2001 was more than Rs.19, 000⁴ crores (besides the foreign exchange earnings of Rs. 806 crores and an excise revenue of Rs. 650 crores).⁵ These revenue figures suggest that this industry is still quite profitable.

Ethically, there is no justification to exploit the labor in the industry especially so, when the industry seems to be earning such profits. Ironically, it is the exploitation within the industry that makes it so profitable. Most of the workers who are employed by the industry are poor and barely receive living wage. Additionally the employment of child labor in the industry explains how the manufacturers reduce labor costs⁶.

¹ The prevailing minimum wage for unskilled workers in India is fixed at Rs. 35 per day.

² Refer to Chapter 4

³ This segment primarily comprises of large beedi manufacturers who are dependant on the revenues from the export industry

⁴ India's GDP for the year 1999-2000 was close to Rs. 11,45,436 crores (the exchange rate \$1=Rs.45) and the beedi industry's revenues were close to 1.7% of India's GDP. (1crore=10 million).

⁵ National meet on Beedi Industry begins today Jan 18, 2001 Hindu Business line, Internet Edition.

⁶ By employing children the beedi producers can avoid paying the wages that they pay for the adults.

To combat such labor conditions the Government of India enacted the Beedi and Cigar Worker (Conditions of Employment) Act in 1966. The Beedi industry has been one of the few industries in India employing the unorganized workers wherein trade unions and the workers have been successful in lobbying for a comprehensive legislation to protect the interests of beedi workers. It's been thirty-five years since the legislation was passed and the conditions of the labor in the beedi industry have only marginally improved. The industry is plagued with old issues - exploitation of workers in terms of low wages, lack of social security benefits, and the lack of enforcement of the act. True, there are pockets in the country wherein the working conditions have improved. These improvements have been in regions wherein the workers have been able to organize and bargain for better working conditions. This raises a crucial issue for policy makers: Does the enactment of the legislation necessarily ensure the well-being of the workers, or do must they develop some other system of recourse besides legislation to address the issues of malpractice's in the beedi industry?

There is no one clear-cut solution to the problem. From the previous chapters we have seen that under conditions of exploitation, organizing workers can lead to the successful implementation of the minimum wages Act. The implementation of minimum wage depends on the concerted efforts of the government, political parties, trade unions, non-profit groups and the workers themselves. This is a necessary pre-condition for any organizing initiative in the unorganized sector. The central government should recognize the importance and the constraints of each of these actors to deal with the unorganized sector.

To start with, India's central government can facilitate the interactions between these different institutions by developing policies that recognize the needs and constraints of these institutions. One may ask why the central government and not some other agency? Because under the Indian constitution labor issues falls under the purview of both the state and the central governments. Therefore, both state and central governments have the power to determine and regulate the conditions of labor.

With respect to minimum wages, the state governments have been undertaking varying initiatives to protect the beedi workers interests. Kerala and Gujarat⁷, for example, have strict

⁷ According to Jan Breman (1996), in Gujarat, the state government intervened regarding the minimum wages of the unorganized workers. The principle underlying the fixation of the wages was that the satisfaction of minimum needs on a level of human dignity had to be the point of departure in paying unprotected labor. Kerala and Gujarat share some similarities wherein the state governments fixed the wages based on pragmatic conditions of which the going

enforcement machineries to ensure that workers receive minimum wages, while other states such as Andhra Pradesh and West Bengal, have not revised their minimum wages since 1990⁸. Table 8 elaborates the differences in the minimum wages between states in the Indian beedi industry.

Table 8 – Minimum Rates of Wages for Employment in Beedi Industry		
Government/scheduled Employment	Basic Wages in Rupees	Dearness Allowance (D.A.) in Rupees
Andhra Pradesh (Tobacco including Beedi making industry)		
Zone 1	18.65 p.d. ⁹	Not paid
Zone 2	17.85 p.d. for rolling 1000 beedis (w.e.f. ¹⁰ 9.8.1996)	Not paid
Arunachal Pradesh (Tobacco including Beedi making industry)		
Area 1	41.08 p.d.	Not paid
Area 2	43.38 p.d (Draft proposal issued on 12.2.1996)	Not paid
Assam		
Beedi Making	33 per 1000 beedis (w.e.f. 10.7.1994)	5.20 p.d. (w.e.f. 1.12.1995)
Bihar (Tobacco including Beedi making industry)		
Beedi Making	30.50 p.d. for rolling 1000 beedis (w.e.f. 21.12.1995)	Not paid
Gujarat (Tobacco including Beedi making industry)		
Zone 1	56.80 p.d. for rolling 1000 beedis	Not paid
Zone 2	56.20 p.d. for rolling 1000 beedis (w.e.f 25.4.1997)	Not paid
Karnataka (Tobacco including Beedi making industry)		
Beedi Making	36.85 p.d. (w.e.f 01.09.1994)	6.47 p.d.
Kerala		
Beedi and Cigar Industry	30 p.d. for rolling 1000 beedis (w.e.f. 13.11.1993)	24.42 p.d.
Madhya Pradesh		
Beedi Making	22.50 for 1000 beedis	Not paid
Tobacco	28.18 p.d. (w.e.f. 6.2.1997)	9.92 p.d.
Maharashtra (Tobacco including Beedi making industry)		
Zone 1	18.00 p.d.	15.20 p.d. (w.e.f. 1.1.1997)
Zone 2	14.00 p.d. (w.e.f. 20.9.1990)	Not paid
Orissa (Tobacco including Beedi making industry)		
Beedi making	30 per 1000 beedis (w.e.f. 15.8.1996)	Not paid
Rajasthan (Tobacco including Beedi making industry)		
Beedi making	27.10 to 32 per 1000 beedis (w.e.f. 21.1.1995)	Not paid
Tamil Nadu (Tobacco manufacture)		
Jadi Beedi making	27 per 1000 beedis	10.15
Sada beedi-making	27.70 per 1000 beedis (w.e.f. 21.7.1995)	10.15

rate was the most important consideration. In order to implement these means, the state governments have involved trade unions and non-profit groups to help organize workers around the issues of minimum wages.

⁸ Refer to Table 5

⁹ Per day

¹⁰ w.e.f. – with effect from

Tripura (Tobacco including Beedi making industry)		
	16.80 per 1000 beedis (w.e.f. 6.6.1992)	Not paid
Uttar Pradesh (Tobacco including Beedi making industry)		
	35 p.d. for rolling 1000 beedis (w.e.f. 3.1.1994) Rs. 676 per month Guaranteed minimum wage of Rs.210 per week.	307 per month
West Bengal (Tobacco including Beedi making industry)		
	16.74 p.d. for rolling 1000 beedis (w.e.f. 1.7.1990)	38.57 to 47.77 p.d.
Dadra Nagar Haveli (Union Territory)		
Tobacco including beedi making	35.00 p.d. (w.e.f. 18.5.1995)	Not paid

Source: R.K.A Subramanhya 1998, Minimum rates of wages fixed under the Minimum Wages Act, 1948, as on 1.7.1997. B.R. Pub. Corp, New Delhi.

From the table it is clear that the range of the minimum wages paid per 1000 beedis varies between Rs.16.80 to Rs. 56.80. The variation is so wide that in some states beedi workers receive less than half the minimum wages.¹¹ Therefore, a uniform policy needs to be initiated by the central government to ensure that such large differences in minimum wages in the beedi industry do not exist between the states. The central government can initiate such a policy; its intervention is essential for the establishment of a national policy.

5.2 The need for a national minimum wage

India's labor ministry has been reviewing the proposition of whether to formulate a uniform minimum wage for the beedi industry, or allow it to be determined based on the states varying capacity to pay. The diverging experiences of the states have shown that the ones that set higher minimum wage experience the flight of industries from their region. Since most of the workers employed in the beedi industry belong are poor, the industrial flight further declines their employability. It adds a burden on the states to rehabilitate the workers and compensate the small enterprises¹² that were indirectly dependant on the beedi industry. On the revenue side, the industrial flight also causes a much strain on the states exchequer. This is evident in the case of Madhya Pradesh wherein the exodus of the beedi industry cost the state close to Rs.2500 crores

¹¹ One may ask, why didn't the wages equalize in a downward spiral? Trade unions and neo-institutionalists would argue that global competition results in downward spiral in wages and working conditions in developing countries (Portes 1989). In reality, at the policy level, the stipulated minimum wages seems to increasing due to the pressure exerted by unions and non-profits but at the grassroots level, the wages are still experiencing downward spiral in wages due to the exploitation of the employers and that is precisely the reason that a uniform minimum wage policy needs to initiated by the central government.

