

India

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India's economic development model that was guided by state intervention and trade protection until the 1970s underwent a major shift in 1991 when the country opted for liberalization and introduced economic reforms. The reforms resulted in a fundamental shift in the development strategy – replacement of an import–substitutive industrialization strategy by an export-oriented one.¹ Architects of the reforms argued that the new market-led growth model of India's economy driven by the private sector and foreign investments would lead to a higher growth rate and the effects of this would trickle down to the masses. India's economic performance in the post-reforms period indicates increasing growth rate. The average growth rate in the ten year period from 1992-93 to 2001-02 was around 6.0 percent, and India became one of the fastest growing developing countries in the 1990s.² The growth rate has moved up further during the last five years and between 2002 and 2007, an average 7.8 per cent growth rate was recorded.³

The resultant wealth generation in several sectors has helped India add a few hundred billionaires and a few thousand more millionaires, thus creating a façade of a Great Leap by the White Tiger. But this reorientation in the policy framework has had major implications on employment and social security. While the reforms focussed on economic efficiency, it is argued that they led to a 'jobless growth'.⁴ With regards to the labour market, it was argued that rigidities constrain large industrial investments. Thus since the 1990s, there have been attempts to attract investments by informalizing employment. It is important to note that India had a huge informal sector even in the pre-reform period. Since the start of liberalization the organized sector has witnessed stagnation or even decline in employment because of retrenchment, displacement of labour, growing casualization of workers, and organized attempts to curtail workers' rights including freedom of association and the right to collective bargaining. All these have weakened the trade union movement.

The following account attempts to capture some of these dynamics of informalization. The first of the three sections, entitled Contemporary Snapshot, outlines the increasing informalization in India's economy, particularly in the organized sector, and highlights the worsening working conditions in the informal sector. Section 2 discusses the existing labour laws and how they apply to informal sector workers. Section 3 examines the responses, initiatives and struggles in the context of increasing informalization.

1. Contemporary Snapshot

The Informal Sector in India

The informal sector in India has been defined in several ways. As per the System of National Accounts (1993),⁵ it refers to productive units characterized by a) a low level of organization, b) little or no division between labour and capital and c) labour relations based on casual employment and/or social relationships as opposed to formal contracts. These units belong to the household sector and cannot be associated with other units.⁶ The Directorate General of Employment and Training (DGET) which is a key source of data on the informal sector, reports

employment within the unorganized sector derived as a residual of the total workforce minus the workers in the organized sector. But the DGET definition does not take into account informal employment in the organized sector.⁷ The National Sample Survey Organization (NSSO), adopted the following criteria for identification of the unorganized sector: 1) in the case of manufacturing industries, the enterprises not covered under the Annual Survey of Industries are taken to constitute the unorganized sector and 2) in the case of service industries, all enterprises, except those run by the government (central, state and local body) and in the public sector are regarded as unorganized.⁸

The National Commission for Enterprises in the Unorganized Sector (NCEUS) recently defined the sector and unorganized workers as follows: the 'Unorganized Sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and with less than ten total workers.' Unorganized Worker is defined thus: 'Unorganized workers consist of those working in the unorganized sector or households, excluding regular workers with social security benefits provided by the employers and the workers in the formal sector without any employment and social security benefits provided by the employers'.⁹

The ILO defines the informal sector as large-scale economic activities that remain outside the world of full time, stable and protected employment.¹⁰ According to the Self-employed Women's Association (SEWA), the informal sector in India includes home-based workers, vendors, manual labourers and service providers. It accounts for up to 70 per cent of gross domestic product and over 40 per cent of exports; of the total workforce, 93 per cent operate within the informal sector, and 60 per cent of these are women.¹¹

These definitions indicate the complex nature of informal employment in India. It is clear that the lack of job security and social security are key characteristics of informal employment. However, in order to understand informalization in India we need to go beyond these definitions as they do not provide sufficient insights to understand the conditions of informal workers. It is important to look at the dynamics of the informal economy including informalization in the formal sector and the vulnerable working conditions of informal workers.

Growth of the Informal Economy – Some Recent Trends

Employment trends indicate that growth of employment has largely taken place in the non-agricultural segment and the growth of jobs in agriculture has been significantly slow. The growth rate of the workforce in agriculture is estimated at 1.73 per cent from 1999-2000 and 2004-2005 compared to 4.53 per cent in the non agricultural segment (Table 1).

