

Worker's Rights and Practices in the Contemporary Scenario

AN OVERVIEW

Edited by
Helen R. Sekar **Dhanya MB**



V.V. GIRI NATIONAL LABOUR INSTITUTE

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PREFACE

This book offers a careful summary of the rights and practices of work in the Indian labour market. In specific, it deals with rights deficiency of workers in different sectors especially on agriculture workers, casual workers, industrial workers as well as bonded and child labour, health and safety at workplace, maternity protection at work and politics of rights deficiencies in the informal economy. The present edited book contains eight papers.

'A study of Wages of Casual Workers in India' by Vandita Sahay, traces the wages of casual workers for 15 major states of India. It explores the wage disparity between male and female workers, rural and urban workers and sectoral disparities among workers. The focus of the paper is on the average daily wages paid to casual workers. The study uses data from the National Sample Survey reports of 2004-05 and 2009-10 on Employment and Unemployment situation in India. State-wise analysis of average daily wages paid to casual workers is done for 15 major states of India. The paper finds that Kerala is the state with the highest average daily wages per person. There is wage gender disparity between male and female workers and urban wages are higher than rural wages. This paper concludes as casual workers are paid the lowest wages in the primary sector and the highest amount is paid in the secondary sector.

'Plights of agriculture labour' by Guru Prakash Singh explains the Employment in agriculture sector had been consequently declining since independence. However, the demographic and social conditions have been slightly improved; their economic, working and living conditions are pathetic more than that of their expectations. The daily wages continuous and almost uninterrupted increase since independence. Even now their level of income is not only very low but also too less as compared to minimum wage rate. This wages rate is highly insufficient to enable them to leading their decent life. Working and living condition of labourer is totally unfair and surroundings are entirely unhygienic. Despite that there

is a disparity between the gender in the term of wage payment and social discrimination between the male and female labourer and this wage gap and social upheavals between the genders has been still remained. This paper mentions itself mainly three issues with reference to agricultural labour: first, the employment profile of agricultural laborer and second, socio-economic and working-living condition of agriculture labour. Last, the gender disparity and discrimination in agriculture activity.

'Regulatory Frameworks on Health and Safety at Workplace: An Overview' by Rinju Rasaily is devoted to a discussion on regulatory framework on health and safety at workplace. It also tried to raise questions on health and safety standards at workplace for workers in the informal economy. In India, regulations on health and safety at workplace usually come under the purview of the organised sector. Informal employment environments under agriculture, manufacturing including home-based and service sectors are yet to receive tangible attention to this issue given the highly informalised nature of employment and economic relations. By examining the regulatory frameworks in the organised manufacturing sector along with an understanding of the various international instruments and India's position therein, this paper seeks to raise questions of health and safety standards at workplace for workers in the informal economy and stresses on the need for a critical review of the existing frameworks, revamping the compliance and regulatory system keeping in mind the flexible nature of employment and labour relations.

'Fundamental Rights of Workers at Stake: Dissecting the Maruti Workers' Struggles' by Babu P. Remesh is an attempt to examine the overall scenario of growing labour unrest in National Capital Region (NCR) and rest of India. This paper also connected the specific violations of labour rights to overall concern of core ILO conventions. The remaining part of the paper is schemed as follows: first part contextualizes the paper by situating the labour struggle in Maruti Suzuki in the overall scenario of growing labour unrest in NCR and the rest of India. Second part focuses on the recent phases of

labour uprising in Maruti Suzuki. Third part attempts to discuss the specific violations of labour rights in this case and links it to the overall concerns of FPRW, as envisaged by the core ILO conventions. Finally, summarises the paper.

'Maternity Protection at Work' by Dr. Shashi Bala narrates women's ties with pregnancy and child rearing and the failure of employers and policymakers to deal consistently with this issue exacerbate the difficulties women face in the economy. Women continue to have the primary responsibility for housework and childcare, even when they have extremely demanding jobs. Few employers provide help with childcare, flexible work hours to accommodate children's needs, or paid maternity leaves. Women in blue-collar work as well as clerical jobs face rigid time schedules, low pay, and virtually no recognition or help from employers for their family responsibilities (Ferree, 1987). Professional women, although better paid, also face these problems. Although women have taken enormous strides toward gender equity at work, as long as traditional gender ideologies and assumptions (i.e., sex-typed stereotypes, roles, and status beliefs) linger (Rudman, 2008), they will continue to face many problems as long as the root cause is not addressed. Over all, this paper looks into various provisions existing for maternity protection at work and it also draws an analysis of various provisions existing for maternity protection at work in national legislations and international conventions.

'Bonded labour in the tribal areas of Tamil nadu: An economic analysis' by S.Thirunavukkarasu examines the incidence of bonded labour among tribal communities in Tamil Nadu. Bonded labour is an age old system that persists in India which occurs because of the poor economic condition of the poverty stricken family. They are unwritten slaves to their employer for a very low wage or lump sum payment and they have to work for longer hours without holidays. The concentration of bonded labour is much more among the economically weaker sections in general and tribals in particular. The root cause for this begins from borrowing a paltry sum for their immediate family needs from a known or unknown employer

either directly or through a job broker and land up in bondage. It is still persisting in these areas due to weak enforcement of labour laws and also the method followed in eradicating bonded labor is indistinct in the State. Author argues to solve this ordeal providing alternative to the bonded laborers by way of micro credit and off season employment is indispensable. Prompt follow up action should be contemplated to avert any new borrowing by the released bonded labourers.

'Child Labour in the Informal Economy of Tamil Nadu: An Expost Analysis' by R.Rameshkumar traced the incidence of child labour in Thanjavur district, Tamil Nadu. The children are forced to work because of debt bondage of the poverty stricken family which results in child labour. The key elements behind bonded child labour are slavery and debt bondage. Child labour is slavery. It combines feudal values, traditions and practices with contemporary exploitative labour relations. The prevalence of child labour is noticed in rice mills, brick kiln, agriculture, workshop etc. The success rate in eradicating child labour is tremendous in Tamil Nadu due to proper and proactive Government policies on this serious ordeal. The right to compulsory and free education Act is a landmark in eliminating child labour, as the parents are involved in educating their children. Keeping all these apart, providing education with vocational skills to these children could help them to earn livelihood later in their lives and child labour can be eradicated.

'Emasculation of Politics – Rights Deficits in the Informal Economy' by Mr. Sumeet Thakur is an attempt to analyse the politics of rights deficits in the informal economy. This paper argues that the informal/weaker institutions most of the times fail to get their share of representation and participation within the process of legitimized politics which simultaneously bestow the legitimacy of coercion on that process against any other alternative version of politics. Lack of social, cultural contacts with the area surrounding their workplace and the fact that local population is often hostile and ready to exploit them puts them on the back foot in the negotiation process. At times management and local notables work in tandem to keep this migrant

work force under a process of subjugation by using goons and other pressure tactics like use of police and local administration. All these give birth to slavery like situation which sometimes culminates in to industrial violence and bloodletting. This study also argues for the need for the institutionalization of the negotiation at the work place.

FOREWORD

Declaration on Fundamental Principles and Rights at Work (FPRW) by the International Labour Organization (ILO) in 1998 stated eight Conventions as fundamental and core Conventions for labour which includes Freedom of Association, Convention No. 87, Right to Organize and the Right to Collective Bargaining Convention No. 98, Forced Labour Convention No. 29, the Elimination of all forms of Forced labour Convention No. 105, the Minimum Age Convention No.138, Worst Forms of Child Labour Convention No.182, Equal Remuneration Convention No. 100 and Discrimination (employment and occupation) Convention No.111. This Declaration on FPRW by the ILO is an important step for the developing countries particularly for those where the informal sector forms a substantial proportion of the economy. All policies and programs serving the objectives of the declaration should be universally respected, promoted, realized, accepted and enforced at the national level. Systematic efforts are needed to ensure that the rights of all workers are adequately protected by the national legislation with special focus on the accessibility of rights at work to different categories of workers of informal economy including the migrant workers, rural and agricultural workers, domestic workers and workers in export processing sectors.

In India the informal sector workforce constitutes over 93 percent of the total workforce. Of this 40 percent is self-employed who cannot be considered as entrepreneurs. Agricultural labourers form 46 per cent who are neither organized nor come under the purview of labour legislation and continue to work for wages much less than the prescribed minimum wages with no minimum hours of work and no maternity leave for women. Workers belonging to the social sections of population suffer social exclusion. The tribals, indigenous people and ethnic minorities are more vulnerable to violations of fundamental principles and rights at work compared to other workers and therefore, concerted action is required to ensure their rights. The Conventions where there is

scope for ratification by India are to be identified by seeking the opinions of the stakeholders on the prospects of ratifying these conventions.

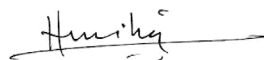
It was in this context the workshop on “Fundamental Principles and Rights at Work and Informal Economy in India: Trends and Challenges” organized by the V.V. Giri National Labour Institute on 20th November 2012. Papers presented by different scholars were based on empirical research and quantitative surveys. The papers presented as well as the presence of representatives of various Government Departments, Trade Unions, Employers’ Associations enriched the deliberations and added value to the outcome of the workshop.