¹² By small enterprises, I am referring to a). Small shops selling beedis, b). People who are involved in marketing and transporting beedis.

in terms of excise tax in three years.¹³ This is 18 % of the budget, which can produce a severe strain.

The most argued issue in the minimum wage debate is lack of regular adjustment of the minimum wages in the states. The varying revision of wages among states over the years has contributed to serious discrepancies in wages. From table 8 it is evident that some states, like Maharashtra and West Bengal, adjusted to the minimum wages nearly 10 years ago.

This raises a critical issue: From the state government's perspective, why should they enforce the minimum wages when it is evident that such enforcement leads to the industrial flight. For the government then it poses a dilemma: should they be concerned about labor or should they nurture their main source of revenue? The experience has been mixed. States like Kerala, West Bengal, Madhya Pradesh and Gujarat have chosen to prioritize the needs of the labor while other states have supported the industry and its exploitative practices. It has been evident that the provision of labor welfare comes at a cost to the states.¹⁴ States like Kerala have achieved enormous strides in terms of social development but on the economic sphere, their growth rates has been very slow, especially in the commodity producing sectors and that is posing to be a big problem in the state (Kannan 1998). This is because of the fact that distributive issues have been so central to economic development in Kerala.

I would argue that there is a mechanism by which the state can retain its competitiveness and still pay decent minimum wages to their workers. This is possible in a flourishing industry like Beedi.

The chief characteristic of the beedi industry is its reliance on cheap labor and raw materials. Some people argue that the low wages is essential for industrial competitiveness in the sense that it allows it to compete with other tobacco products in the domestic and international markets. The issue is more complex and basically concerns the profit margins the producers get in the beedi industry. Table 9 illustrates the comparison of cost structure of beedi under ideal conditions and assuming certain malpractices.¹⁵

¹³ The revenue receipts according to the annual budget Madhya Pradesh government is Rs. 13841 crores.

¹⁴ Refer to K.P. Kannan article on Political Economy of Labour and Development in Kerala, Economic and Political Weekly December 26, 1998 for more detail.

¹⁵ During the course of my research on the beedi industry, I have found it very difficult to obtain the latest data on the beedi industry. It has been even more difficult to obtain data from the private beedi manufacturers because they treat the information as proprietary information. Therefore I am making my argument based on a Government of India document on the tobacco industry that was published in 1976. This piece of information is merely used as an illustration to explain the malpractices that occur in the beedi industry.

Table 9 – Cost of Structure of 3” Branded beedi in Karnataka (Rs. per 1000 beedis in 1975-76)				
Cost Element	Under ideal conditions		Assuming Certain Malpractices	
	Cost	Percentage	Cost	Percentage
Tobacco	Rs. 2.07	10.08%	Rs. 1.76	8.57%
Margin of Commission Agent	Rs. 0.10	0.49%	Rs. 0.41	2.00%
Wages and Benefits	Rs. 6.90	33.59%	Rs. 4.00	19.47%
Leaves and other expenses	Rs. 4.84	23.56%	Rs. 4.84	23.56%
Excise duty	Rs. 3.60	17.53%	Rs. 3.60	17.53%
Manufacturer’s margin	Rs. 0.53	2.58%	Rs. 3.43	16.70%
Wholesaler’s Margin	Rs. 0.50	2.43%	Rs. 0.50	2.43%
Retailer’s Margin	Rs. 2.00	9.74%	Rs. 2.00	9.74%
Total	Rs. 20.54	100.00%	Rs. 20.54	100.00%

Source: Giriappa, S. Beedi Rolling in Rural Development pg.28, New Delhi, 1987

It is clear from Table 9 that the greatest malpractice occurs in terms of wages and benefits. Assuming that the manufacturer pays higher wages but decides to sell the beedis at the previous price, that may reduce his profit margin but he will still be able to sell at the same price. The question then arises why the manufacturer does not choose to pay higher wages? The surplus labor in the Indian economy and the low skill levels required to work in the beedi industry creates an opportunity for the manufacturer to shift the production to other state where they can continue to pay low wages and reap huge profit. It is precisely this practice that needs to be addressed rather than hurt the industry of its competitiveness. Therefore, I would argue that what is important, is the mechanisms by which the industry can retain its competitiveness and reduce the occurrence of such malpractices.

As shown in the previous chapter, under normal conditions (without any macro-economic distortions like ban on exports or smoking), cooperatives like, KDB, are able to provide higher wages to their workers and retain their profitability. Arguably, it is possible for the states to enforce minimum wages according to the recommendations of the 15th Labor Conference¹⁶,

¹⁶ The 15th labor conference recommended a national wage policy (Refer to Chapter 2) and developed the following criterion to determine the minimum wages: i). standard working class family should be taken to comprise of three consumption units (Husband, wife and 2 children) for one earner. The earnings of women and children should be disregarded. ii). Food requirements-Net intake of 2700 calories per day per consumption unit. iii). Clothing-Per capita consumption of 18 yds. per year. Total family requirements were 72 yards per family. iv). Housing- Minimum rent charged by the government in any area for houses provided under subsidized industrial housing scheme for low-income groups. v). Fuel lighting and other miscellaneous items of expenditure should constitute 20 percent of the total minimum wage.

which focused on the industry's capacity to pay. Based on the above argument, it is possible to develop common minimum wage keeping in mind the industry's standards.

Based on this argument, the Government of India suggested a national floor level minimum wage to be fixed at Rs.40 per day.¹⁷ The central government also proposed that all state governments should be allowed to fix, review and revise the minimum wages within a period not exceeding two years or on a rise of 50 points in the consumer price index.

This suggestion seems to be convincing except that, if a floor level minimum wage is being fixed by the central government, the criterion for revising and reviewing the wages should also be left to the discretion of the central government rather than allowing the state governments to fix it by their own criterion. If the states are allowed to determine the wages they will encounter the problems of varying minimum wages that the industry is facing today.

I would also like to emphasize that these recommendations are only applicable in the beedi industry¹⁸. Since the conditions of employment are unique in the beedi industry, it is important to develop a uniform minimum wage amongst the states and in order to do so, it is crucial to involve the central government. The central government should be involved for the following reasons:

D). Under the federal system of fiscal transfers in India, the revenue collected by the state governments through the excise tax goes directly to the central government. The central government then distributes it to the states based on the following weights:

Table 10 – Criteria and Relative Weights for Determining Inter se Shares of States	
Criterion	Relative weight
Population	10.0%
Income (Distance method)	62.5%
Area	7.5%
Infrastructure Index	7.5%
Tax effort	5.0%
Fiscal Discipline	7.5%

Source: Ministry of Finance, Government of India, 2000 <http://finmin.nic.in/freport.htm>

¹⁷ 1998 dedicated for Labour welfare, Press information Bureau, Government of India. <pib.myiris.com>

¹⁸ Learning from the experiences of countries like Brazil, it is a herculean task to implement a common regional minimum wage and sometimes can be impractical in nature. In Brazil, regional minimum wage were progressively unified into a unique national rate in order to discourage internal migrations. The problem with the unification is that the national minimum wage does not reflect the peculiarities of very different labor markets, imposing relatively high wage levels on less developed regions (ILO Minimum wage fixing : a summary of selected issues 04/18/2001).

These weights determine the ratio of the central tax revenues that accrues to the state. The following ratio is developed by the finance ministry of India keeping in mind that the states that are economically backward and are fiscally weak get more assistance from the center's pool of resources. Table 11 shows the state's share in central tax revenues from year 2000-2005. Table 11 demonstrates that states like Andhra Pradesh, Madhya Pradesh, Bihar, West Bengal and others are quite dependent on the central tax revenues.