Table 1. Total Workforce in Agricultural and non Agricultural Sector by Activity Status in 1993-94, 199-2000 and 2004-05 (million)¹²

Activity Status	Agriculture	Non-agriculture	Total
1993-94			
Self-employed	143.19	60.94	204.13
Regular wage workers	3.31	47.83	51.13
Casual employee	91.84	27.22	119.06
Total	238.34	135.99	374.33

1999-2000			
Self-employed	137.28	70.93	208.21
Regular wage workers	3.46	55.59	59.05
Casual employee	96.93	32.57	129.5
Total	237.67	159.09	396.76
2004-05			
Self-employed	166.18	92.07	258.25
Regular wage workers	2.83	66.72	69.55
Casual employee	89.91	39.75	129.67
Total	258.93	198.54	457.46

Besides, most of the employment growth taking place is located in the informal segment of both the organized and unorganized sectors. According to the DGET, the organized sector employment declined by 910,000 during the period 1997 to March 2002 (more than half of this decline was in the manufacturing sector); during the single year 2001-2002 it declined by 420,000.¹³ While there is a manifold increase in investment, output and profit in the organized sector—e.g. capital intensity has grown—the NSSO reports that employment intensity has come down.¹⁴ Downsizing and cutting costs through practices such as substitution of regular employment through fixed terms or contracts is becoming increasingly common in both the public and private sectors. The dominant perception of the trade unions is that much of the economic growth is ‘job-less’ rather than ‘job-led’.¹⁵

Table 2 indicates how formal employment is declining even in the organized sector. Out of a total of 394.9 million workers in the unorganized sector only 1.4 million fall in the formal worker category, i.e. those having access to social security. In the case of the organized sector actually only 33.4 million workers fall in this category. Hence only 7.6 per cent of the workers in India can be called formal; the rest 92.4 per cent fall in the informal category.

Table 2. Estimated Number of Workers by Sector and Type of Worker¹⁶

	Informal/Unorganized workers	Formal/Organized workers	Total
1999-2000			
Informal/ Unorganized Sector	341.3 (99.6)	1.4 (0.4)	342.64 (100.0)
Formal/Organized Sector	20.5 (37.8)	33.7 (62.2)	54.12 (100.0)
Total	361.7 (91.2)	35.0 (8.8)	396.76 (100.0)
2004-05			
Informal/Unorganized Sector	393.5 (99.6)	1.4 (0.4)	394.9 (100.0)
Formal/Organized Sector	29.1 (46.6)	33.4 (53.4)	62.57 (100.0)
Total	422.6 (92.4)	34.9 (7.6)	457.46 (100.0)

Note : Figures in brackets are percentages

Source : NSS 61st Round 2004-05 and NSS 55th Round, 1999-2000, Employment Unemployment Survey Computed

Table 3 reveals a reduction in the number of formal or regular workers in the organized sector. The employment growth of 7.82 million in the organized sector between 1999-2000 and 2004-2005 includes a negative growth of 0.5 million in its formal segment.

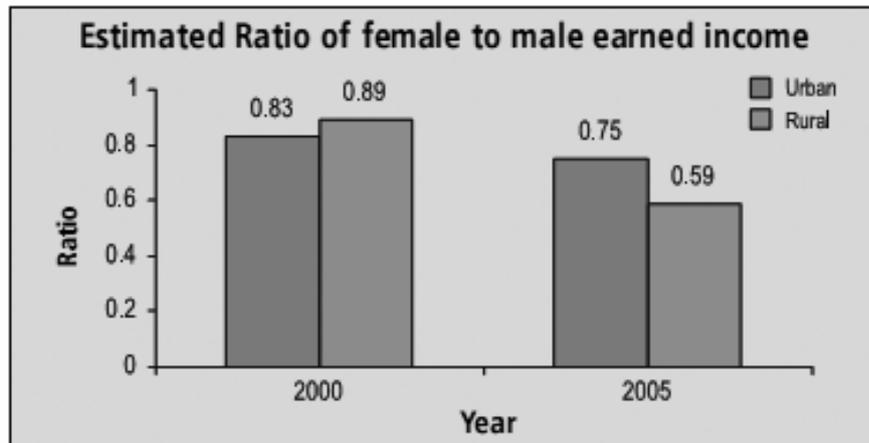
Table 3. Increase and Growth Rate of Employment in the Organized Sector, by Activity Type¹⁷

Activity Status	Informal Workers	Formal Workers	Total
Increase in employment between 1999-2000 & 2004-05 (million)			
Self-Employed	0.23	0.59	0.82
Regular Wage employee	6.01	-1.09	4.92
Casual Labour	2.07	0	2.07
Total	8.31	-0.5	7.82
Growth Rate between 1999-2000 & 2004-05 (%)			
Self-Employed	8.95	6.46	7.01
Regular Wage employee	12.42	-0.75	2.53
Casual Labour	3.99	0	3.99
Total	8.05	-0.32	3.02

In the informal sector, self-employed workers are a huge category. They account for 56.5 per cent of the workforce. They constitute: a) those employed in agricultural occupations such as farmers doing marginal, small and big work in agriculture on their own land and obtaining a major part of their income from own cultivation and not wage labour.¹⁸ Their number is 166 million for 2004-05; b) self-employed in the non-agricultural segment who are own account workers, unpaid family workers and employers (with one to ten workers). They number 92 million.