The workshop emphasized on achieving universal rights of labour, creation of employment opportunities for both male and female, decent work, and also on existing social protection which are needed in the era of globalization where there is increasing informalization of the work. The workshop recognized the need to address the major problems such as unequal distribution of wealth, non-inclusiveness of economy, adult and child labour trapped in bondage, gender inequality, issues of contract labour etc., which not only hamper the growth of economy but also come in the way of ensuring the workers their Fundamental Rights at Work. The workshop also focused on the importance of exploring the unorganized sector in India first and then to look at the existing schemes and the gaps thereof was recognized in the light of the fact that though the schemes like MGNREGA and Janani Suraksha Yojna cover informal sector workers, the coverage is not comprehensive and it differs from State to State. The workshop addressed these and various other issues, challenges, and concerns related to informal economy and labour and also discussed the importance of Fundamental Principles and Rights at Work.

The papers presented and the subsequent discussions at this workshop throw open an interesting perspective on informal economy which has important policy implications. They also give

an opportunity to the readers to understand the steps taken by India since 1998 towards universal declaration of FPRW.

Worker's Rights and Practices in the Contemporary Scenario: An Overview is the edited volume of select papers presented at this workshop. This volume contains papers which reflect the view points of individuals in their personal capacity as specialists on the subject. I congratulate Dr. Helen R. Sekar and Dr. Dhanya M.B., faculty members of the V.V. Giri National Labour Institute, for their painstaking efforts in coordinating the Workshop and for bringing out this edited volume. I thank Shri A.C. Pandey, Joint Secretary, MoLE, for setting the tone of the seminar, Shri V.P. Yajurvedi, former Director General, VVG NLI, for his leadership and guidance in organizing this important workshop, Shri S.K. Dev Verman, Capacity Development Advisor, UNDP, Afghanistan, for his address, Ms. Tine Staermose Director, ILO, for her keynote address and Dr. Ashok Sahu, Secretary General, National Human Rights Commission, for inaugurating the Workshop. I also place my appreciation to all the paper presenters, and other participants for their effective participation in the deliberations of the workshop.



P.P. Mitra

Director General, VVG NLI

A Study of Wages of Casual Workers in India

Vandita Sahay*

I. Introduction

Employment generation is seen as a vital agent, in the process of development, to productively employ the growing labour force. Employment and wages are two growth engines that provide livelihood to millions of workers in India. The level of wages provides an indicator of the standard of living of the working population. Wages, especially in a developing country, are determined by the demand and supply of labour.

With the reforms in the 1990's, employment generation was given a huge boost with many government sponsored schemes, to provide financial and technical assistance. But during the last one and a half decades, growth in employment and wages in India has been disappointing. The overall economic growth has not been able to translate itself into an increment in the wages and earnings of the workforce. The rate of growth of employment has also slowed down. Also wages differ across different sectors and across genders - between males and females - and in urban and rural areas as well. The gender differential in employment and wages is quite stark. Although female employment is quite high across all sectors in both rural and urban areas but their wages are often less than male workers.

Casual workers constitute 30% of the workforce and given the strike that took place in June 2012 at Maruti Suzuki plant in Manesar it is all the more important to provide job security to casual workers and to give them the wages they deserve (Padmanabhan, 2011). The paper attempts to study the structure and trends of average daily wages per person for 15 states, urban casual workers in agriculture

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and non-agriculture activities and daily wages per person for casual workers in the three sectors. 15 major states are taken on the basis of their area. Many people from North Eastern states migrate to work in these big states. It is based on data from the National Sample Survey reports for the years 2004-05 and 2009-10. The paper attempts to explore if there is a wage disparity between male and female workers and if the employment rate for women casual workers increased over the years. Which are the states with the highest average daily wages? The paper is divided into four sections. Section II presents a brief review of the existing literature. Section III tries to analyse the data and interpret the results and section IV talks about the findings, conclusion and recommendations.

II. Literature Review

According to the NSS classification, employed persons are categorised into three broad groups according to their status of employment. These broad groups are: (i) self-employed, (ii) regular employees and (iii) casual labour. According to NSS definition a casual wage labour is a person who was casually engaged in others' farm or non - farm enterprises (both household and non - household) and, in return, received wages according to the terms of the daily or periodic work contract.

Casual workers tend to be the least protected and paid lower wages. Casual workers are employees who do not enjoy the same benefits and security as tenured employees. All daily wage employees and some categories of contract employees are casual labourers. Casual workers constituted about one fifth of the workers in the unorganised non-agricultural sector. In 2004-05, 53% of the casual workers were in the construction sector, followed by 19% in the manufacturing sector (GOI, 2007). According a paper published in Live Mint and The Wall Street Journal, between 2004-05 and 2009-10, number of casual workers grew by 21.9 million, while growth in the number of regular workers nearly halved (compared with the period between 1999-2000 and 2004-05) to 5.8 million; the number of the self-employed, dominated by agricultural workers, declined by

25.1 million. Analysts say that this is being caused by the country's ancient labour laws and by the partly exclusive nature of economic growth (Padmanabhan, 2011). According to the author, the NSS report shows a substantial shift between 1999-2000 and 2009-10 in the structure of the labour force which can be broadly divided into self-employed, regular, and casual workers. Part of the reason could be that 2009-10 was a drought year, possibly forcing some among the self-employed (farmers are part of this category) into casual labour.

Unemployment is among the highest in casual workers compared to the rest other categories of workers. Among them, in rural areas, as high as 66 per cent (among males) and 76 per cent (among females) were engaged as casual labour, while in urban areas, about 31 and 36 per cent males and females respectively were casual labour (NSS report 2004-05)

"Till last year, we thought India's growth could do no wrong. We took it for granted... Now it comes to a point that none of these can be taken for granted. Growth is slow, inflation is structural and structure of employment is not enough to cater to the growing labour force." said Pratap Bhanu Mehta, president, Centre for Policy Research, a Delhi-based think tank.

Manish Sabharwal, chief executive officer of leading staffing company Team Lease Services Pvt. Ltd, expressed the view that casual workers constitute 30% of the workforce and added that the main issue is that 92% of India's workforce is in the unorganized sector.

Agriculture, which used to have the maximum number of labourers employed under it at one point of time, is now unable to productively absorb the growing rural labour force. This low employment elasticity of the agricultural sector which had always been and is still is the mainstay of India's vast population has compounded the problem. On the other hand, there has been growth of non-agricultural activities in rural areas in construction, trade,

transportation and services which have offered better earnings than agriculture. Most of these employment opportunities have been of temporary and casual nature. But they have provided either full-time or supplementary employment adding to the incomes of the rural households (Papola, 2006).

There has been a structural shift in the rural areas which has resulted in increasing number of casual workers in the total employment. This could be due to the fact that marginal landholders and the landless are not finding gainful work in agriculture and take up whatever work they find in the non-agricultural activities, irrespective of earnings from them. According to NSS reports many are opting for non-farm work due to more regular employment and better earnings. This has been possible partly on account of various state sponsored employment programmes, and partly because of an increase in the demand for labour in expanding construction, trade and service activities in rural areas (Papola, 2006).

But despite the structural shifts taking place in rural areas, the primary sector still provides employment to bulk of the women workforce in India. In spite of some gradual decline in the percentage of women workers, their share compared to men in agriculture remains significant and has in fact risen due to the shift of men away from agriculture (Rustagi, 2010). According to employment data of NSS reports, women workers, in rural areas, have also shifted into manufacturing; construction; trade, hotels and restaurants; and community, social and personal services, while urban women gained employment in manufacturing and finance, insurance and real estate sectors. The eleventh Five Year Plan document for the first time in the history of Indian planning recognizes women not only as equal citizens but as 'agents of sustained socio-economic growth and change' (GoI, 2008, p. 5).

But even with the recognition of women workers as agents of sustained economic growth, they not only receive lower wages than their male counterparts, the difference is also substantial. However, according to some studies, the overall gender differential

in wages is declining over the years, implying a higher wage growth for female workers. Non-farm wages in rural areas is higher than agricultural wages and the gender difference has widened during the post-liberalization period. Wage growth in the informal non-farm sector has decelerated and casual workers, particularly in the agricultural sector, have witnessed the slowest increase in wages (Karan & Selvaraj, 2008).

In India, the labour market is divided in terms of formal-informal, employment status of workers, occupation types, sectors of employment, states and regions, etc. Accordingly, wages and earnings of workers differ across different segments of the labour market (Karan & Selvaraj, 2008). A recent study on the non-farm sector concludes that between 18-25 per cent of rural employment occurred in the non-farm sector at the beginning of the 1990s (Fisher et al 1997). Other important sectors in terms of employment shares were found to include retail trade, personal services, construction, wood products and furniture, land transport, and textiles. While manufacturing activities are often given importance in the non-farm sector, the study shows that services are easily as important.

Traditionally, rural households in developing countries are seen as being exclusively engaged in agriculture. There is evidence, however, that rural households can have highly varied (and often multiple) sources of incomes by working in a wide range of non- agricultural activities, such as wage and self-employment in commerce, manufacturing and services, alongside the traditional rural activities of farming and agricultural labour. Such non-farm incomes can contribute significantly to total incomes of farm households in developing countries (Lanjouw & Shariff, 2004).

Overall, wage rates in the rural non-farm sector tend to be higher than the agricultural wage, indicating that non-farm activities are emerging as a source of income to casual workers who have either lost their land holdings or are looking for an additional source of income in rural India. It has been noticed that there has been an increase in the share of non-agricultural employment in the rural

workforce during the 1980s, with the trend more clearly evident among males than among female workers (Lanjouw & Shariff, 2004) but in the past few years more number of females are working in both farm and non-farm activities. In addition, the evidence appears to point to a more rapid expansion of tertiary sector employment rather than of secondary sector employment, and that the bulk of employment growth is of a casual rather than permanent nature (Lanjouw & Shariff, 2004).