States	Individual Years					5-Year Total	
	2000-01	2001-02	2002-03	2003-04	2004-05	2000-05	Share percent
Andhra Pradesh	4,163	4,854	5,660	6,602	7,702	28,980	7.701%
Arunachal Pradesh	132	154	179	209	244	918	0.244%
Assam	1,776	2,070	2,414	2,816	3,285	12,362	3.285%
Bihar	7,892	9,200	10,729	12,514	14,600	54,935	14.597%
Goa	111	130	151	177	206	775	0.206%
Gujarat	1,525	1,778	2,073	2,418	2,821	10,616	2.821%
Haryana	510	595	694	809	944	3,552	0.944%
Himachal Pradesh	369	430	502	585	683	2,570	0.683%
Jammu & Kashmir	697	813	948	1,106	1,290	4,855	1.290%
Karnataka	2,665	3,107	3,623	4,226	4,931	18,552	4.930%
Kerala	1,653	1,927	2,247	2,621	3,057	11,504	3.057%
Madhya Pradesh	4,778	5,570	6,495	7,576	8,839	33,259	8.838%
Maharashtra	2,504	2,919	3,404	3,971	4,633	17,431	4.632%
Manipur	198	231	269	314	366	1,377	0.366%
Meghalaya	185	216	251	293	342	1,287	0.342%
Mizoram	107	125	146	170	198	745	0.198%
Nagaland	119	139	162	189	220	828	0.220%
Orissa	2,733	3,187	3,716	4,334	5,057	19,027	5.056%
Punjab	620	723	843	983	1,147	4,316	1.147%
Rajasthan	2,959	3,449	4,022	4,692	5,474	20,596	5.473%
Sikkim	99	116	135	158	184	692	0.184%
Tamil Nadu	2,911	3,394	3,958	4,616	5,386	20,265	5.385%
Tripura	263	307	358	417	487	1,833	0.487%
Uttar Pradesh	10,703	12,477	14,550	16,971	19,800	74,502	19.798%
West Bengal	4,387	5,115	5,964	6,957	8,117	30,540	8.116%
Total	54,059	63,026	73,493	85,724	100,013	376,318	100.000%

Source: Ministry of Finance, Government of India, 2000 <http://finmin.nic.in/freport.htm>

The state government's dependence on the central government revenues allows the central government to exercise some leverage over the state governments. Given this leverage, the central government has some authority to pressurize the states to adopt minimum wages. Outlined below are two scenarios in which the central government can negotiate with the states to enforce the uniform minimum wage policy.

Scenario 1: States agree to enforce uniform minimum wage policy

If the states agree to adopt the uniform minimum wage policy, for states that have very low minimum wage it will affect them in the short-run to make such adjustments. It might also spark political repercussions from the industry within the state due to the powerful beedi lobby. In order to provide relief for the state governments the central government can provide grants-in-aid to the state governments in the short-term to overcome the difficulties posed in the transition period.

Instead of increasing the bar on the minimum wages, the government could provide more non-wage benefits for the workers in terms of increase access to loans, social security benefits etc. Such indirect wage mechanisms may provide relief to the workers during the period of adjustment.

Additionally, the central government has greater resources¹⁹ to support the state to enforce the minimum wage legislation. Rather than treating the issue of labor welfare as an issue concerning the state subject, the central government can assist the state in enforcing the minimum wage legislations.

Scenario 2: States don't agree to enforce uniform minimum wage policy

If the states don't agree to adopt a uniform minimum wage policy, the central government can pressurize the states to adhere to the prescribed minimum wages, otherwise, it can reduce the allocation of the taxes from the central shares to the states.

Therefore the role of the central government is undeniably crucial in determining a uniform minimum wage policy to reduce the intra-state and inter-state disparities in minimum wages in the beedi industry that exists within the country.

¹⁹ The central government can build partnerships with other governmental agencies like the ministries of finance, external affairs, commerce and industries, human resources development, law justice and company affairs, rural development and small-scale industries & agro and rural industries to ensure the compliance of the minimum wage legislation.

Having determined that the central government is the main agency in developing the uniform wage policy the next step should be to identify the reasons why the minimum wages are not paid and what are the kind of government needed to better enforces minimum wages?

5.3 Implementation issues

For industries like beedi the government fixes the minimum wages on a daily or sometimes monthly basis. But, in practice the payment is made on a piece rate. However, the piece rate is usually so low that an average worker working all day do not earn the minimum wage for the day (Jhabvala 1998). The violation of minimum wages occurs when the workers are unaware of the prevailing official minimum wage in the region. Hence, the state governments will have to launch aggressive campaign disseminating information about the minimum wage amongst the unorganized workers. The campaign should clearly outline the amount that a worker should receive for producing 1000 beedis.²⁰

Besides this strategy the states could be presented with other options:

- a). All the states could adopt a common minimum wage for a period of two years in a few pilot areas based on the criterion laid down by the 15th labor conference.²¹

A committee comprising of state government officials, central government officials, trade unions, non-profit groups and independent observers comprising of academics and representatives of international aid organizations like United Nations should be appointed by the central government²² to monitor the conditions of the payment of minimum wages in these pilot areas²³. If this program works efficiently it should be gradually extended to other regions. The efficiency is measured by the fact that each and every worker in the pilot area is able to receive minimum wages on a daily basis. The committee should identify the conditions that contribute towards the success of the minimum wage programs.

²⁰ From SEWA's experience it is clear, that such campaigns are successful in empowering the workers to wage a struggle with the employers for the implementation of minimum wages.

²¹ Till now the states have followed the minimum wage fixing policy based on the recommendations of the Bhoothlingam Committee and therefore have not adopted a uniform wage policy. As mentioned in the previous subsection, the mechanism of fiscal transfer can be one option of persuading the states to pursue a uniform wage policy.

²² This committee will be given the powers to directly report to the regional inspector at the state government who should be authorized to penalize the erring parties in a speedy manner like for e.g. Revoking the license to operate for month or fining the firm based on a day's wages that accrue to each worker.

If the program fails to function efficiently, the committee should identify the reasons that led to non-functioning of the minimum wages and then devise mechanisms to address these issues. The committee could be given powers to legally penalize the firms that are not paying minimum wages to the workers.

The government should also encourage the workers²⁴ to take advantage of the legislative intentions to the fullest measure, and provide effective redressal mechanisms like easy access to the judiciary to enforce their rights. It is well known that the most effective mechanism to implement the minimum wage is to organize workers into cooperatives or unions. This is primarily dependant on the mandate of the state government and the importance that it attaches to the welfare of the unorganized workers. Therefore, for these measures to succeed it is important to develop unanimity among the States on these legislative intentions. From the case of SEWA and WWF, it is clear that if the poor and underprivileged have the necessary information they do exercise their rights and prerogatives.

The key hurdle for non-profit groups and trade unions is the lack of data on the number of workers employed in the industry. The employment information that is provided by the beedi manufacturers is usually underestimated (Gopal 1999). For the past eight years there has been no comprehensive study undertaken by the government on the beedi industry.²⁵ The government estimates the employment figures based on the number of identity cards that have been issued under the Beedi and Cigar Welfare Act 1966.²⁶ Table 12 illustrates the state-wise breakdown of beedi workers and the number of identity cards issued to the beedi workers as of 1999-2000.

²³ The pilot areas will be chosen based on a region that comprises of the largest concentration of workers in the home-based industry in the state. I emphasize the home-based industry because the most exploitative labor practices occur in this industry.

²⁴ The government can streamline the process of filing a petition in the court. Since most of the workers in the industry are illiterate, the government can create a legal center at the district level that will provide assistance to the beedi workers in filing the cases. The government can also provide assistance to local NGO's and trade unions to set up such legal resource center.

²⁵ The last survey that was conducted by the Central government was in 1994-1995 that looked specifically into the conditions of women workers in the beedi industry. A comprehensive survey of the industry has still not been undertaken.

²⁶ The rate of issuance of identity cards by the ministry of labor to the beedi workers has been very dismal over the past. The labor ministry stipulates a clause wherein it requires the employers to issue the identity cards to the workers. In theory, the system of identity cards sounds very effective but the difficulties faced by the workers in procuring one defeats the whole purpose of issuing it. As described in the SEWA case due to the multiplicity of employers, in the sub-contracting systems it becomes difficult for the ministry of labor to issue identity cards.

Sl.no.	Name of the State	Estimated beedi workers	Identity cards issued
1.	Andhra Pradesh	625,000	511,908
2.	Assam	7,725	5,636
3.	Bihar	391,500	244,847
4.	Gujarat	50,000	47,119
5.	Karnataka	360,000	291,007
6.	Kerala	136,416	112,768
7.	Madhya Pradesh	750,000	700,000
8.	Maharashtra	256,000	196,329
9.	Orissa	160,000	124,423
10.	Rajasthan	100,000	70,513
11.	Tripura	5,000	4,585
12.	Tamil Nadu	621,000	600,580
13.	Uttar Pradesh	450,000	221,484
14.	West Bengal	4,87,000	4,85,461
Total		43,99,644	36,16,660
<i>Source:</i> Annual Report 1999-2000, Ministry of Labor, Government of India.			

Therefore in order to estimate the number of workers employed in the industry the state government will have to conduct a micro-level household based study²⁷ to identify home-based workers and identify the regions within the states that employ beedi workers. Such a study will not only help in identifying the workers but will also assist in the future policy efforts relating to the beedi workers.