In addition, growth of informal employment is also accompanied by increasing levels of poverty and vulnerability. According to the latest reports of the NSSO, while the overall poverty ratio of the workers was 19.3 per cent, there was a sharp difference in the poverty ratio among unorganized workers (20.4 per cent) which was almost five times higher than that of the organized workers (4.1 per cent).¹⁹ It is also important to note that in 2004-05 the poor and vulnerable comprised 77 per cent of the population (totalling 836 million people, with an income roughly below \$2 in purchasing power parity terms).²⁰ The NCEUS notes that while the percentage of population below the poverty line has come down, albeit at a slower rate in the 1990s compared to the 1980s, the movement is within the category of broadly poor (41 per cent) or the poor and vulnerable (77 per cent). 'There is no doubt that this 'Shining India' has expanded in the past and is still expanding at a very high rate. But this picture is spoiled by a virtually stagnant consumption expenditure and miserable working and living conditions of the 77 per cent of our population who are poor and vulnerable. This group includes the overwhelming population of the dalits and adivasis, Other Backward Classes and Muslims. This is the other world which can be characterized as the India of the common people, constituting more than three-fourths of the population and consisting of all those whom the growth process has by and large bypassed.'²¹

Figure 1: Ratio of Female to Male Income ²²



This increasing informalization has some gender dimensions. Macro data shows low levels of female workforce participation rates – 28.3 per cent as compared to men 54.7 per cent in 2004-05.²³ This indicates that a large proportion of women in India continue to engage in flexible forms

of work and household work which is unaccounted. NSSO data also indicates a concentration of employment of women in lower paid jobs – 56 per cent self-employed; 25 per cent casual workers, 19 per cent employees.²⁴ There is also an increasing gender gap in wage (See Figure 1).

The following section examines conditions of work in the informal sector in India with an emphasis on women in the sector.

Conditions of Work in Informal Sector

Increases in the labour force in informal employment settings are characterized by low wages and earnings and lack of job security and other benefits.²⁵ Informal workers are systematically denied the status of regular workers by their employers – engaging them as trainees, recruiting through contractors and engaging subcontractors.

Table 4: Comparisons of Characteristics of the Formal and Informal Sector ²⁶

Particulars	Formal sector	Informal sector
Job security	High	Low
Working hours	Fixed/regulated	Not fixed/not regulated
Wages	Regulated/minimum wages	Not regulated/no minimum
Social security including medical Allowance and sick leave	Most provided	None or little
Labour laws including right to Freedom of association and Collective bargaining	Protective	No or little legal protection
Employee-employer's relation With employment control	Issue of appointment letter	Without appointment letter
Safe work environments	Safer and secure working conditions	Vulnerable to dangerous and Hazardous work
Unionization	Homogeneous, highly organized And better networked	Heterogenous, unorganized And scattered

The above table (Table 4) shows how workers in the informal sector are prone to vulnerabilities and insecurities. According to the ILO report—*The Other India at Work* (2005)—job security, good working conditions, remuneration commensurate with the work, adherence to workers' rights, social protection and conducive human resource management -- are missing in the informal sector.

In export-oriented industries such as garments, conditions of work are extremely tough and challenging. The industry has managed to keep working hours extremely flexible. Industry argues that seasonal flexibilities in the industry demand deregulation of working time. A study done by the Centre for Education and Communication (CEC)²⁷ which looks at the working conditions of 14 Tier-I garment manufacturers and exporters in Delhi, NOIDA (New Okhla Industrial Development Area) and Gurgaon reveal that out of a total sample of 159 workers, for a whopping 64.78 per cent of the workers, working hours stretched up to 16 hours or more a day (including overtime). Though both permanent and contract employees work long hours, among those working for more than 16 hours a day, the percentage of contract workers was double that of the permanent workers. Considering that the statutory minimum wage is for a nine-hour working day, only 0.63 per cent of the workers are actually getting the minimum wage. The rest of the workers worked from 10 to 16 hours or more a day to get the minimum wage. Workers are forced to work overtime, which is not compensated at the premium rate.²⁸ Almost half (46.54%) of the workers said they were deprived of social security benefits. Even among the workers who receive social security benefits, it is observed that social security is understood only in terms of Provident Fund (PF) and Employees State Insurance (ESI). Workers getting other social security benefits such as gratuity, crèche, maternity benefits, coverage under accident schemes and retrenchment benefits are negligible in number. In case the workers try to form a union, the management resorts to unfair practices such as declaring an illegal lockout or closure or retrenching workers. Out of the sample, only 3.14 per cent of the workers regularly participated in trade union activities. Conditions are worse in subcontracted units and home-based work.