Sachs et al (1999) attributed the low share of employment to the labour market rigidity. The degree of flexibility depends on many aspects of the labour market such as employment contracts, wages, working hours and work organisation (Sivananthiran, 2004). Job and employment security regulations create a network of restrictions that reduce the ability of the employer to adjust to the changing market conditions (Anant et al, 1999). To cope with such rigidities firms often find alternative route involving various forms of informalities in labour recruitment in the form of casual workers, temporary worker, agency worker, part-time worker and the like. This leads to less and less directly employed workers and increasing number of employed through contracts or agencies (Bhandari & Heshmati, 2006).

India's manufacturing sector is shedding permanent jobs and hiring casual hands to increase profits. This has divided the labour movement and created tensions. The Manesar violence is an example of this change and a cause for a worsening problem. According to an article in Hindu published last year there were an estimated 2,000 workers inside the Maruti Suzuki India plant at Manesar. This included about 700 regular workers. Workers had gone on a strike demanding that the casual workers of the Manesar plant, who have been kept out by the management after signing a deal to end a 33-day long standoff with permanent workers, be taken back. "It is unfair not to take back the casual workers while the permanent workers have been allowed to resume duties," Suzuki Motorcycle India Employees Union president Anil Kumar said.

According to an article “Down and out on India’s shop floor” in Hindu 2012, wage payments, as a percentage of the net value created by firms, have dropped from 30.3 per cent to 11.6 per cent over 30 years, as profits have increased from 23.4 per cent of the net value to 56.2 percent, suggesting that firms have become more efficient, but wages have not risen in proportion with profits. The rise of cheap casual labour without any health benefits, provident funds and pensions, could explain this trend.

Leading companies prefer casual workers who can be paid less, given no job security and earn more profits from hiring these workers at low cost. It is with this in mind that the paper tries to see the pattern of average daily wages paid to these workers in 15 states and in the three sectors, namely, primary, secondary and tertiary.

Objective

The objective of the paper is to study the average daily wages and number of casual workers in farm and non-farm sector and to see the trend of daily wages for 15 major states of India. Since the interests of casual workers are not taken care of and their wages are abysmally low the paper tries to analyse their average daily wages per person for the three sectors i.e. primary, secondary and tertiary sectors.

Methodology and data

The paper uses data on casual labourers as they are paid daily wages according to the type of work they are engaged in. Casual workers are taken for study because they constitute 30% of the workforce and also due to data availability. State-wise analysis for 15 states of India for average daily wages is done. The data is taken according to NIC 1998 and 2004 industry divisions for activity status number 51 where casual wage labour works in other types of works, which include primary, secondary and tertiary industries. The details of the industry divisions are given in the annexure. The data for wages and number of casual workers in the three sectors is taken

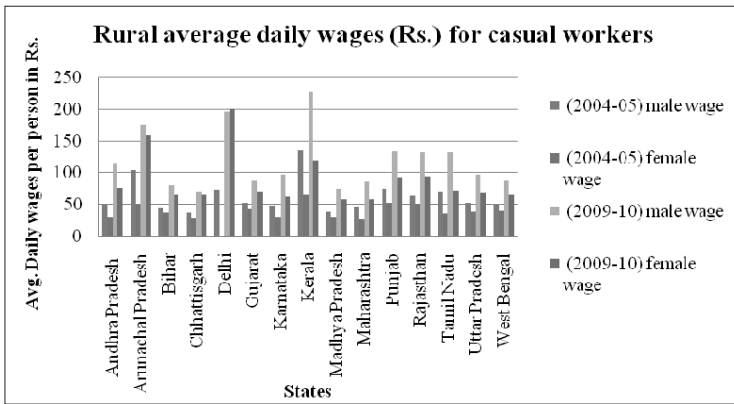
separately. State-wise gender analysis for average daily wages in urban and rural areas has been done followed by the number of casual workers working in urban areas and finally the average daily wages for the three sectors.

III. Data Analysis and Interpretation

1. State-wise analysis of average daily wages per person

15 major states of India were taken up to do a comparative study of the average daily wages paid to casual workers for the years 2004-05 and 2009-10. The data is for both rural and urban areas and gender-wise as well.

Graph 1



Source: NSS 61st and 66th round 04-05, 09-10.

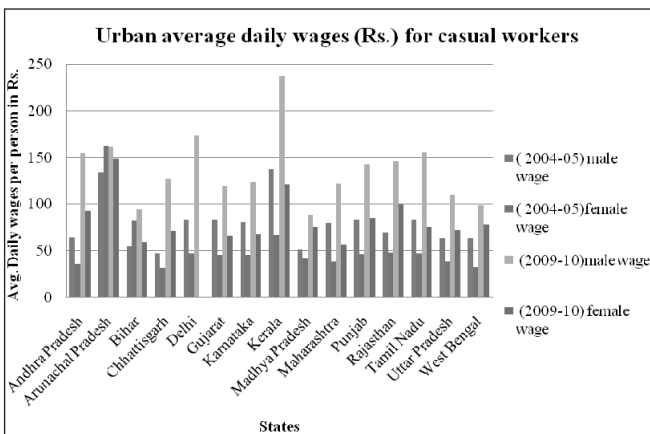
Graph 1 shows the state-wise absolute values of average daily wages paid per person to rural casual workers. In 2004-05, Kerala was the state with the highest amount of Rs. 135 paid to casual male workers followed by Arunachal Pradesh with Rs. 104 per person per day. Lowest male wages were for the states Chhattisgarh and Madhya Pradesh at Rs. 37 per person and Rs.38 per person respectively. Similarly, for females, Kerala was the state with the highest amount of wage at Rs. 66 per person, followed by Punjab and Rajasthan at Rs. 53 per person and Rs. 52 per person respectively. Lowest

female wages were in Maharashtra at Rs. 28 per person. The female wages for Delhi were not mentioned in the NSS report. In 2009-10, Kerala again was the state with the highest amount of male average daily wages of Rs. 227 per person, followed by Delhi at Rs. 195 per person. The lowest male average daily wages were in Chhattisgarh, followed by Madhya Pradesh at Rs. 70 per person and Rs 74 per person respectively. Similarly, for females, the state with highest average daily wages was Delhi with Rs 200 per person followed by Arunachal Pradesh at Rs. 159 per person. The lowest female average daily wages were in Madhya Pradesh and Maharashtra.

There was a difference in the average daily wages paid per person between male and female casual workers in all states. The wages were higher in 2009-10 compared to 2004-05 for both genders and in all 15 states. There was around 80% rise in male wages for states like Bihar and Uttar Pradesh from 2004-05 to 2009-10. Female wages also doubled in states like Rajasthan and Chhattisgarh between the same period.

It can be seen that although there is a gender gap between the daily wages paid to casual workers, but the wage inequality gap has reduced for most of the states from 2004-05 to 2009-10.

Graph 2



Source: NSS 61st and 66th round 04-05, 09-10.

Graph2 shows the state-wise absolute values of average daily wages paid per person to urban casual workers. In 2004-05, Kerala was the state with the highest amount of Rs. 137 paid to casual male workers followed by Arunachal Pradesh with Rs. 134 per person per day. Lowest male wages were for the states Chhattisgarh and Madhya Pradesh at Rs. 48 per person and Rs.51 per person respectively. Similarly, for females, Arunachal Pradesh was the state with the highest amount of wage at Rs. 162 per person, followed by Bihar and Kerala at Rs. 81 per person and Rs. 67 per person respectively. Lowest female wages were in Chhattisgarh and West Bengal at Rs. 32 per person and Rs. 33 per person respectively. In 2009-10, Kerala again was the state with the highest amount of male average daily wages of Rs. 237 per person, followed by Delhi at Rs. 173 per person. The lowest male average daily wages were in Madhya Pradesh, followed Bihar by at Rs. 89 per person and Rs 94 per person respectively. Similarly, for females, the state with highest average daily wages was Arunachal Pradesh with Rs 148 per person followed by Rajasthan at Rs. 100 per person. The lowest female average daily wages were in Maharashtra and Bihar.