5.4 Enforcement mechanisms

The enforcement of minimum wages in the beedi industry has proven to be the most difficult task for the government. The enforcement machinery with regard to the beedi industry lies in the hands of the labor ministry at the state government. At the ground level, it is the labor inspectors who are in charge of inspecting the beedi establishments. The labor inspectors are constrained in terms of what they can monitor. They are able to inspect the industrial establishments, but are unable to monitor home-based activities. The penalties for the non-

²⁷ The study can be conducted by the well-reputed academic institution that is deputed by the state government that has the necessary expertise and resources to conduct such a research.

compliance of the labor laws are very paltry.²⁸ Therefore the incentive to violate the labor laws in the beedi industry is very high.

This is an issue that the state governments have been grappling with for many years. As there is no effective mode of inspection because the labour inspectors are more used to factory based inspections, the Equal Remuneration Act²⁹ is often violated. The government has often been blamed by non-profit groups and trade unions for ineffectively implementing the act.

If the state government lacks the machinery for implementation, one alternative could be to involve more non-profit groups and unions to enforce minimum wages. If the non-profit groups are actually working in the area then it is easier to involve them in the process. For example: WWF employs a pragmatic method to monitor the payment of wages. Usually, a WWF employee acts as an observer when the wages are being distributed to the workers. In this way, the WWF employee ensures that the employers are not underpaying the workers.

Besides these mechanisms the central government can set up a board at the district level that comprises of employers, union/NGO representatives, workers and Government officials. This board could meet once every six months to review the implementation of wages. If the employers default in the payment of minimum wages for good reasons like for example due to severe crisis in the industry, natural calamity etc, then they should be exempt from payment of wages. Under these circumstances the state government can provide subsidies to the workers. On the other hand if they do not have any valid reason then they should be penalized by the regional commissioner for excise tax at the state level for the non-payment of wages.

The penalization for such violations should be very stringent. If the industries do not comply with the labor welfare regulations stipulated by the central government, the inspectors

²⁸ The act specifies an amount of Rs.500 for violating the provisions of the act (refer to Appendix). This amount is very low for large manufacturers whose earnings are in crores of rupees. The large beedi manufacturers are also politically influential to ignore the citing of violations.

²⁹ The Equal Remuneration Act, 1976, states that all employers must pay male and female workers the same wages for work of "equal value" in a "given establishment." In order to make this aspect of the law more precise, the Indian government passed an amendment to the Equal Remuneration Act in 1987. The amendment clearly pronounces that employers cannot discriminate against ladies in matters of working environment and conditions, promotions, training programs, and transfer assignments. The amendment further outlines that women can file complaints on their own behalf or through voluntary organizations such as women's non-governmental organizations against employers paying lower wages to females than to males. Once a complaint has been filed, a governmental labor officer then holds a hearing and makes a decision on the case. If the hearing results favor the woman, the government can direct the employer to pay equal wages. The Myth of Equal Remuneration in India Chicago Business Volume XXXVI Issue 8 April 17, 1998.

should be given powers to charge a higher margin of excise tax. This could be enforced between the point of production and the retail market. If the cost of 1000 beedis increases at the point of production, it will reduce the profit margins for the manufacturer and the wholesaler. Since the beedi industry has many suppliers and the demand is the highly price elastic, the producer who is being taxed highly will lose out in competition. Therefore if every erring producer is taxed in a similar manner there is a chance that the producers may resort to paying minimum wages fearing the loss of revenue and business.

It may take some time for the uniform minimum wage policy to be put in place. The major barrier to the implementation of the minimum wage will be from beedi firms. These firms will try opposing such a move by the government. In a country like India where corruption is very rampant in the government bureaucracy, such an action will require concerted efforts on the part of the state governments.

Meanwhile, the state governments will need to initiate independently to reduce the internal mobility of firms between the states. The central government should however begin to focus to promote cooperation between the states³⁰. Since there are very few large beedi manufacturers in the country, it would prove beneficial for the states to develop some form of cooperation between the states to prevent the flight of the industry.³¹ Since beedi has expanded to become a growing export industry and also contributes to the states exchequer the state can set up a regulatory commission that can monitor the movement of the beedi industries between the states.

The state governments should also create legislations which would require companies moving out of the states to pay compensation to the workers. The Beedi industry is notorious for fleeing the region without any prior notice. Such flight can be discouraged if the state governments agree not to issue licenses to establishments unless they pay severance packages to workers in the affected regions. The process can be streamlined if the licensing authority for the beedi industry is located centrally rather than at the state levels. Recognizing the constraints of the central and the state governments, this recommendation may be organizationally difficult to

³⁰ This can be done by organizing a conference and inviting the labor ministers from each of the states. The labor ministries can set up a task force of personnel comprising of various states that can cooperate with each other to monitor the flight of the industries.

³¹ Only the large beedi firms possess the necessary infrastructure and resources to flee to other states and set up a new base of production. For the small firms that are more dependant on the local niche market it is not profitable to diversify to other markets.

enforce, but in the interests of the government and the workers it will be beneficial if such an enforcement mechanism is established.

Another inadequacy that can be rectified is proper enforcement of collecting and distributing cess or levy on the beedis. The government should include manufacturers who produce less than 20 lakh beedis per year under the purview of excise taxation. As observed earlier, most of the manufacturers who produce for the local markets under a generic trademark are small producers who produce less than 20 lakh beedis per year. The profit margin for these manufacturers is very high and these firms are also the most exploitative firms in the sub-contracting chain. Therefore it is important to bring them under the purview of excise taxation.

The beedi industry is also concerned about its image in the export markets as it has a huge potential to expand in the western markets. This was obvious by the America's reaction to the CBS new story that sparked a wave of protests towards the employment of child labor in the beedi industry. The whole episode tarnished the reputation of the industry. This publicity can be used as an opportunity by the trade unions and the non-profit to force the beedi industry to comply with minimum labor standards. If the beedi industry fails to pay the minimum social security it can be used as a marketing tool to lower the image of the state that is propagating such an industry. Under such circumstances the state will have to adopt measures to safeguard its image and ensure that minimum standards are complied with.

On the organizing front, the states should assist the workers in unionization efforts like they did in the case of KDB. There could be a system of cooperation that can be put in at the state level wherein they should also allow unions to assist unionization in other states.

Employer's perspective

All the policies recommended above will be futile unless the beedi manufacturers decide to help the workers. In order to motivate the employers to move away illegal practices, the state government can provide incentives like tax breaks for firms that adhere to the government standards. It is also important to take into account the financial viability of the firms as efforts are made to attain social goals. If the firms follow government standards, the government can actively promote the sale of the beedis within the country through better marketing techniques like by promoting publicity for the beedis. The government can promote competition within the

industry to discourage the use of sub-contracting system. One mechanism that may be helpful in this regard is to improve the image of the brand and provide marketing assistance to firms.

Finally, if the beedi industry is declining, the state governments should help the workers of the potentially to move into other similar labor-intensive industries, like the food processing industry. The government may need to offer some training programs wherein the workers can gain new skills.

Besides these measures the state government should aim at educating all the workers. The government can also invite trade unions and NGOs as partners to facilitate this process. Organizations like KDB should be invited by the government to write a manual for listing the measures other organizations can adopt for retrenched workers in the beedi industry.

Conclusion

The growing nature of unstructured production (mainly sub-contracting) in India's beedi industry requires greater collective action on the part of the beedi workers to fight for their rights. The nature and practices of the beedi industry are so exploitative that it is valid to raise concerns about the welfare of labor in the industry. If the industry fails to survive it can potentially lead to the unemployment of millions of workers and that can potentially lead to disastrous situations in states like Andhra Pradesh, Maharashtra, Orissa, Tamil Nadu etc. For the states also there are strong motives to keep the industry surviving as it a huge vote bank for politicians. Working under such exploitative conditions, it is a big obstacle for workers to organize for collective action (Breman 1986).

The case of Kerala Dinesh Beedi demonstrates that in circumstances like the flight of the beedi industry, organizing the beedi workers can be successful and can lead to positive outcomes. The role played by the formal trade unions and the state government in the development of the cooperative was pivotal. In addition, the political support the cooperative received was crucial for it's success. The same factors were also crucial in the case of SEWA. Without the political support of the Member of Parliament the issues of home-based workers would have led to an impasse between the state government and the trade union. Therefore strategic collective action explains the reasons for their success. Individually it is difficult for organizations like SEWA, Trade unions, KDB or the government to enforce the minimum wages

in the beedi industry. It requires cooperation amongst all these agencies to implement minimum wages.

In addition to collective action, other strategy that these organizations adopted was to develop cooperatives. The development of cooperatives allowed these organizations to compete with the existing producers in the beedi industry. This strategy may be peculiar to the beedi industry however because of its reliance on cheap, unskilled labor and low capital investment. Another distinct feature of the industry is the consistent demand for the tobacco products (like beedis) at a low price by low-income consumers. The entry into the beedi industry is not difficult as the raw materials, like tobacco and tendu leaves can be easily procured in the market. The key factor for success however is smart marketing strategy. The brand loyalties in this business are so high that it is important for the new entrants to break that barrier in order to gain market share. This is precisely the strategy KDB adopted and explains the economic success for its cooperative.