In the case of the leather industry, a study by CEC²⁹ reveals that in Chennai, taking the total emoluments (including wages, benefits and overtime) into account, almost one fourth of the respondents earn less than Rs.2,000 per month and half of them earn less than Rs.3,000, significantly lower than the minimum wages set in the industry. Combined with the fact that about 50 per cent of the respondents were employed on casual terms, this makes it a highly informal labour market even in the large units that were studied.

A study on the electronics industry reveals that employers in the industry have resorted to several manoeuvres to deter workers from organizing. They have segregated them in terms of nature of employment, wage, annual increment and systems of wage payments.³⁰

Women in Informal Sector

Among informal workers, women represent a more vulnerable group. Women workers in the informal sector constituted 91.38 per cent of the total women workers. Women often enter the labour market as secondary earners in the household but they soon become important contributors to the family income. The choice of women to work is often constrained at two ends—their domestic and child care responsibilities and lack of education and skill and their being often obliged to undertake less productive, less remunerative and more vulnerable forms of work.³¹ Following are some of the recent trends in employment of women:

First, from the 1990s, export-oriented industries such as garments and leather have employed

women in huge numbers. Employers prefer women workers as they are docile, willing to accept inferior work conditions and a lesser wage and do not engage in unionization. Women do not demand permanent contracts. They are easier to hire and fire at will and also—according to external demand conditions—life cycle changes such as marriage or child birth can be used as proximate causes to terminate employment.³² A study shows that in the garment industry in Bangalore the number of females working in the industry declines as age increases. Most of the young women work only for a few years and then discontinue their jobs due to marriage, childbirth etc. The trend was exactly the reverse in the case of male workers whose proportion tended to increase as their age increased.³³

Second, gender discrimination enters at the time of their entry into the labour market itself. In the lowest jobs in the garment manufacturing hierarchy such as helpers and thread cutters women comprise more than half of the workforce.³⁴ In Delhi women were mostly engaged in *moti* work (similar to hand embroidery and embellishments) which were also the jobs with the highest rates of casualization: women were employed and thrown out frequently.³⁵

Third, gender discrimination is manifested in the form of lower wage, poor working conditions and restricted avenues for promotions to supervisory positions. In the textile industry, the jobs of supervisors and machine operators are male-dominated, while the preparatory work of making of fibre and yarn, spinning and winding are dominated by women.³⁶ The ILO 2005 study³⁷ quoted earlier based on a field study in small manufacturing clusters (engaged in production of textiles, garments and carpets) notes that more women than men reported injuries at work. Two-thirds of the women surveyed said the average duration of maternity leave was 90 days, but without remuneration. Women reported harassment through verbal comments and remarks. Another study on the automotive industry reveals that women were made to stand and work in shifts ranging from 8 to 16 hours.³⁸

Fourth, according to the NSSO data, female workers in the informal sector were found to be working more from their own dwellings compared to the male workers. In the rural areas nearly 66 per cent of the female informal sector workers were found to be operating from their own homes and in the case of males this was only 20 per cent. In the urban areas the corresponding proportions were 52 for females and 12 per cent for males.³⁹ This indicates that more women than men are engaged in home-based work. Home-based workers are one of the most vulnerable categories of the workforce. In the absence of a formal employer-employee relationship, job insecurity, income insecurity and absence of social security become more pronounced in this sector.

Fifth, new practices amounting to bonded or slave labour can be seen emerging in export industries. In the textile and garment industry in Coimbatore and Tirupur, a scheme called *Sumangali* has been introduced by the employers in which jobs are given to young, unmarried women, mainly between 16 and 20 years of age, for a period of three years. They are promised Rs 30,000 to Rs 50,000 to be paid in bulk at the end of three years. During the period of employment they are kept as apprentices. They are entitled to only nine days of leave including all festivals.⁴⁰ These women often do 12-hour shifts standing in front of machines. Many of them are unable to cope and leave midway.⁴¹ This needs to be seen in conjunction with the reduction of the permanent workforce in the last few years through retrenchment and voluntary retirement schemes. When demand rises, the mills appoint apprentices.