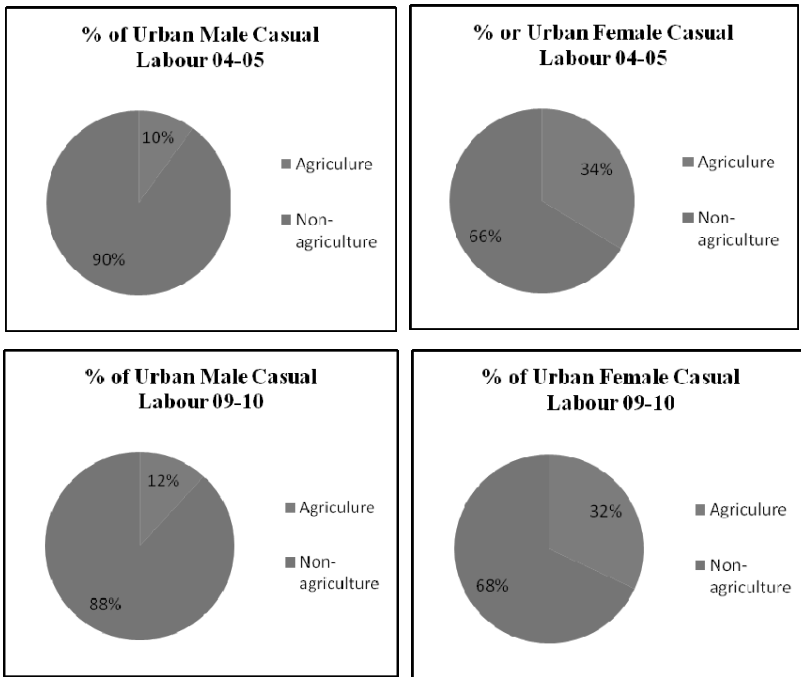
In absolute terms, urban wages were higher than rural wages for both male and female casual workers. But in 2009-10 there was not much difference in the urban male wages between the higher and lower wage values. There was a huge jump between rural and urban female wages for Arunachal Pradesh in 2004–05. They were Rs.50 per person in rural areas and in urban they were Rs. 462, which is a huge increase. Also states like Gujarat and Maharashtra, which are considered to be the most industrialised states in the country, had their average daily wages per person below the national average. Kerala is the state with the highest average daily wages. This could be due to higher literacy rate and less labour available and also the fact that farming is not a major activity in this state and agriculture comprises of mostly cash crops, where the paying capacity is higher.

The wages were for female workers were higher in urban areas with a very slight difference from rural areas in the same year. There has

been a gender difference in the wages between in 2004-05 which has reduced in 2009-10 in most of the states.

2. Employment in agriculture and non-agriculture activity

The non-agriculture sector is one of the major ways of diversification of the rural economies. It has gained importance in recent years due to inability of the agriculture sector to absorb the unemployed rural people. Non-agriculture sector constitutes of a whole range of activities from collecting tree twigs which is used as a tooth brush to teaching in schools. However, most of them are traditional and low technology based. It has been noticed by many studies that there has been a structural shift in labour market from agriculture to non-agriculture activities. This section will see the percentage of urban casual workers working in either of these activities. The data for rural casual workers is not taken as it was not given in the same format in the NSS report.



Source: NSS 61st and 66th round 04-05, 09-10. Computed.

The pie charts depict the share of casual workers in agriculture (farm) and non-agriculture (non-farm) activities for urban India. The data for rural India on the number of casual workers was not available in the NSS reports. In 2004-05 percentage of urban males working in non-agricultural activities was 90%. Compared to male casual workers more number of urban females were engaged in agricultural activities. But the share of non-agricultural activities was higher for both male and female casual workers. In 2009-10, male casual workers share in agriculture increased by only 2% with 88% still being engaged in non-farm activities. Similarly, for female casual workers the percentage increase in non-farm sector was by 2% and the decrease in farm sector was by 2% compared to 2004-05.

Majority number of casual workers both in 2004-05 and 2009-10 were working in non-farm sector. This is due to the fact that wages in non-farm sector have gone up in the last 10 years. Male casual workers have shifted from working on farm to working in secondary and tertiary sectors like manufacturing, construction, trade, hotels, restaurants, etc. There has been a structural shift from working in agriculture activities to working in secondary and services sector.

It can be observed that a higher percentage of both male and female casual workers have been working in the non-farm sector but the percentage of female casual workers working in agriculture sector has been more than male casual workers in both the years. This shows that more number male casual worker shifted to working in non-agricultural activities.

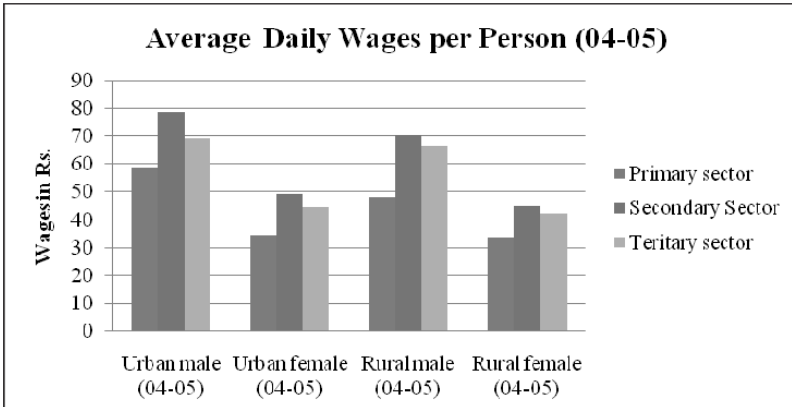
Over the years the average daily wages in the farm sector has been the lowest compared to the non-farm sector. This can be seen in the next section.

3. Average daily wages per person in the three sectors

The average daily wages per person is given for the three sectors i.e. primary, secondary and tertiary. The comparison is done between

urban male and female and rural male and female for the year 2004-05 and 2009-10.

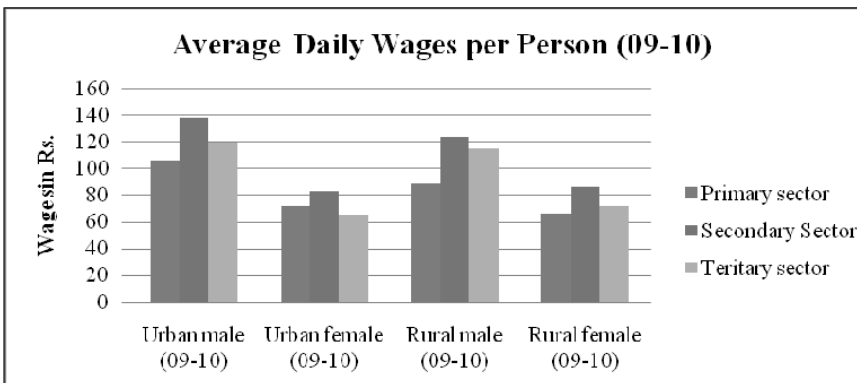
Graph 3



Source: NSS 61st and 66th round 04-05, 09-10. Computed.

The average daily wages paid per person in 2004-05 shows that lowest daily wages were paid in the primary sector followed by the tertiary sector. Secondary sector paid the highest daily wages to both males and females. There is difference in the amount of average daily wages being paid to both genders. Male casual workers were paid higher wages than female workers in all three sectors and in both urban and rural India. The difference between rural male and female wages in the primary sector in 2004-05 was the lowest.

Graph 4



Source: NSS 61st and 66th round 04-05, 09-10. Computed.

The average daily wages per person increased in 2009-10. For urban males they nearly doubled from 2004-05 in all three sectors. The wages for the secondary sector were the highest for both genders in rural and urban India. The gender difference in wages was minimum in the primary sector between urban male and female. Rural wages were lower compared to urban wages. Also, female wages were lower than male wages for the three sectors.

IV. Conclusion

Findings

- i. In absolute term, urban wages were higher than rural wages for both male and female casual workers. But in 2009-10 there was not much difference in the urban male wages between the higher and lower wage values. The wages for female workers were higher in urban areas with a very slight difference from rural areas in the same year. There has been a gender difference in the wages in 2004-05 which got reduced in 2009-10 in most of the states. States like Gujarat and Maharashtra, which are considered to be the most industrialised states in the country, had their average daily wages per person below the national average. Kerala is the state with the highest average daily wages. This could be due to higher literacy rate and less labour available and also the fact that farming is not a major activity in this state and agriculture comprises of mostly cash crops, where the paying capacity is higher.
- ii. It can be observed that a higher percentage of both male and female casual workers have been working in the non-farm sector but the percentage of female casual workers working in agriculture sector has been more than male casual workers in both the years. This shows that more number male casual worker shifted to non-agricultural activities. There is a structural shift in workers preferences as more casual workers are working non-agricultural activities.

- iii. The average daily wages were highest for the secondary sector for both genders in both rural and urban India. The female average daily wages were lower than their male counter parts in all the sectors. Average daily wages for primary sector were lowest in both the years.

Action to be taken

Provision of a minimum social protection to the large mass of casual workers is a challenge. It requires special attention of the state and society at large in the coming years. As there is a shift in the labour force toward non-farm sector activities, wages and job security should accordingly be provided to the casual workers. Even if the market driven high growth is accompanied by an expansion in employment opportunities, it may not be adequate to address the issue of social protection, in areas like health, nutrition, housing and universal education.

Job security and safe working conditions for casual workers are the need of the hour. Casual workers working in manufacturing and agriculture sector should be given special attention as these workers deal with machinery and technical tools and need safeguard measures. Also the government should try to convert contract labourers who are exploited, into permanent workers as 30% of the workforce in India works on a contractual basis, without any job security.

MNREGA scheme has been a boon for the casual labourers in the rural areas especially the women, who have largely benefited out of the scheme and were able to make choices of their own and have become less dependent on the males. The scheme also has an income effect, where an increase in the income of a woman worker, increases her ability to choose her consumption pattern and makes her independent to make her own choices regarding household expenditure on food, health and education. Tapan Sen, secretary general of the Centre of Indian Trade Unions, said, "Whatever GDP (gross domestic product) is growing, it is because of the labour force. Profit is growing, but the value of labour is going down."