One lesson of KDB's success is the need for such organizations to develop hybrid³² forms that utilizes public policy. To elaborate, in the late 1960's the Indian government promoted the formation of cooperatives. The government provided extensive support to the cooperative sector in the form of subsidized loans; and technical assistance and that explains the prevalence of cooperative in the organizational structure of the sector. The government is currently promoting the growth of information technology, and this is why organizations like KDB are beginning to adopt it.

It is also important to historically examine the events that led to the development of these organizations. Both KDB and SEWA³³ emerged from the trade union struggle and chose to organize the workers in the trade union style. In turn, these organizations have lent their efforts to advocate policies for the unorganized workers. The experiences of SEWA and KDB³⁴ are unique compared to the other organizations working with the unorganized workers in the country.

³² By hybrid, I am referring to the multiple forms of organizational structure like trade union and cooperative.

³³ KDB was influenced by the trade union wing affiliated to the Communist Party of India (Marxist) and SEWA's founder Ela Bhatt had been associated with the Textile Labor Association (TLA) in Ahmedabad.

³⁴ SEWA was instrumental in leading a campaign for the national policy for home-based workers in 1996 and the chairman of KDB was invited by Government of India in 1982 to formulate a draft scheme to promote cooperatives of unorganized workers in the beedi industry in India.

The key issue concerning the policy makers today is the uncertainty of the future of the industry as India opens up its economy. As outlined in Chapter 4 the industry is facing competition from the mini-cigarette industry. The loss in exports and also the growing pressure from the anti-smoking lobby are hurting the profitability of the industry. An even larger issue facing the industry is that the beedi producers continue to exploit the workers even after the enactment of the Beedi and Cigar Workers (Conditions of Employment) Act 1966. Beedi workers in some states don't even receive the official minimum wage. The large variation in the minimum wages among the states is leading in the shift of the industrial location because of cheap labor. That is why a centralized body should take charge of the implementation machinery.

The biggest inadequacy of the industry is the lack of regulations. The government argues that it doesn't have adequate number of personnel to regulate such a large industry. Acknowledging these constraints, the government should invite non-profit groups and trade unions to monitor the practices of beedi industry.

The implementation of minimum wages for unorganized workers in a developing country like India is difficult. The government alone cannot do it. It requires a coordinated effort by the government, trade unions, non-profit groups, employers, politicians and the beedi workers. If any one of these groups is not involved in a consultative process the implementation process will be difficult. Therefore the future of the industry lies in strengthening cooperation between these various stakeholders.

Appendix

Appendix

THE BEEDI AND CIGAR WORKERS (CONDITIONS OF EMPLOYMENT) ACT, 1966 No.32 OF 1966 [30th November, 1966]

An Act to provide for the welfare of the workers in beedi and cigar establishments and to regulate the conditions of their work and for matters connected therewith.

Be it enacted by Parliament in the Seventeenth year of the Republic of India as follows:-

1. Short title, extent and commencement.

- (1) This Act may be called the Beedi and Cigar Workers (Conditions of Employment) Act, 1966.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed by the State Government for different areas and for different provisions of this Act.

2. Definitions.

In this Act, unless the context otherwise requires,-

- (a) "adult" means a person who has completed eighteen years of age;
- (b) "child" means a person who has not completed fourteen years of age;
- (c) "competent authority" means any authority authorised by the State Government by notification in the Official Gazette to perform all or any of the functions of the competent authority under this Act and for such areas as may be specified therein;
- (d) "contractor" means a person who, in relation to a manufacturing process, undertakes to produce a given result by executing the work through contract labour or who engages labour for any manufacturing process in a private dwelling house and includes a sub-contractor, agent munshi, thekedar or sattedar;
- (e) "contract labour" means any persons engaged or employed in any premises by or through a contractor, with or without the knowledge of the employer, in any manufacturing process;
- (f) "employee" means a person employed directly or through any agency, whether for wages or not, in any establishment to do any work, skilled, unskilled, manual or clerical, and includes--
 - (i) any labour who is given raw materials by an employer or a contractor for being made into beedi or cigar or both at home (hereinafter referred to in this Act as "home worker"), and
 - (ii) any person not employed by an employer or a contractor but working with the permission of, or under agreement with, the employer or contractor;
- (g) "employer" means,--
 - (a) in relation to contract labour, the principal employer, and
 - (b) in relation to other labour, the person who has the ultimate control over the affairs of any establishment or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs of any establishment, and includes any other person to whom the affairs of the establishment are entrusted, whether such other person is called the managing agent, manager, superintendent or by any other name;
- (h) "establishment" means any place or premises including the precincts thereof in which or in any part of which any manufacturing process connected with the making of beedi or cigar or both is being, or is ordinarily, carried on and includes an industrial premises;
- (i) "industrial premises" means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry or manufacturing process connected with the making of beedi or cigar or both is being, or is ordinarily, carried on with or without the aid of power;
- (j) "Inspector" means an Inspector appointed under sub-section (1) of section 6;
- (k) "manufacturing process" means any process for, or incidental to, making finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as beedi or cigar or both;
- (l) "prescribed" means prescribed by rules made by the State Government under this Act;
- (m) "principal employer" means a person for whom or on whose behalf any contract labour is engaged or employed in an establishment;
- (n) "private dwelling house" means a house in which persons engaged in the manufacture of beedi or cigar or both reside;
- (o) "State Government", in relation to a Union territory, means the Administrator thereof;

- (p) "week" means a period of seven days beginning at midnight on Saturday;
- (q) "young person" means a person who has completed fourteen years of age but has not completed eighteen years of age.

3. Industrial premises to be licensed.

Save as otherwise provided in this Act, no employer shall use or allow to be used any place or premises as an industrial premises unless he holds a valid licence issued under this Act and no such premises shall be used except in accordance with the terms and conditions of such licence.

4. Licences

- (1) Any person who intends to use or allow to be used any place or premises as industrial premises shall make an application in writing to the competent authority, in such form and on payment of such fees as may be prescribed, for a licence to use, or allow to be used, such premises as an industrial premises.
- (2) The application shall specify the maximum number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed.
- (3) The competent authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters:--
- (a) the suitability of the place or premises which is proposed to be used for the manufacture of beedi or cigar or both;
 - (b) the previous experience of the applicant;
 - (c) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour;
 - (d) whether the application is made bona fide on behalf of the applicant himself or in benami of any other person;
 - (e) welfare of the labour in the locality, the interest of the public generally and such other matters as may be prescribed.
- (4) (a) A licence granted under this section shall not be valid beyond the financial year in which it is granted but may be renewed from financial year to financial year.
- (b) An application for the renewal of a licence granted under this Act shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed, and where such an application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until the renewal of the licence, or, as the case may be, the rejection of the application for the renewal thereof.
- (c) The competent authority shall, in deciding whether to renew a licence or to refuse a renewal thereof, have regard to the matters specified in sub-section (3).
- (5) The competent authority shall not grant or renew a licence unless it is satisfied that the provisions of this Act and the rules made thereunder have been substantially complied with.
- (6) The competent authority may, after giving the holder of a licence an opportunity of being heard, cancel or suspend any licence granted or renewed under this Act if it appears to it that such licence has been obtained by misrepresentation of fraud or that the licensee has contravened or failed to comply with any of the provisions of this Act or the rules made thereunder or any of the terms or conditions of the licence.
- (7) The State Government may issue in writing to a competent authority such directions of a general character as that Government may consider necessary in respect of any matter relating to the grant or renewal of licences under this section.
- (8) Subject to the foregoing provisions of this section, the competent authority may grant or renew licences under this Act on such terms and conditions as it may determine and where the competent authority refuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

5. Appeals.

Any person aggrieved by the decision of the competent authority refusing to grant or renew a licence or cancelling or suspending a licence may, within such time and on payment of such fees, not exceeding twenty rupees, as may be prescribed, appeal to such authority as the State Government may, by notification in the Official Gazette, specify in this behalf, and such authority may by order confirm, modify or reverse any order refusing to grant or renew a licence or cancelling or suspending a licence.

6. Inspectors.

(1) The State Government may, by notification in the Official Gazette, appoint such of its officers or such officers of any local authority as it thinks fit to be the Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The State Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall exercise the powers of an Inspector throughout the State.

(3) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code(45 of 1860.).