Thus we see that as the labour market processes are moving towards more insecure and vulnerable forms of labour utilisation, and the condition of women is worsening. Household

duties and reproductive responsibilities predominate even the engagement of women in economic activities is increasing. Employers' preference for female workers emanates from cost cutting strategies and results in the persistence of gender discrimination at the workplace. The ILO has identified women as the largest discriminated group at the workplace.⁴² Discrimination in terms of wage, working conditions and career development persists even in the new employment opportunities generated by exports.

Section 2: Labour Law and Administration

Socially oriented policy directives at the time of India's independence called for legislations to protect industry and workers. The state acted as a custodian of workers' rights. Labour rights were enshrined as part of the constitutional framework and many laws were made to protect workers, though most were applicable only to the organized sector. This policy orientation has changed since India adopted economic reforms. In order to provide an enabling environment to industry, the state has been gradually withdrawing from its role in labour administration. In the following section we examine the existing legislations for workers in India and the ground realities of implementation and how far these legislations serve the informal sector workers.

Core ILO Conventions ratified by India: India is a founding member of the ILO and has ratified the following four of the eight Core Conventions: ILO Forced Labour Convention (No. 29), Abolition of Forced Labour Convention (No.105), Equal Remuneration Convention (No.100), Discrimination (Employment Occupation) Convention (No.111). But it has yet to ratify Freedom of Association and Protection of Right to Organized Convention (No.87); Right to Organize and Collective Bargaining Convention (No.98); Minimum Age Convention (No.138) and Worst forms of Child Labour Convention (No.182).

The Industrial Disputes Act 1947 (IDA): This is a key legislation which seeks to defend the rights of the workers and ensures job security. It enumerates the procedures for conciliation and arbitration in a dispute, closures, lockout, retrenchment and compensation and is applicable to units which have more than 10 permanent workers or 'workmen'. After an amendment in 1982, it was made mandatory for any employer to seek the prior permission of the government before a closure, in case it employs 100 or more workers (IDA Section 25 O).

Trade Union Act: This 1926 legislation sets out procedures for registering trade unions. It gives a legal status to them and facilitates unionization both in the organized and the unorganized sectors. The Act lays down that no legal proceedings in a court can be held against a union, its officer or member for any act done in furtherance of a trade dispute.⁴³

The Contract Labour (Regulation and Abolition) Act, 1970: The Act seeks a progressive abolition of contract workers. It prohibits the engagement of contract workers for core activities of the firm. Contract workers can legally be engaged only in jobs that are outside the core activities (such as loading unloading or gardening). It was enacted following the recommendation of the first National Commission on Labour in 1969 and is applicable to establishments where the work is carried out by 20 or more workers as contract labourers. It specifies that the principal employer and the contractor have to register the establishment and obtain a licence. This act aims to prevent denial of job security in cases where it is feasible and of social security where it is a legal entitlement.⁴⁴

Factories Act 1946: This Act deals with health, safety and conditions of work. It is applicable to all units having 10 or more workers and all units having 20 or more workers which lack power

(such as electrical power). The act limits the hours of work to 48 in a week and up to 60 including overtime.

The Payment of Wages Act 1936: This Act seeks to ensure that wages are disbursed by the employers within a stipulated time frame and without any unauthorized deductions.

The Minimum Wage Act 1948: This Act requires appropriate authorities to fix minimum wage rates. It also requires that the government should review and revise the minimum wage rates at intervals not exceeding 5 years.

Equal remuneration Act 1976: This Act states that employers must not discriminate on the basis of sex in the recruitment of workers for the same or similar work, or in any terms or conditions of employment, such as promotion, training or transfer. However, priority reservation in recruitment is allowed in relation to any 'class or category of persons'.⁴⁵ Employers are also subject to record-keeping requirements. But in practice this is limited to the organized or rather the public sector.

Employees State Insurance Act 1948: The ESI Act provides for compensation in the event of sickness, maternity and employment injury. It covers all industries except those which are seasonal in nature. The Act entitles employees to benefits such as treatment in hospitals maintained by the Employees State Insurance Corporation. It states that the employer is obliged to give a stipulated maternity leave with pay and that employees cannot be dismissed during period of sickness or maternity.

Employees' Provident Funds and Miscellaneous Provisions Act, 1952: The act is applicable to any employee in any kind of work, manual or otherwise, in an establishment and who gets wages directly or indirectly from the employer. All the employees (including casual, part time, daily wage contract etc.) other than those excluded by a wage ceiling are required to be enrolled as members of the fund.⁴⁶

Payment of Bonus Act (1965): This Act says any person who has worked a minimum of 30 days in a financial year and whose salary is Rs 3,500 per month is eligible for bonus. This is at the rate of 8.33 per cent of the wage.