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ANNEXURE

Table 1
Broad industry division by NIC code 2004

Agriculture, etc.	(01-05)	Primary sector
Mining and quarrying	(10-14)	Secondary Sector
Manufacturing	(15-37)	
Electricity and water, etc.	(40-41)	
Construction	45	
Trade, Hotel and restaurant	(50-55)	Tertiary sector
Transport, etc.	(60-64)	
Other services	(65-74)	
	(75-99)	
All	(01-99)	

Table 2
Number of casual workers and their average daily wages in the three sectors

Urban female (04-05)		Casual Labour	Average daily wages per person
51	Primary sector	33	34.4
	Secondary Sector	40	49.34
	Tertiary sector	25	44.4
	All	98	43.43
Urban male (09-10)		Casual Labour	Average daily wages per person
51	Primary sector	49	106.17
	Secondary Sector	274	137.96
	Tertiary sector	92	119.47
	All	415	130.05

Urban female (09-10)		Casual Labour	Average daily wages per person
51	Primary sector	30	71.76
	Secondary Sector	41	82.67
	Tertiary sector	23	65.2
	All	94	74.94

Table 3
Average daily wages (Rs.0.00) for casual workers of age 15-59 years engaged in works other than public works (activity status code:51) for 15states

Rural	(2004-05) male wage	(2004-05) female wage	(2009-10) male wage	(2009-10) female wage
Andhra Pradesh	50.3	30.88	115.41	75.71
Arunachal Pradesh	104.38	50.6	174.42	158.47
Bihar	45.41	37.42	81.03	65.81
Chhattisgarh	37.6	28.55	70.83	65.49
Delhi	73.1	-	195.23	200
Gujarat	52.8	43.17	87.31	70.99
Karnataka	48.33	30.74	96.91	62.77
Kerala	134.86	65.75	226.6	119.31
Madhya Pradesh	38.58	30.53	74.46	58.13
Maharashtra	47.37	28.16	86.01	58.22
Punjab	75.14	53.1	133.46	91.8
Rajasthan	64.33	52.03	132.29	94.31
Tamil Nadu	70.45	36.53	132.14	72.62
Uttar Pradesh	53.37	39.54	97.04	69.21
West Bengal	49.88	39.99	87.76	65.94
All India	55.03	34.94	101.53	68.94

Table 4
Average daily wages (Rs.0.00) for casual workers of age 15-59 years
engaged in works other than public works
(activity status code:51) for 15states

Urban	(2004-05) male wage	(2004-05) female wage	(2009-10) male wage	(2009-10) female wage
Andhra Pradesh	64.71	36.29	155.2	92.85
Arunachal Pradesh	133.74	162	161.22	148.34
Bihar	54.65	81.91	94.04	59.63
Chhattisgarh	47.62	32.43	127.18	71.65
Delhi	82.87	47.94	173.35	-
Gujarat	83.46	46.35	119.02	66.32
Karnataka	80.75	46.25	123.03	67.88
Kerala	137	66.96	237.42	120.9
Madhya Pradesh	51.55	42.02	88.92	75.48
Maharashtra	79.57	39.1	121.55	57.64
Punjab	83.9	46.41	142.65	85.68
Rajasthan	69.15	48.26	146.04	100.04
Tamil Nadu	83.1	47.56	155.4	76.19
Uttar Pradesh	63.99	38.61	109.3	72.37
West Bengal	64	32.95	98.98	78.46
All India	75.1	43.88	131.92	76.73

Plights of Agricultural Labour

Guru Prakash Singh*

Introduction

At present, India ranks second worldwide only next to China in farm output at worldwide. According to world agriculture statistics, India is the world's largest producer of many fresh fruits and vegetables, as well as milk, major spices, select fibrous crops such as jute, and several staples such as millet and castor oil seed. India is the second largest producer of wheat and rice after China, the world's major food staples. India ranked within the world's five largest producers of over 80 % of agricultural produce items, including many cash crops such as coffee and cotton, in 2010. As of 2011 India is also one the world's five largest producers of livestock and poultry, with one of the fastest growth rates (Agritech Asia 2012).

Agriculture in India has a long and fascinating history through which it occupied a unique place in nation economy landscape. It provides a significant contribution to the Gross Domestic Production (GDP) and generates employment to large number of people. Agriculture and allied activities accounted for 13.9 % of GDP in 2011-12, compared with 14.5 % in 2010-11 (Economic Survey 2011-12). This sector is one of the largest employers of the informal sector workforce in the country, particularly in the rural scenario. On the eve of independence, it constituted nearly 72.72 % population depending on this industry agriculture (Jain & Ohri, 2011-12). At present, Agriculture constitutes direct/indirect employment to 261.5 million people which is up to 58.3 % of the total labor-force (Registrar General's Office for the data of years

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1951 to 2011). This implies that every fifth person is an agricultural Labour¹ in India.

Most of the studies in past are limited to grouped data and do not provide enough disaggregation in order to have a clear idea about employment trends and working-livings condition and in different segments of the agricultural labours. The main purpose of this study was to examine the socio-economic profile of labour and analyses the employment trends and patterns in agriculture. For this purpose, secondary data and literature have been used. The major sources of secondary data used are Census of India, NSSO, published and unpublished documents of Government of India as well as published books, census of India, articles, and online information etc. In the study, simple/appropriate technique will use like percentage, frequency ratio etc., for analyzing and interpreting of data.

Objectives

- To examine the employment trends and patterns in agriculture activities.
- To examine the socio-economic and working-living condition of agricultural labourers and the problems face by them.
- To analysis the degree of discrimination and disparity by gender.

(I) Changing Dynamics of Agricultural Labour Market

Agriculture and allied sector employs a large section of rural population, providing employment to direct/indirect to almost 261.5 million personal which was nearly 58.3 % of total labour force. The number of AL has been continuously declined since

¹ The First Agricultural Labour Enquiry Committee 1950-55 defined agricultural labour as, "(t) hose people who are engaged in raising crops on payment of wages. According to National Commission on Labour "An agriculture labour is one who is basically unskilled and unorganized and has little for its livelihood, other than personal labour".

Independence. Table 1 reveals the overall declining the share of AL in total employment from 1951 to 2011.

Table 1
Population and Agricultural Workers (in millions)

Year	Total Population	Rural Population	Annual Compound Growth Rate	Cultivators	Agricultural Laborers	Other Workers	Total (agriculture & allied sector)
1951	361.1	298.6 (82.7)	1.25	69.9 (49.9)	27.3 (19.5)	42.8 (30.6)	97.2 (72.1)
1961	439.2	360.3 (82.0)	1.96	99.6 (52.8)	31.5 (16.7)	56.6 (30.5)	131.1 (71.8)
1971	548.9	439.1 (80.1)	2.2	78.3 (43.4)	47.5 (26.3)	54.7 (30.3)	125.8 (72.1)
1981	685.2	523.9 (76.7)	2.22	92.5 (37.8)	55.5 (a) (22.7)	96.6 (39.5)	148.0 (68.8)
1991@	844.3	628.7 (74.3)	2.11	110.6 (38.8)	74.6 (26.1)	100.2 (35.1)	185.3 (66.8)
2001	1020.9	741.7 (72.2)	1.20	127.6 (31.7)	107.5 (26.7)	128.8 (41.6)	234.1 (56.7)
2011*	1210	753.8 (68.84)	1.02	138.7 (31.7)	122.8 (26.5)	142.8 (41.8)	261.5 (58.2)

Source: Registrar General's Office for the data of years 1951 to 2011

* Estimated population, as on 1st March 2011

@ Figures of total/rural population include the projected population of Assam, whereas in respect of data on workers, Assam has been excluded

(a) Includes marginal workers

Note: Figures in brackets give percentage to total.

A perusal from the Table, total number of labourers (cultivators + agricultural labourers) were 97.2 million in 1951 and 185.3 million in 1991 which was 72.1 % and 66.8 % of total labour force, respectively. Again, according to census 2001, the numbers of labourers were 234.1 million during 2001, which was 56.7 % of total population. Finally, the numbers of agricultural labourers is to be projected 261.5 million in 2011 which nearly 58.3 % of total workforce. This implies that agriculture is the principle source of subsistence for the people of India. The owing for declining the participation of labour is work in seasonal schedules, no continuous occupation, absence of income generating activities during non-seasonal period, high levels of seasonal and disguised unemployment, and uncertainty

and inclement weather. However, it more declines last two decades because of economic reform which generates employment opportunities in construction and services sector. In spite of, Agriculture does not provide full time employment to them. Majority of agricultural labourers got employment during peak season only (average got 223 days of employment in a year) that too for harvesting, picking, threshing and transplantation (Labour Bureau, Chandigarh/Shimla: 2010). Thus, circa 85 % of labours do not get full employment around the year, as the agricultural activities gave them less work during non-seasonal period. Most of farmers remain idle for three to four months in a year. The number of disguised unemployment is estimated to be nearly 15 % of the total working population in agriculture (Jain & Ohri, 2011-12).

Annual compound growth rate, during pre-reform, was increased from 1.25 in 1951 to 2.11 in 1991. However, during post-reform, it was decreased from 2.11 in 1991 to 1.02 in 2011. As a result, economic reform has affected the employment in agriculture. In time to come, Indian agriculture will suffer from sufficient young, skilled and unskilled labours which create another problem to already agonized peasant and marginal farmers.

Farmers are poorly affected by the decline in percentage of labourers in agriculture. Because work has not been done at timely due to shortage of labour and contract system is the medium of exploitation to both farmers and labourers. The practices of agriculture machinery and technology are very costly which increase the cost of input and decline fertility of land.