7. Powers of Inspectors.

(1) Subject to any rules made by the Government in this behalf, an Inspector may, within the local limits for which he is appointed,--

(a) make such examination and hold such inquiry as may be necessary for ascertaining whether the provisions of this Act have been or are being complied with in any place or premises:

Provided that no person shall be compelled under this section to answer any question or to give any evidence which may tend to incriminate himself;

(b) require the production of any prescribed register and any other document relating to the manufacture of beedi or cigar or both;

(c) enter, with such assistants as he thinks fit, at all times, any place or premises including the residences of employees if he has reasonable grounds for suspecting that any manufacturing process is being carried on or is ordinarily carried on in any such place or premises;

(d) exercise such other powers as may be prescribed.

(2) If an Inspector has reasonable grounds for suspecting that any manufacturing process is being carried on in any establishment in contravention of the provisions of this Act, he may, after giving due notice to the employer or, in the absence of the employer, to the occupier, either such establishment with such assistants, if any, as he may think fit.

(3) Every employer or occupier shall accord to the Chief Inspector or the Inspector, as the case may be, all reasonable facilities in the discharge of his duties under this Act.

8. Cleanliness

Every industrial premises shall be kept clean and free from effluvia arising from any drain, privy or other nuisance and shall also maintain such standard of cleanliness including white washing colour washing, varnishing or painting, as may be prescribed.

9. Ventilation.

(1) For the purpose of preventing injury to the health of the persons working therein, every industry premises shall maintain such standards of lighting, ventilation and temperature, as may be prescribed.

(2) Wherever dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the persons employed in any industrial premises is given off by reason of the manufacturing process carried on in such premises, the competent authority may require the employer to take such effective measures as may prevent the inhalation of such dust, fume or other impurity and accumulation thereof in any work room.

10. Overcrowding.

(1) No room in any industrial premises shall be overcrowded to an extent injurious to the health of the persons employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in any work room of such premises at least four and a quarter cubic metres of space for every person employed therein, and for the purposes of this sub-section, no account shall be taken of any space which is more than three metres above the level of the floor of the work room.

11. Drinking water

(1) The employer shall make in every industry premises effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by the majority of the persons employed in the industrial premises and no such point shall be situated within six metres of any washing place, urinal or latrine except with the prior approval in writing of the competent authority.

12. Latrines and urinals.

(1) In every industrial premises, sufficient latrine and urinal accommodation of such types as may be prescribed shall be provided and shall be so conveniently situated as may be accessible to the employees at all times while they are in the industrial premises:

Provided that it shall not be necessary to provide separate urinals in industrial premises where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

(2) The State Government may specify the number of latrines and urinals which shall be provided in any industrial premises in proportion to any number of male and female employees ordinarily employed therein, and may provide for such further matters in respect of sanitation in the industrial premises including obligation of the employees in this regard as it may consider necessary in the interest of the health of the person employed therein.

13. Washing facilities

In every industrial premises, where blending or sieving or both of tobacco or warming of beedi in hot ovens is carried on, the employer shall provide such washing facilities for the use of the employees, as may be prescribed.

14. Creches.

(1) In every industrial premises wherein more than fifty female employees are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female employees.

(2) Such rooms shall--

- (a) provide adequate accommodation;
- (b) be adequately lighted and ventilated;
- (c) be maintained in a clean and sanitary condition;
- (d) be under the charge of women trained in the care of children and infants.

(3) The State Government may make rules,--

- (a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section;
- (b) requiring the provision in any industrial premises to which this section applies, of additional facilities for the care of children belonging to female employees, including suitable provision of facilities for washing and changing their clothing;
- (c) requiring the provision in any industrial premises of free milk or refreshment or both for such children;
- (d) requiring that facilities shall be given in any industrial premises for the mothers of such children to feed them at necessary intervals.

15. First aid

Every industrial premises shall provide such first aid facilities as may be prescribed.

16. Canteens

The State Government may, by rules, require the employer to provide and maintain in every industrial premises wherein not less than two hundred and fifty employees are ordinarily employed, a canteen for the use of the employees.

17. Working hours

No employee shall be required or allowed to work in any industrial premises for more than nine hours in any day or for more than forty-eight hours in any week:

Provided that any audit employee may be allowed to work in such industrial premises for any period in excess of the limit fixed under this section subject to the payment of overtime wages if the period of work, including overtime work, does not exceed ten hours in any day and in the aggregate fifty-four hours in any week.

18. Wages fee overtime work.

(1) Where any employee employed in any industrial premises is required to work overtime, he shall be entitled in respect of such overtime work, to wages at the rate of twice his ordinary rate of wages.

(2) Where the employees in an industrial premises are paid on a piece-rate basis, the overtime rate shall be calculated, for the purposes of this section, at the time rates which shall be as nearly as possible equivalent to the daily average of their full time earning for the days on which they had actually worked during the week immediately preceding the week in which the overtime work has been done.

(3) For the purposes of this section, "ordinary rates of wages" means the basic wages plus such allowance, including the cash equivalent of the advantage accruing through the concessional sale to the employees of foodgrains and other articles as the employee is for the time being entitled to but does not include bonus.

(4) The cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation I.--"Standard family" means a family consisting of the employee, his or her spouse and two children requiring in all three adult consumption units.

Explanation II.--"Audit consumption units" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child shall be calculated at the rate of eight-tenths and six-tenths, respectively, of one adult consumption unit.

19. Interval for rest

The periods of work for employees in an industrial premises each day shall be so fixed that no period shall exceed five hours and that no employee shall work for more than five hours before he has had an interval for rest of at least half an hour.

20. Spread over

The periods of work of an employee in an industrial premises shall be so arranged that inclusive of his intervals for rest under section 19, they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing increase the spread over to twelve hours.

21. Weekly holidays

(1) Every industrial premises shall remain entirely closed, except for wetting of beedi or tobacco leaves, on one day in the week which day shall be specified by the employer in a notice exhibited in a conspicuous place in the industrial premises and the day so specified shall not be altered by the employer more often than once in three months and except with the previous written permission of the Chief Inspector.

(2) Notwithstanding anything contained in sub-section (1), an employee employed in the said premises for wetting of beedi or tobacco leaves on the day on which it remains closed in pursuance of sub-section (1), shall be allowed a substituted holiday on one of the three days immediately before or after the said day.

(3) For a holiday under this section, an employee shall be paid, notwithstanding any contract to the contrary, at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the week immediately preceding the holiday exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation.--The expression "total full time earnings" shall have the meaning assigned to it in section 27.

22. Notice of periods of work.

(1) There shall be displayed and correctly maintained in every industrial premises a notice of periods of work in such form and in such manner as may be prescribed, showing clearly for every day the periods during which the employees may be required to work.

(2) (a) A copy of the notice referred to in sub-section (1) shall be sent in triplicate to the Inspector having jurisdiction over the industrial premises within two weeks from the date of the grant of a licence for the first time under this Act, in the case of any industrial premises carrying on work at the commencement of this Act, and in the case of any industrial premises beginning work after such commencement, before the day on which the work is begun in the industrial premises.

(b) Any proposed change in the system of work which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in triplicate before the change is made and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

23. Hours of work to correspond with notice under section 22

No employee shall be employed in any industrial premises otherwise than in accordance with the notice of work displayed in the premises under section 22.

24. Prohibition of employment of children.

No child shall be required or allowed to work in any industrial premises.

25. Prohibition of employment of women or young persons during certain hours.

No woman or young person shall be required or allowed to work in any industrial premises except between 6 am and 7 pm.

26. Annual leave with wages.

(1) Every employee in an establishment shall be allowed in a calendar year leave with wages--

(i) in the case of an adult, at the rate of one day for every twenty days of work performed by him during the previous calendar year;

(ii) in the case of a young person at the rate of one day for every fifteen days of work performed by him during the previous calendar year.

Explanation.--The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during, or at the beginning or at the end of, the period of leave.

(2) If an employee is discharged or dismissed from service or quits employment during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1).

(3) In calculating leave under this section, any fraction of leave of half a day or more shall be treated as one full day's leave and any fraction of less than half a day shall be omitted.

(4) If any employee does not, in any calendar year, take the whole of the leave allowed to him under sub-section (1), the leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year;

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a young person.

(5) An application of an employee for the whole or any portion of the leave allowed under sub-section (1) shall be in writing and ordinarily shall have to be made sufficiently in advance of the day on which he wishes the leave to begin.

(6) If the employment of an employee who is entitled to leave under sub-section (1) is terminated by the employer before he has taken the entire leave to which he is entitled, or if having applied for leave, he has not been granted such leave, or if the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 27 in respect of leave not taken and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits his employment, on or before the next pay day.