Workmen's Compensation Act, 1923: The Act provides for compensation to workmen or their survivors in cases of industrial accidents and occupational diseases resulting in disablement or death.

Maternity Benefit Act, 1961: The act regulates employment of women before and after child birth and provides for 12 weeks maternity leave, medical bonus and certain other benefits.

Payment of Gratuity Act, 1972: The act provides for payment of gratuity at the rate of 15 days' wages for every completed year of service or part thereof, in excess of seven months. No wage ceiling for coverage under the Act.⁴⁷

Industrial Employment (Standing Order) Act 1956: This regulates the conditions of recruitment, discharge and disciplinary action applicable to factories employing 50 or more workers. It requires employers to classify workers under different categories such as permanent, temporary, probationary, casual, apprentice and substitutes.

Child Labour Prohibition and Regulation Act 1986: This act bans the employment of child labour in certain occupations and regulates it in certain others.

The Ground Realities – Some Recent Trends

For the past decade and a half, based on an assumption that the existing structure of labour laws is rigid, the industry has been pushing for a whole set of reforms. A huge case is built up in favour of these reforms. It is argued that some labour laws have become archaic and counterproductive and need to be changed in order to enhance productivity. Another argument is that a flexible labour regime will promote employment generation—to quote from the speech of the prime minister Dr. Manmohan Singh to the 40th Session of the Indian Labour Conference in 2005, ‘If our manufacturing base has to grow and if employment opportunities have to be created, we must make our labour laws less rigid.’⁴⁸ Two examples⁴⁹ illustrate the position of the industry: 1) With regards to the IDA, industry has been arguing that the threshold limit for closures should be removed. Permission should not be a prerequisite for lay offs (IDA Section 25 M) or for retrenchments (section 25 N). Furthermore in section 2 (q), industry seeks that the term ‘strike’ be redefined to include ‘go slow’, ‘work to rule’ and mass casual leave. Also, 2) in further proposed Amendments to the Factories Act: employers seek an increase in working hours to 60 hours a week and a maximum of 12 in a day. This is also in line with what many export industries are practicing, namely, a two-shift system of 12 hours each.

What is missed in this assumption is the fact that even within this existing ‘rigid’ regime there is a huge amount of flexibility. Any further reduction in these standards may lead to further squeezing of the workers in terms of wage or working conditions.

Some important points that must be noted: First, labour in India is a subject under the purview of both the central government and the states. While there are central legislations in place, the outlook and political orientation of the state government often determines the functioning of the labour machinery. With an overall policy directive to favour industry and foreign investments, several states such as Andhra Pradesh, Maharashtra, Uttar Pradesh, Rajasthan and Gujarat have taken initiatives to make changes in the labour laws and inspection procedures.

Second, the judiciary in India too is playing its complementary role in the globalization process by giving some judgments against the workers. One example is the Supreme Court order in 2003 that said government employees had no fundamental, legal or moral right to go on strike. While there are some instances of pro labour judgements—in a 1997 judgment (*Vishaka v. State of Rajasthan*), the Supreme Court directed the central and state governments to adopt suitable measures including legislation on sexual harassment at the workplace—such instances are few.

Third, the tripartite mechanism is non-functioning. Many statutory and non-statutory tripartite committees including those on implementation of ILO conventions have not been called for years, by the government. One example is the tripartite committee on textiles.

Fourth, figures on strikes and lockouts also suggest that the power of employers vis-a-vis the workers is increasing. During the decade 1981-90, prior to the phase of economic reforms, India lost 402.1 million man days due to industrial conflicts. In the subsequent decade 1991-2001 the number came down to half—210 million—largely as trade unions and workers were hesitant to go on strike due to the fear of job loss or closure of the unit. In fact 60 % of the man days lost in the post reform period was due to lockouts and less than 40 % due to strikes.⁵⁰ In addition, there is a plethora of cases that lie pending in the labour courts. In May 2000 there were 5,333,038

cases pending in the Indian Labour Courts, out of which 28,864 had been pending for over 10 years.⁵¹

The collective bargaining power of the worker is shrinking as trade unions are becoming weak. Even in what was their stronghold, the public sector, their strength has been declining as new recruitments are not taking place and old workers are being offered voluntary retirement schemes and the like. In industries where new employment is being created, retention of their present job has become the primary agenda for workers. Since 1992 to date, more than 100 of the 240 public sector corporations did not have wage revisions. The government announced that companies had to mobilize resources to pay for workers' wages and that the government would no longer subsidize wage increases.⁵²

Fifth, in India informal workers in both the organized and unorganized sectors are denied any protection which would accrue to a worker who fits the legal definition of a 'workman' or has a permanent contract. Employers use various tactics to deny workers the status of a 'workman' such as hiring them as trainees or apprentices and hiring through contractors or subcontracting work.