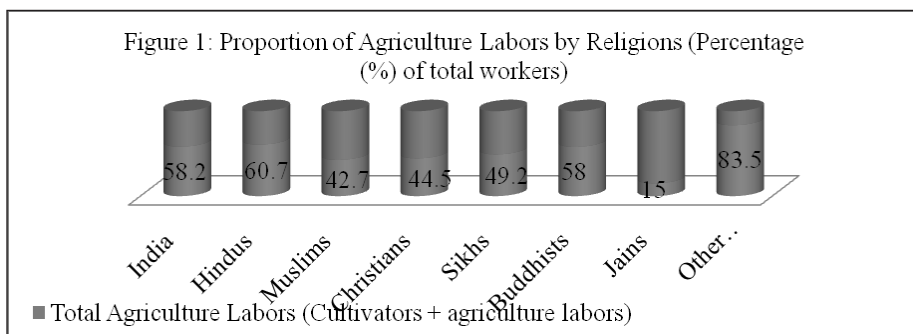
(II) Socio-Economic Profile of Agricultural Labourers

Socio-economic profile is paramount to the educational upliftment, good health and nutrition facilities, earnings and living standards of labourers and their family. Most of the labourers were landless and peasant farmers, and working as casual labourers and living in abject poverty in the rural hierarchy. Permanent labourers performed all types of agricultural activities along with the household activities of

the cultivator with no fixed hours of work. Both casual and permanent labourers are exploited by landlords/zamindars, Mahajans in rural India. They were being punished at work place in the form of scolding, abusing and reduction in wages. Majority of agricultural labourers got employment during peak season only (average got 223 days of employment in a year) that too for harvesting, picking, threshing and transplantation (Labour Bureau, Chandigarh/ Shimla: 2010). Their miserable conditions and low wages push them below to poverty line and forces to them for migrate from rural to urban. The existing socio-economic Status coupled with the social upheavals and other obstacles which impede the development of those depressed and marginalized sections of society is detailed out the following paragraph.

Agricultural Laborers by Religions

Religious profile of the populace is an important component for the socio-economic condition of labourers. There are six major religions groups such as Hindu, Muslim, Christian, Jain, Buddhist and Sikh and the census of India, 2011 collects data about the percentage of the AL belongs to what religions category. This reveals in below figure 1.



Source: Same as table 1

This figure reveals that total numbers of labourers (cultivators + agricultural Labourers) were 58.2 % of total labor forces. The 60.7 % laborers belong to Hindus religions of their total proportion followed

by Buddhists, Sikhs, Christians and Muslims communities were 58 %, 49.2 %, 44.5 % and 42.7 % of their total workforce, respectively. The percentages of labourers were the lowest in Jain religion which were 15 % of total Jains workforce.

Educational Attainment

According to article 21A of the Indian Constitution, the primary education is free and compulsory for children between 6 to 14 years in India. However, it has not reached till now the social depressed class specifically backward and oppressed class and marginal farmer class in rural society. Educational attainment of labourers is revealed in table no. 2.

Table 2
Percentage Distribution of Rural Agricultural Labourers by Educational Attainment (2004-05)

Education Level	Agricultural Labourers			Farmers or Cultivators		
	Male	Female	Total	Male	Women	Total
Illiterate and below primary	65.5	85.5	74.1	45.7	74	57.5
Primary	15.7	7.5	12.3	16.2	10.8	14
Middle	13.3	5.3	10	18.9	9.5	15
Secondary	3.7	1.2	2.6	10.3	3.9	7.6
Higher Secondary and above	1.5	0.4	1	8.9	1.9	6
Total	100	100	100	100	100	100

Source: Computed from NSSO (2006), Unit-level data.

A perusal from table, 74 % agricultural labourers were illiterate wherein 85.5 % Female and 65.9 % male agricultural labourers and 57.5 % farmers or cultivators were illiterate wherein 74 % female and 45.7 % male labourers. The illiteracy rate is so high in rural area because of social and economic poverty and social and family apathy

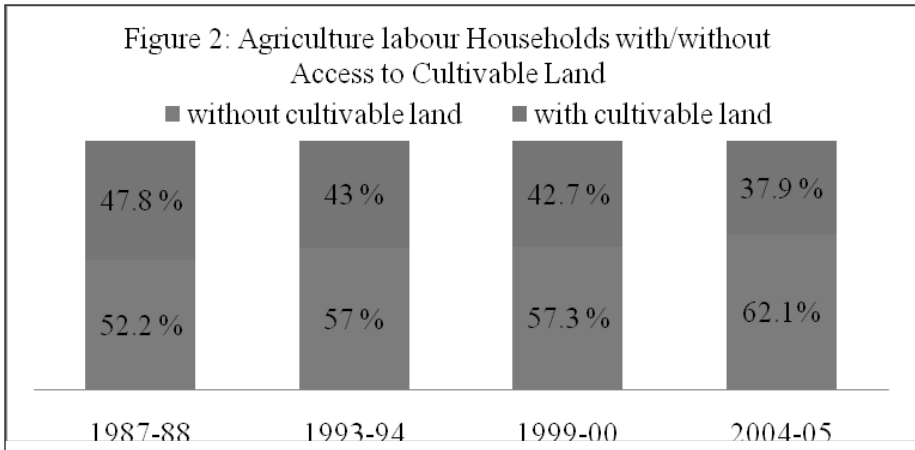
as well as parental illiteracy and ignorance. Even now educational status of agriculture labourers is appalling.

Health Profile

One of the significance and major problem of agricultural labour concerns their health and sickness. Most of the agricultural labourers themselves or their family members are suffering from diseases like malaria, tuberculosis (TB), anemia, chronic bronchitis, pleurisy, pneumonia and genetic diseases. During peak season, they had slightly injured such as scratch, fever, loose motions, acidity, allergy, etc. and body pain such as back pain, pain in hands and legs, chest pain, pain in the neck, etc. The body ache persists even when they go for rest in night after work. Snakebite, bichchhu dank and others reptile animals 'bite is common at workplace during. For the cure, they used domestic treatment, because no any first aid facility at workplace and hospital is situated so far from at workplace or rural region. Sometime, they died and no one is responsible for this tragedy. No any compensation given to that victim family by either land owner or government. Unlike industrial labourer, there is no particular Act and Law which prevent the rights of agricultural labour.

Landholding of Agricultural Labour

Most of the agricultural labourers are landless and living in abject poverty. In India, cultivator land has increased nearly by 38 % since Independence. In 1950-51, gross area under cultivation was estimated to be nearly 131.89 million hectares which now has shot up to 193.23 million hectare in 2006-07. It is projected to be nearly 195.83 million hectares in the 2007-08 (Department of Agriculture and Cooperation: 2010). This implies that cultivator land has increased since 1950-51 but not as much as population (decline in the proportion of cultivators); this may have added to the pressure on an already overcrowded labour market landscape.



Source: RLE, Report on General Characteristics of Rural Labor Households, 1999-00 and NSS 61st round

A perusal from Figure, labourer households with cultivable land were declined from 47.8 % to 37.9 % during year 1987-88 to 2004-05. On the other hand, labourer households without land were increased from 52.2 % to 62.1 % during year 1987-88 to 2004-05. The number of these laborers is increased due to exploitation by big farmers and money lenders, overcrowded rural masses, land fragmentation among family, small holdings of land, and low productivity of land in rural hierarchy. Therefore, working on land is rapidly becoming uneconomic and unprofitable. Time to time, leakage in government policy are adding the plights of agricultural labour in India.

Wages/Earnings of Agricultural Labourer

The quality of life of labour is dependent on the level of their earnings/wages. Labourer earns major proportion of their earnings/income from the non-farm activities. Casual laborers or agricultural labourers occupy a predominant position in rural hierarchy. Therefore the rural agriculture wage rate is considered one of the most robust indicators of economic well-being, not only of agricultural laborers, but also the overall rural population (Deaton and Dreze: 2002). The wage rate of non-farm labourer (like construction and service sector) is very high as compare to wages of agricultural labour. Even now farming

in India is subsistence-oriented; it is not profit-oriented. Unlike industrial labourer; agricultural labourer has no social security, no earned leave, no sick leave and no pension or gratuity. In lean season, casual and seasonal labourers earned money by taking up non-farm activities outside or inside the village. Permanent labour was not getting extra wages for the extra hours of work. Wages of female labourers were less as compared to their male counterparts for similar activities. Labour usually receive wage in cash or kind or partially in cash and kind both. Therefore, the following table is explaining the wage/earnings of agricultural labour.