(7) The leave not availed of by an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

27. Wages during leave period.

(1) For the leave allowed to him under section 26, an employee shall be paid at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the month immediately preceding his leave exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation I.--In this sub-section, the expression "total full time earnings" includes the cash equivalent of the advantage accruing through the concessional sale to employees of foodgrains and other articles, as the employee is for the time being entitled to, but does not include bonus.

Explanation II.--For the purpose of determining the wages payable to a home worker during leave period or for the purpose of payment of maternity benefit to a woman home worker, "day" shall mean any period during which such home worker was employed, during a period of twenty-four hours commencing at midnight, for making beedi or cigar or both.

(2) An employee who has been allowed leave for not less than four days in the case of an adult and five days in the case of a young person, shall before his leave begins, be paid wages due for the period of the leave allowed.

28. Application of the Payment of Wages Act, 1936 to industrial premises

(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (hereinafter referred to in this section as the said Act), the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to all or any class of employees in establishment or class of establishments to which this Act applies and on such application of the provisions of the said Act, in Inspector appointed under this Act shall be deemed to be the Inspector for the purposes of the enforcement of such provisions of the said Act within the local limits of his jurisdiction.

(2) The State Government may, by a like notification, cancel or vary any notification issued under sub-section (1).

29. Special provisions

(1) The State Government may permit the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees.

(2) The employer shall maintain in the prescribed form a record of the work permitted under sub-section (1) to be carried on outside the industrial premises.

(3) Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the making of beedi or cigar or both to be carried on outside the industrial premises:

Provided that nothing in this sub-section shall apply to any labour who is given raw material by an employer or a contractor for being made into beedi or cigar or both at home.

30. Onus as to age

(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act and such person is, in the opinion of the court, prima facie under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a medical officer not below the rank of a Civil Assistant Surgeon relating to an employee that he has personally examined him and believes him to be under the age stated in such declaration, shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that employee.

31. Notice of dismissal

(1) No employer shall dispense with the services of an employee who has been employed for a period of six months or more, except for a reasonable cause, and without giving such employee at least one month's notice or wages in lieu of such notice.

Provided that such notice shall not be necessary if the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held by the employer for the purpose.

(2) (a) The employee discharged, dismissed or retrenched may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his service or on the ground that he had not been guilty of misconduct as held by the employer or on the ground that such punishment of discharge or dismissal was severe.

(b) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period during which he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case.

(3) The decision of the appellate authority shall be final and binding on both the parties and be given effect to within such time as may be specified in the order of the appellate authority.

32. Penalty for obstructing Inspector

Whoever obstructs the Chief Inspector or an Inspector in the exercise of any powers conferred on him by or under this Act, or fails to produce on demanded by the chief Inspector or an Inspector any register or other document kept in his custody in pursuance of this Act or of any rules made thereunder, or conceals or prevents any employee in an industrial premises from appearing before or being examined by the Chief Inspector or an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

33. General penalty for offence

(1) Save as otherwise expressly provided in this Act, any person who contravenes any of the provisions of this Act or of any rule made thereunder, or fails to pay wages or compensation in accordance with any order of the appellate authority passed under clause (b) of sub-section (2) of section 31, shall, be punishable, for the first offence, with fine which may extend to two hundred and fifty rupees and for a second or any subsequent offence with imprisonment for a term which shall not be less than one month or more than six months or with fine which shall not be less than one hundred rupees or more than five hundred rupees or with both.

(2) (a) Any employer who fails to reinstate any employee in accordance with the order of the appellate authority passed under clause (b) of sub-section (2) of section 31, shall be punishable with fine which may extend to two hundred and fifty rupees.

(b) Any employer, who, after having been convicted under clause (a), continues, after the date of such conviction to fail to reinstate an employee in accordance with the order mentioned in that clause, shall be punishable, for each day of such default, with fine which may extend to twenty rupees.

(c) Any Court trying an offence punishable under this sub-section may direct that the whole or any part of the fine, if realised, shall be paid, by way of compensation, to the person, who, in its opinion, has been injured by such failure.

(3) Notwithstanding anything contained in the Payment of Wages Act, 1936(4 of 1936) with regard to the definition of wages, any compensation required to be paid by an employer under clause (b) of sub-section (2) of section 31 but not paid by him shall be recoverable as delayed wages under the provisions of that Act.

(4) It shall be no defence in a prosecution of any person for the contravention of the provisions of section 3 that any manufacturing process connected with the making of beedi or cigar or both was carried on by such persons himself or by any member of his family or by any other person living with or dependent on such person.

34. Offences by Companies

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purposes of this section--

(a) "company" means any body corporate and includes a firm, and other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

35. Indemnity

(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

36. Cognizance of offences

(1) No Court shall take cognizance of any offence punishable under this Act except upon a complaint made by, or with the previous sanction in writing of the Chief Inspector or an Inspector within three months of the date on which the alleged commission of the offence came to the knowledge of the Inspector:

Provided that where the offence consists of disobeying a written order made by the competent authority, the Chief Inspector or an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

(2) No Court inferior to that of a presidency magistrate or a magistrate of the first shall try any offence punishable under this Act.

37. Application of the industrial Employment (Standing Orders) Act, 1946 and the Maternity Benefit Act, 1961.

(1) The provisions of the Industrial Employment (Standing Orders) Act, 1946(20 of 1946) shall apply to every industrial premises wherein fifty or more persons are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (3) of section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply all or any of the provisions of the Industrial Employment (Standing Orders) Act, 1946(20 of 1946), to any industrial premises wherein less than fifty employees are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (3) of section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act.

(3) Notwithstanding anything contained in the maternity Benefit Act, 1961(53 of 1961), the provisions of that Act shall apply to every establishment as if such establishment were an establishment to which that Act has been applied by a notification under sub-section (1) of section 2 thereof:

Provided that the said Act shall, in its application to a home worker, apply subject to the following modifications, namely:--

(a) in section 5, in the Explanation to sub-section (1), the words "or one rupee a day, whichever is higher" shall be omitted; and

(b) sections 8 and 10 shall be omitted.

38. Certain provisions not to apply to industrial premises

(1) Chapter IV and section 85 of the Factories Act, 1948(62 of 1948) shall apply to an industrial premises and the rest of provisions in that Act shall not apply to any industrial premises.

(2) Nothing contained in any law relating to the regulation of the conditions of work of workers in shops or commercial establishments shall apply to any establishment to which this Act applies.

39. Application of the Industrial Disputes Act, 1947

(1) The provisions of the Industrial Disputes Act, 1947(14 of 1947) shall apply to matters arising in respect of every industrial premises.

(2) Notwithstanding anything contained in sub-section (1), dispute between an employer and employee relating to--

(a) the issue by the employer of raw materials to the employees,

(b) the rejection by the employer of beedi or cigar or both by an employee,

(c) the payment of wages for the beedi or cigar or both rejected by the employer, shall be settled by such authority and in such summary manner as the State Government may by rules specify in this behalf.

(3) Any person aggrieved by a settlement made by the authority specified under sub-section (2) may prefer an appeal to such authority and within such time as the State Government may, by notification in the Official Gazette, specify in this behalf.

(4) The decision of the authority specified under sub-section (3) shall be final.

40. Effect of laws and agreements inconsistent with this Act

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, or contract of service whether made before or after the commencement of this Act:

Provided that where under any such award, agreement, contract of services or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under

this Act, the employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

41. Power to exempt

The State Government may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions as it may impose, any class of industrial premises or class of employers or employees from all or any of the provisions of this Act or of any rules made thereunder:

Provided that nothing in this section shall be construed as empowering the State Government to grant any exemption in respect of any woman employee from any of the provisions of this Act or any rules made thereunder relating to an annual leave with wages, maternity benefits, creches, wages, rejection of beedi or cigar and night work.

42. Powers of Central Government to give directions

The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Act.

43. Act not to apply to self employed persons in private dwelling houses.

Nothing contained in this Act shall apply to the owner or occupier of a private dwelling house who carries on any manufacturing processes in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him:

Provided that the owner or occupier there of is not an employee of an employee to whom this Act applies.

Explanation.--For the purposes of this section, "family" means the spouse and children of the owner or occupier.