Subcontractors and labour contractors form the second layer in the production chain are able to ignore all labour laws. Such units are unregistered. In many cases they have licences for jobs such as loading and unloading but they engage in other production activities such as stitching. In case of legal proceedings against them, they can declare bankruptcy and close the unit and thus there is no way the workers can get their claims addressed.

The informal workers usually have no proof of being workers; they are not given appointment letters, sometimes even after being in service for long periods. And even in cases when they are given contract letters, they may not be authentic; they may not carry the seal or logo of the company. The workers are not given wage slips, the provident fund account is not maintained, ESI card is not given, and employers try to show a break in service.

The administration sides with the employers in restraining collective actions of the workers. Trade unions are denied registration. In many cases there are bureaucratic delays and workers' files are kept pending for months at a time.⁵³ The TU Act has been recently amended and the number of people necessary for registration increased from seven to 100 or 10% of the workforce of a unit.⁵⁴

Following are two instances which indicate that where the government has tried to integrate concerns of the unorganised workers in the policy framework, there are huge gaps:

The National Policy for Urban Street Vendors, 2004: One of the main objectives of the policy is to provide facilities for appropriate use of identified space including the creation of hawking zones in the urban development/zoning plans.⁵⁵ The policy argues against forced eviction of hawker/street vendors. It talks about ward committees in large cities and town committees in smaller towns with representatives of street vendors to deal with issues of vendors. It recommends a system of registration of street vendors and non-discretionary regulation of access to public spaces in accordance with the planning standards and nature of trade/service. However, while the policy tries to promote a supportive environment for earning livelihoods to the street vendors, the social security, which is one of the most critical needs of the unorganized sector, remains a gap left by this policy. It is suggested that social security schemes should be financed by contributions

from street vendors as they are self-employed. In other sectors, employers contribute to the schemes along with their workers.⁵⁶

Unorganised Sector Workers Social Security Bill 2007: The government of India has floated 14 legislations in eight years⁵⁷ for a comprehensive legislation on social security for Unorganised Workers. In 2007 the Government of India put forth a revised version of the Social Security Bill. It addresses some of the social security provisions, such as old age, pension, medical needs, etc, but it offers social security in the form of welfare schemes. The bill lacks a comprehensive character. Moreover, clarity on crucial issues such as budgetary provisions, coverage and a time frame for implementation is missing.

Section 3: Workers' Response, Initiatives and Struggles

Trade unions in India have traditionally concentrated on organizing workers within the fold of a formal employer-employee relationship. Collective bargaining and negotiations through trade unions have defended the rights of the workers in terms of their wage, working condition, job security and social protection. But clearly the focus has been on organizing where the status of a worker is clearly defined as a wage earner, the central point of organizing being the workplace. Women workers have been neglected and even in industries where women dominate in employment such as garments and textiles, the unions have been dominated by men.

The situation of informal workers is very different from formal workers: first, their nature of employment is different from regular workers—they could be temporary, casual, contract or part time. They shift their workplace frequently. They could be working under layers of subcontractors and split in different units and that creates the problem of tracing the accountability. Second, the concerns of these workers are different and are related more to income security, job security and protection of livelihoods rather than issues like increments and bonus. Third, in the organized sector there is often a clear divide between the concerns of the regular workers and the casual workers as the casual and contract workers are hired to replace the regular ones. Fourth, for a huge portion of the informal sector workers, a formal employer-employee relationship is absent and they are often self-employed, involved in home-based work.

Initiatives to organize informal sector workers and women workers have come from both the central trade unions as well as the new unions of the unorganized sector. At the policy level the trade unions in India have played a key role in protesting against the proposed labour reforms, against judicial decisions and against employers' action at the central level, at the state level and through their federations. Trade unions often form joint action committees and address common issues on contractualization and informalization. Trade Unions have also organized contract workers along with regular workers, including workers in Special Economic Zones (SEZs). The Centre of Indian Trade Unions organized workers in the Chennai Export Promotion Zone in 1995. They took up the issues of minimum wage, social security (ESI) and child labour among others and were successful in negotiating with the government and management.⁵⁸ The All India Trade Union Congress is organising workers in garment units in the NOIDA SEZ. Some trade unions have women wings, which function by and large according to their own priorities and programmes. But participation of women in the central leadership of the movement remains restricted.