Table 3
Average Daily Wage Rates (in Rs.) for Agriculture Labour
(July 2007, July 2008 and January 2009)

Sl. No.	Occupation	Sex	Jul-07	Jul-08	Jan-09
1	Ploughing	Male	86.72	96.82	101.63
		Female	52.14	50.83	55.14
		Children	-	-	-
2	Sowing	Male	74.8	84.15	89.23
		Female	53.57	58.82	65.94
		Children	41.77	44.5	-
3	Weeding	Male	68.45	77.09	69.44
		Female	55.82	64.12	50.27
		Children	40.06	43.89	-
4	Transplanting	Male	71.78	78.51	84.23
		Female	58.96	65.89	72.77
		Children	44	48.24	-
5	Harvesting	Male	73.27	81.49	85.49
		Female	60.62	68.07	70.67
		Children	38.44	44.68	-
6	Winnowing	Male	68.88	76.78	80.8
		Female	53.7	61.31	66.57
		Children	-	-	-
7	Threshing	Male	72.4	81.18	84.57
		Female	61.27	65.28	67.29
		Children	-	42.53	-

Sl. No.	Occupation	Sex	Jul-07	Jul-08	Jan-09
8	Picking	Male	70.26	NA	NA
		Female	57.95	62.22	64.45
		Children	40.02	37.89	-
9	Herdsman	Male	46.07	50.79	53.66
		Female	36.89	39.39	40.8
		Children	30.55	33.45	-
10	Unskilled Laborer	Male	-	79.92	87.1
		Female	-	60.31	66.36
		Children	-	-	-

Source: Wage Rates in India (2008-09), Ministry of Labour and Employment, Labour Bureau, Chandigarh, NA: Not Available

A perusal from table, market wage of labourer is varied from Rs. 53–101 per day for male and Rs. 40-72 per day for female labourer in all agriculture occupations. The maximum market wages for labourer was Rs.101 per day for male for ploughing and about Rs. 72 per day for female labourer for transplantations and minimum market wages for labourer was Rs. 53 per day for male labourer and Rs.40 per day for female labourer both in herdsman in 2009 (January). The market wage rate was increased circa 15% to 25% in all occupation of agriculture from 2007 to 2009. On other hand, prices of necessity goods are increased more than increment of wage in this period.

Table 4
Minimum Wage Rate Fixed in Various States (2008-09)

States	Lower Rate	Upper Rate
Central Governments	151	156
Andhra Pradesh	112	-
Assam	106.71	-
Bihar	120	166.11
Chhattisgarh	80.83	-
Gujarat	100	-
Haryana	178.61	203.61
Himachal Pradesh	120	-
Kerala	150	200
Madhya Pradesh	119	-

States	Lower Rate	Upper Rate
Maharashtra	100	120
Orissa	90	129
Punjab	154.4	199.52
Rajasthan	135	155
Tamil Nadu	100 (6 hours)	-
Uttar Pradesh	100	-
West Bengal	118 (with food)	145 (with food)

Source: Ministry of Labor and Employment, Wage Cell, 31 March 2011

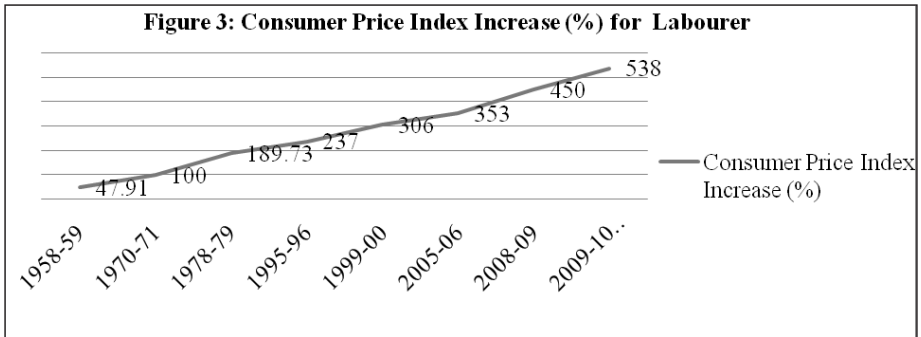
The Minimum Wages Act² was passed as long back as in 1948. At present, legislations have been passed in all States for the minimum wages except Jammu and Kashmir, Nagaland and Sikkim. According to a notification issued by the Government of India in December 2008, the central government has directed all state governments and union territories not to fix the minimum wages below to basic subsistence wage. Data about the wages paid revealed that labourers do not receive notified Minimum wages except in certain parts of the states like Haryana, Punjab, Western U.P. and some part of Kerala etc.

Consumer Price Index (CPI)³ of Agricultural Laborer

With the advent of the green revolution, money wages of labourer was increased respectively. While prices of goods and services also increased more than money wage rates. The consumer price index for labourer between 1958-59 and 2009-10 (December) as shown in the figure 3 reveals a tremendous increase in CPI of agriculture Labour.

² Under the provisions of the Minimum Wages Act, 1948, both the Central and State Governments are the appropriate Governments to fix and revise the minimum wages in the scheduled employments under their respective jurisdictions time to time.

³ According to U.S. Bureau of Labor Statistics, the Consumer Price Index (CPI) is a measure of the average change in prices over time of goods and services purchased by households.



Source: Parthasarathy, G. and Aliseshu, A. 1982, Economic Survey 2009-10

Note: Above three at base year (1970-71), others at base year (1986-87)

The figure 3 reveals that consumer price index of labourers were 47.91% during 1958-59 which were increased 189.73 % during 1978-79 (with base year 1970-71). Further, it was 237 % in 1995-96 which were increased 538 in 2009-10 (with base year 1986-87). It is noticed that prices of goods and services, during 1999-00 to 2009-10, was increased circa two and half times.

Working-Living Standards of Agricultural Labour

Agricultural labour is one of the most disadvantaged groups in the Indian labour market. At the time, their working-living condition is so pitiable and pathetic. Both casual and permanent agricultural labourers are exploited by landlords/zamindars, Mahajans in rural India. They were being punished at work place in the form of scolding, abusing and reduction in wages. Their miserable working conditions forces to them for migrate in urban area. Most of the agricultural labourers having kaccha or semi-kaccha houses in outside and small away of village. The structure of houses is mud or brick built houses without ventilation facility and there is very little space in the houses. Most of the dwelling were humid and smell because there was no exposure to sunlight and lack of proper ventilation in room. In some situation, this is not only living room but also used for cooking/kitchen room in rainy season. Most of labourers purchased food items daily. Food is simple and

unnourished due to limited means. Simple meals consist mainly of roti and either dal or a vegetable cooked either curried or dry. Most of them eat three times a day.

(III) Gender Disparity and Discrimination

Female labourer plays multi-dimensional role in growth of agriculture and allied activities, in rural hierarchy. In productive activities, they work in crops production, post harvesting work, livestock rearing and production, forestry, horticulture, weeding, fruit cultivation, fish farming etc. In non-productive activities, they are participating in caretakers of children and the elderly, preparation of food, stitching and sewing, knitting, house maintenance, water collection, fuel wood gathering. But they are hampered by persistent gender inequities that limit their access to decent work, which they need as a vehicle for economic empowerment, social advancement and political participation. In India rural female labour force participation rate (LFPR) usual principal status (UPS) had continuously been declining since first quinquennial survey in 1972-73 from 32% to 18.1% in 2011-12 except distress-affected year 2004-05 (Abraham: 2013). Most of the female laborers belong to depressed, unskilled, unorganized and economically backward communities. They work mostly in unhygienic and miserable conditions, and workplace facilities are rarely provided. They have limited access to drinking water, bathrooms, sanitation facilities, no caretakers of children, etc. while working in fields. In spite of, they were paid low wages as compared to male counterparts. The gender disparities in wages in Indian agriculture sector are shown in above table 2. The table revealed market wage rates of female is significantly lower than man counterparts for same activity. The prevailing market wage for female is between Rs. 40 - 72 in a daily basis during (January) 2009. On other hand, a man counterpart earns between Rs. 53- 101 daily during same time. The maximum prevailing wage for female labourer is Rs. 72.77 for transplantation activity. While maximum prevailing wage for male counterparts is Rs.101.63 for ploughing activities. On other side, the minimum prevailing wage for female

AL is Rs. 40.8 for herdsmen activity. While minimum prevailing wage for male counterparts is Rs.53.66 for same activities. Thus female labourer earned 30 - 33 % low wages than male counterparts for same activities. The owing is only female labourers involved in less physical stamina activities.

Conclusion

From the analysis, it is clear that employment trends and patterns in agriculture are not satisfactory because younger and skilled labourers are moving away. In time to come, Indian agriculture sector will not have sufficient young, skilled and unskilled labour. Urgent step are to be initiated to reverse and generate employment opportunities in lean period. In fact, the economic condition of labourers is pitiable till today. It is the most disadvantage and economically backward communities in India labour market. The market daily wage rate is very low and there is lack of regular work for the laborers, as most of the work is seasonal in nature. Mostly labourers have seasonal work schedules and casual in nature. They are typically expected to work longer hours. The living conditions are totally unhygienic and unfair. In most of states, a large aboriginal population lives like that of slums area in urban and the condition of them is very much like that of slaves or bonded labourer. Because they are extremely vulnerable to exploitation on accounts of low levels of illiteracy, lack of awareness, persistent social backwardness and absence of unionization and other forms of viable organisation. Their abysmally low wages, no social security legislations, no union groups, and poor living condition has added to the plight of the labourer. Female labourer is facing the problems of discrimination and disparity in wage as compared to male counterparts. There has lot of scope for the upliftment of that group of the people but our government policies such as poverty alleviation programs, education programs and special schemes for providing employment are not directly influence the social problem of that group.

Recommendations

Agricultural labourers and landless households are comparatively, more vulnerable and oppressed, in rural India. The wages/earnings of labourer are also quite inadequate. Therefore, policy makers, agriculture experts and rural development workers should make a compressive plan and take drastic steps for mainstreaming the employment-economic conditions of labour in India. They should include

1. To make a particular act and legislation for labourer and promote to union group for protect their rights, and Social security and protection should be provided to labourer as social security and protection are the human rights of all people.
2. Agricultural Laborers must seek off-farm activities such as rural handicrafts, small cottage Industry, etc. as well as non-farm such as poultry, fishery, livestock etc.
3. Training and camps, programs and schemes for labourer especially for Female must recongnize and facilitate (female literacy, health, and nutrition and family planning issues) as well as sanitation facilities, workplace child care facilities, first aid facilities etc. As these have direct enhanced their economic status and productivity level.