44. Power to make rules

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the terms and conditions subject to which a licence may be granted or renewed under this Act and the fees to be paid in respect of such licence;

(b) the forms of application for a licence under this Act and the documents and plans to be submitted together with such application;

(c) other matters which are to be taken into consideration by the competent authority for granting or refusing a licence;

(d) the time within which, the fees on payment of which and the authority to which, appeals may be preferred against any order granting or refusing to grant a licence;

(e) the submissions of a monthly return by an employer to the competent authority specifying the quantity of tobacco released by the Central Excise Department and the number of beedi or cigar or both manufactured by him;

(f) the powers which may be conferred on the Inspectors under this Act;

(g) the standards of cleanliness required to be maintained under his Act;

(h) the standards of lighting, ventilation and temperature required to be maintained under this Act;

(i) the types of urinals and latrines required to be provided under this Act;

(j) the washing facilities which are to be provided under this Act;

(k) canteens;

(l) the form and manner of notice regarding the periods of work;

(m) the form in which records of work done outside an establishment shall be maintained;

(n) the authority to which and the time within which an appeal may be filed by a dismissed, discharged or retrenched employee;

(o) the manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed;

(p) the records and registers that shall be maintained in an establishment for the purpose of securing compliance with the provisions of this Act and the rules made thereunder;

- (q) the maintenance of first aid boxes or cupboards and the contents thereof and the persons in whose charge such boxes shall be placed;
 - (r) the manner in which sorting or rejection of beedi or cigar or both the disposal of rejected beedi or cigar or both shall be carried out;
 - (s) the fixation of maximum limit of the percentage of rejection of beedi or cigar or both manufactured by an employee;
 - (t) specifying the place at which wages shall be paid to persons who receive directly or through an agent raw materials for the manufacture of beedi or cigar or both at home;
 - (u) supervision by the Inspectors over distribution of raw materials including beedi and tobacco leaves to the employees;
 - (v) precautions to be taken against fire for the safety of workers;
 - (w) authority by which and the manner in which a dispute as to the issue of raw materials shall be settled and the authority to which an appeal shall lie from the settlement made by the first-mentioned authority;
 - (x) any matter which is required to be, or may be, prescribed.
- (3) All rules made under this Act shall be published in the Official Gazette and shall be subject to the condition of previous publication; and the dates to be specified under clause (3) of section 23 of the General Clauses Act, 1897(10 of 1897), shall not be less than three months from the date on which draft of the proposed rules was published.
- (4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Legislatures agree in making any modification in the rule or the Legislatures agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification of annulment shall be without prejudice to the validity of anything previously done under that rule.

THE BEEDI WORKERS WELFARE FUND ACT, 1976 No.62 OF 1976 [10th April, 1976.]

An Act to provide for the financing of measures to promote the welfare of persons engaged in beedi establishments. Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:-

1. Short title ,extent and commencement

- (1) This Act may be called the Beedi Workers Welfare Fund Act, 1976.
- (2) It extends to the whole of India.
- (3) It shall come into force in a State on such date, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas in the State and for different provisions of this Act.

2. Definitions in this Act, unless the context otherwise requires

- (a) "Fund" means the Beedi Workers Welfare Fund formed under section 3;
- (b) A person is said to be engaged in an establishment if he is engaged in that establishment, directly or through any agency, whether for wages or not, for doing any work, skilled, unskilled, manual or clerical and includes-
 - (i) Any person who is given raw materials by an employer or a contractor for being made into beedi at home, and
 - (ii) Any person not engaged by an employer or a contractor but working with the permission of, or under agreement with, the employer or contractor;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) Words and expressions used but not defined in this Act and defined in the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, shall have the meanings respectively assigned to them in that Act in so far as they relate to a person engaged in beedi establishments.

3. Beedi workers Welfare Fund.

There shall be formed a Fund to be called the Beedi Workers Welfare Fund and there shall be credited thereto-

- (a) An amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of cess credited under section 4 of the Beedi Workers Welfare Cess Act, 1976, after deducting the cost of collection as determined by the Central Government under this Act;
- (b) any income from investment of the amount credited under the Act referred to in clause (a) and any other moneys received by the Central Government for the purposes of this Act.

4. Application of Fund

(1) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to promote the welfare of the persons engaged in beedi establishments; and in particular-

(a) To defray the cost of measures for the benefit of such persons directed towards-

(i) The improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities;

(ii) The provision and improvement of water supplies and facilities for washing;

(iii) The provision and improvement of educational facilities;

(iv) The provision and improvement of housing and recreational facilities including standards of living, nutrition and amelioration of social conditions;

(v) The provision and improvement of such other welfare measures and facilities as may be prescribed;

(b) To grant loan or subsidy to a State Government, a local authority or an employer in aid of any scheme approved by the Central Government for the purpose connected with the welfare of persons engaged in beedi establishments;

(c) To pay annually grants-in-aid to a State Government, or a local authority or to an employer who provides to the satisfaction of the Central Government welfare measures and facilities of the prescribed standard for the benefit of persons engaged in beedi establishments, so, however, that the amount payable as grants-in-aid to any such State Government, local authority or employer shall not exceed-

(i) the amount spent in providing welfare measures and facilities as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amount as may be prescribed, whichever is less:

Provided that no grant-in-aid shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf;

(d) to meet the allowances, if any, of the members of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively and the salaries and allowances, if any, of persons appointed under section 8;

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

(2) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

5. Advisory Committees

(1) The Central Government may constitute as many Advisory Committees as it thinks fit, but not exceeding one for each of the principal beedi producing States, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that each Advisory Committee shall include an equal number of members representing Government, the employers and persons engaged in beedi establishments and that at least one member of such Committee shall be a woman.

(3) The Chairman of each Advisory Committee shall be appointed by names of all members of every Advisory Committee.

(4) The Central Government shall publish in the Official Gazette the names of all members of every Advisory Committee.

6. Central Committee Advisory

(1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the administration of this Act.

(2) The Central Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:
Provided that the Central Advisory Committee shall include an equal number of members representing the Government, the employers and persons engaged in beedi establishments and that at least one member of such Committee shall be a woman.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of the Central Advisory Committee.

7. Power to co-opt

(1) An Advisory Committee or the Central Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-section (1) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote.

(3) The Advisory Committee or the Central Advisory Committee may, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, he shall not be entitled to vote thereat.

8. Appointment of welfare Commissioners etc., and their powers.

(1) The Central Government may appoint as many Welfare Commissioners, Welfare Administrators, Inspectors and such other officers and staff as it thinks necessary for the purposes of this Act and the Beedi Workers Welfare Cess Act, 1976.

(2) The Central Government may, by general or special order, direct a Welfare Commissioner to appoint such staff as is considered necessary for the purposes of this Act and the Beedi Workers Welfare Cess Act, 1976.

(3) Every person appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1880).

(4) Any Welfare Commissioner, Welfare Administrator, or Inspector may,-

(a) with such assistance, if any, as he may think fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act;

(b) do within such place anything necessary for the proper discharge of his duties; and

(c) exercise such other powers as may be prescribed.

9. Power of Central Government to exempt

Notwithstanding anything contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of persons engaged in beedi establishments, it may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall not apply or shall apply to such State or part thereof subject to such exemptions and modifications as may be specified in the notification.

10. Annual report of activities financed under the Act.

The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of its activities financed under this Act during the previous financial year together with a statement of accounts.

11. Power to call for information.

The Central Government may require a State Government or a local authority or an employer to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

12. Power to make rules

(1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the manner in which the Fund may be applied for the measures and facilities specified in sub-section (1) of section 4;

- (b) the conditions governing the grant of loan or subsidy under clause (b) of sub-section (1) of section 4;
 - (c) the conditions governing grant-in-aid under clause (c) of sub-section (1) of section 4;
 - (d) the standard of welfare measures and facilities to be provided under clause (c) of sub-section (1) of section 4;
 - (e) the determination of the amounts referred to in sub-clause (ii) of clause (c) of sub-section (1) of section 4 and the proviso to that clause;
 - (f) the composition of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees and the Central Advisory Committee shall conduct their business;
 - (g) the recruitment, conditions of service and the duties of all persons appointed under section 8;
 - (h) the power that may be exercised by a Welfare Commissioner, a Welfare Administrator or an Inspector under section 8;
 - (i) the furnishing to the Central Government by a State Government or a local authority or an employer of such statistical and other information as may be required to be furnished under section 11;
 - (j) the forms in which and the period within which statistical and other information are to be furnished under clause (i);
 - (k) any other matters which has to be or may be prescribed, or provided for, by rules under this Act.
- (3) In making any rule under clause (i) or clause (j) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.
- (4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE BEEDI WORKERS WELFARE CESS (AMENDMENT) ACT.1998 No.24 OF 1998
 [20th August, 1998.]

An Act further to amend the Beedi Workers Welfare Cess Act, 1976.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:--

1.Short title and commencement.

(1) This Act may be called the Beedi Workers Welfare Cess (Amendment) Act.1998.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2.Amendment of section 3 of Act 56 of 1976.

In the Beedi Workers Welfare Cess Act, 1976, in section 3, in sub-section (1), for the words "not be less than ten paise or more than fifty paise", the words "not be less than fifty paise or more than five rupees" shall be substituted.

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