The central trade unions have organized *Anganwadi* workers. These are an all-women workforce working under the Integrated Child Development Scheme of the Government of India engaged in teaching pre-school children, maintaining records of children and taking care

of their nutritional needs. They received less than the minimum wage and were denied the status of a government employee by being called volunteers or part-time workers. They demand the government for regularization, increase in remunerations and introduction of retirement benefits. The struggle of *anganwadi* workers spread across several states of India and was taken up with much enthusiasm by trade unions. Several heroic struggles such as a 10-day hunger strike in July 2006 in which around 20,000 *anganwadi* employees from 22 states participated⁵⁹ and the action of 10,000 *anganwadi* workers in May 2007 courting arrests⁶⁰ have taken place, putting critical pressure on the government.

Another key initiative is that of SEWA, which links the products of its self-employed members to the market. It presents a model of providing community social protection, job security, access to credit and marketing support. Micro credit schemes are extended through the SEWA Bank. SEWA represents the combination of strategies of a cooperative and a trade union. D. Saini in a case study of SEWA⁶¹ identifies the following elements: 1) organizing for empowerment, 2) credits and savings through the SEWA Bank, 3) capacity – building of members, 4) facilitating formation of cooperatives by SEWA members, 5) women's leadership, 6) healthcare, 7) childcare, 8) work security assurance, 9) food security and 10) education and knowledge acquisition. As a trade union, SEWA offers its members a combination of services including organization into trade groups, cooperatives or producer groups, collective bargaining and opportunities for members to develop local leadership abilities. In urban areas SEWA's early street vendor campaigns were based on organization and mobilization, and focused on negotiations with the local state and suppliers.⁶²

Another case is of the garment industry in Bangalore. A study⁶³ on the Bangalore garment industry notes that the sector had failed to attract the mainstream trade unions because of the predominantly female and semi-rural nature of the workforce as well as the decentralized nature of the industry which was spread out in small units rather than concentrated in large ones. NGOs in Bangalore are building networks and organizing women using neighbourhoods and creating Self Help Groups, or SHGs. A women trade union called Mahila Garment Workers has been formed. It acts as a pre-union body to address issues related to civic life. Workplace related issues are dealt with by the Garment and Textile Workers' Union (GATWU). GATWU represents a strategy different from the traditional unions – struggles at the workplace including dharnas and strikes are not a part of its active strategy. It tries to mobilize international opinion and transnational agreements to bear on local manufacturers.⁶⁴ GATWU is affiliated to the New Trade Union Initiative (NTUI).

The NTUI is a mainstream national union with no political affiliations. NTUI believes that in the current context of globalization it is necessary to go beyond national boundaries, and seek to deepen international solidarity and alliance of labour movements.⁶⁵ In its founding conference in 2006 it was emphasized that unions must address broad-based social issues such as caste and gender that have a direct bearing on labour issues. At the industrial level, the major focus of the initiative is to build a single industrial federation to facilitate an industry-wide collective bargaining strategy.⁶⁶ The initiative's main concern is to build a national federation of all independent unions through a participatory process of the unions themselves.⁶⁷ The NTUI along with GATWU concentrates on wage as a strategy for organizing through building a transnational solidarity among garment workers.

To sum up, several efforts are being made by trade unions to organize informal sector workers and women workers. Central trade unions and their women's wings are taking up these issues. Labour activists and new initiatives are taking up issues left unaddressed by the

traditional unions and using new strategies including distancing themselves from political parties and forming international alliances. But it is crucial for these initiatives to sustain themselves while operating within the larger context of the declining role of the state and the dynamics of globalized capital.

Conclusion

India has a huge informal economy as more than 92 per cent of its population is engaged in informal work. With economic growth there is increasing informalization of employment and a reduction in formal or regular workers even in the organized sector. Workers in the informal sector are prone to vulnerabilities. They lack job security, wage security, social security, labour rights including right to freedom of association and collective bargaining and a safe work environment. In industries which operate through subcontracting chains, the condition of the workers worsens as we move down the chain.

Women workers in the informal sector constitute 91.38 per cent of the total women workers. They have to combine both productive and reproductive roles and this makes them more vulnerable. There is a sexual division of labour at the workplace manifested in the nature of work performed and remuneration for it. Women are largely confined to low paid jobs involving less skill than men.

While there are national laws to protect the rights of the workers, the state is gradually withdrawing from its role in labour administration. The informal sector workers are not protected through the existing legislations.

Trade unions and labour support organisations are making an effort to organize workers in the informal sector including experimenting with new strategies. The case of *anganwadi* workers reflects the importance of the approach to regulate any form of employment. SEWA is an example of how cooperatives and unionization can be integrated. As part of their strategy GATWU and NTUI are experimenting new ways of organizing garment workers. In a situation where capital is located across national boundaries and where the state is playing a regressive role in defending workers' rights, there can be no one method for organizing workers. Any organizing effort should be sustained and practical and leading to social protection and job and income security.

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