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Regulatory Frameworks on Health and Safety at Workplace: An Overview

Rinju Rasaily*

I Introduction

In India, workplace health and safety concerns especially in the factories of cotton textile and jute mills, plantations and other industries came to limelight ever since the Royal Commission on Labour Inquiry (RCLI) Report of 1931. Accordingly, national laws such as the Factories Act 1948, Plantation Labour Act (PLA) 1951 and the Mines Act 1952 and few other acts were sought out to address conditions of work. Specific amendments, as made for instance, in the Plantation Labour (Amendment Act, 2010) with the inclusion of a chapter on 'Occupational Safety and Health', that achieving *standards* on health and safety can be envisaged, though, with a pinch of salt¹.

The Factories Act of 1948 that was amended way back in 1987 in respect of hazardous processes that included permissible limits of chemical exposures took place aftermath the Bhopal Gas Tragedy in 1984 that caused 5295 deaths and permanent disability for as many as 4902 people². Few amendments have been proposed with respect to occupational health in this Act³. With respect to safety, some attention has been given to the mining and quarrying sector; the

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¹ The enforceability of such amendments in the case of the plantation sector requires a detailed reviewing given the existing conditions of restructuring within the sector. International trade, competition amongst producing nations and international standards of compliance could be some of the factors that have necessitated restructuring. Such amendments also necessitates examining the existing infrastructure and its prioritisation by stakeholders for improving working conditions as curtailment of costs of production was an important reason for restructuring of this sector. For details on the amendments please see, Plantation Labour (Amendment) Act 2010

² Central Chronicle, Bhopal 30.07.12 cited in Green File July 1-31, 2012, No. 295, p 127.

³ As noted by the Expert committee on Amendment to the Factories Act 1948 (MoLE, June 2011)

aviation sector and presently the construction sector as they form the 'visible' workforce. Sectors such as agriculture, manufacturing including home-based and service sector are yet to receive tangible consideration to aspects on health and safety in terms of legislative measures. Such sectors are deeply rooted in its informalised structure. The NCEUS (2007) Report on Conditions of Work and Promotion of Livelihood in the Unorganised Sector throws light on occupational hazards, health conditions and safety based on evidences from the Report of the Second National Commission of Labour (SNCL 2002) and other independent studies. Significant reports reveal an absence of a national level survey on the status of health and safety in India across sectors (Planning Commission 2001; SNCL 2002; NCEUS 2007).

Statistics on accidents and injuries in factories as provided by Directorate General Factory Advice Service and Labour Institutes (DGFASLI) show 33,093 as total injuries and 1,509 as fatal injuries against 2, 70,294 working factories for the year 2009⁴. Conversely, Leigh et al (1999) estimated a mean of 45,000 deaths and 17 million injuries per year in India during the first decade of liberalisation, which is highly alarming. If this is taken as the base figure the current quantum of "unreported" fatal and non-fatal injuries across all sectors would be much higher especially if industries such as ship-breaking⁵ and other unorganised industries are accounted for.

The Planning Commission (2001) in its Report of the Working Group on Occupational Safety and Health for the 10th Five year Plan⁶ had endeavoured to frame guidelines for a general legislation on health and safety and extending the same for the unorganised sector comprising of seven segments notably the agriculture, construction, beedi and cigar manufacturing, shops and establishments, home

⁴ DGFASLI Standard Reference Note 2010, Available at http://www.dgfasli.nic.in/std_ref/std_ref_2010.pdf accessed on 11.07.2012.

⁵ Frequent deaths of workers working in the ship-breaking industries in Alang, Gujarat and in Mumbai are reported by respective trade unions working in these areas. Various international organizations like the International Metalworkers Federation (IMF), Toxic Links are examining such aspects.

⁶ Planning Commission (2001): Report of the Working Group on Occupational Safety and Health for the 10th Five Year plan- 2002-2007. Viewed at www.planningcommission.nic.in/aboutus/committee/wrkgrp/wg_occup.pdf, 07.02.2012.

worker, eating places and waste management sectors. At this juncture, it is also pertinent to re-examine the recommendations given in this report for revamping legislations in both sectors. Although a National Policy on Safety, Health and Environment at Workplace has been formulated by the Government of India (GOI) in 2009, there exists a need to create specific policies and programmes, especially in the context of the flexible and changing labour and economic relations across sectors.

Given this backdrop, this paper attempts to review the regulatory frameworks on health and safety at workplace that exist for the organised manufacturing sector and also raise a few important issues of health and safety standards for the workers in the informal sector. The paper is based on review of secondary literature and primary study conducted across four manufacturing industries (registered and unregistered) - auto-parts, leather products, garments and electronics in various parts of Delhi. Data has been collected based on random sampling of 203 respondents including 17 female respondents⁷ from the mentioned sectors. It should be mentioned that regulations pertaining to the factories, specifically, as under the organised sector are discussed in this paper, as the docks and mining sectors are not within the scope of this paper. The paper also seeks to situate India's policy on occupational safety and health as against the international regulatory frameworks of the ILO.

II Workplace Health and Safety Conditions: Case of the Manufacturing sector in Delhi

At the outset it is important to mention here that the term Health and Safety at Workplace⁸ is employed instead of Occupational

⁷ 58 respondents were selected from the leather industry, 53 from the garment industry in Patparganj, 43 from the auto-parts industry in Mayapuri and 49 from the electronics industry in Okhla.

⁸ The International Labour Organisation (ILO) defines workplace under No. 155 Occupational Health and Safety Convention as "workplace covers all places where workers need to be or go by reasons of their work and which are under the direct or indirect control of the employer" and defines "regulations - covers all the provisions given force of law by the competent authority or authorities".

Health and Safety (OHS), essentially to expand the understanding on health⁹. The term 'workplace' provides a much broader scope as compared to 'occupation'. This however is not to negate the direct or causal linkage between 'occupations' and 'health hazards' but to arrive at a holistic understanding. Therefore aspects such as physical conditions at workplace, physical complaints while at work, type and nature of work and employment relations; nature and extent of injuries are some of the variables taken to understand issues on health and safety at workplace. Provisions of Personal Protective Equipment (PPE), first aid box to workers; their access to Employees' State Insurance (ESI) dispensaries and hospitals and various other benefits such as compensations given as a result of partial or permanent disability¹⁰ are taken to assess "prioritisation" of health and safety at workplace. The extent of occupational diseases can be arrived at only if diagnosed. Thus the primary study on which this paper is based upon does not have such data.

Industrial Profile of Delhi

Delhi unlike other metropolitan cities such as Kolkata and Mumbai where the industrial structure has been dominated by large industries, had a much stronger presence of small scale industrial units by the end of 1960s (Mazumdar¹¹). The Report of the Fifth Economic Census 2005 in Delhi, notes that the total number of establishments found to be operating during 2005 in NCT of Delhi was 7.58 lakhs and only 24 percent were found registered under various authorities; within which 0.55 percent were registered under the Factories Act 1948. According to this report, the total number

⁹ Health understood as a socially produced condition whereby various factors interplay in determining health outcomes. Such understanding is also applicable for the concept of safety whereby 'injuries' and 'accidents' are predetermined by hierarchies at work and social conditions.

¹⁰ Such benefits that are received are applicable for the units and factories registered and are under the organised sector. Thus, national laws like the Factories Act 1948, Workmen's' Compensation Act (WCA) 1928, Employees State Insurance (ESI) Act 1948 and others are enforceable. It is not so for the case of workers in the unorganised sector.

¹¹ Indrani Mazumdar: Unorganised workers of Delhi and the Seven Days Strike of 1988 http://www.indialabourarchives.org/publications/Indrani%20Mazumdar.htm#_ftn6 azumdar nd of 1960s (je of small scale industrial units. industries, had more ent.

of persons found to be working was 2.56 lakhs with an average of 4.69 persons. 'Manufacturing (including repair)' activity was the largest employer providing employment to 12.1 lakh persons i.e. 34.08 percent of the total number of persons employed. And the 62nd round of NSSO survey of 2005 estimated 97,636 manufacturing units in the unorganised sector employing 4.5 lakh workers while as per the Annual Survey of Industries (2008-09) it was 3,312 units with 1.2 lakh workers in the organised sector in Delhi.

The changes in the industrial regulatory framework of Delhi also, to an extent, have rearranged the spatial and organisational profile of small scale sector. Units are now registered under the Micro, Small, Medium Enterprises Development (MSMED) Act, 2006;¹² mandatory for all micro and small enterprises and manufacturing sector medium enterprises but optional for service sector medium enterprises. A certificate of registration includes permission from Delhi Pollution Control Committee (DPCC)¹³ to operate followed by approval from the Department of Industries. Currently there are about 800 units registered under this Act¹⁴.

It is important to note here that the industrial landscape of Delhi witnessed rearrangements along with the economic liberalization drive of the country. For instance, the newly established Delhi State Industrial and Infrastructural Development Corporation (DSIIDC)

¹² Under this Act, the 'industry' component has been replaced by the 'enterprise' in order to accommodate the service sector enterprises. Manufacturing enterprises under it has been defined in terms of investment in plant and machinery (excluding land and buildings). They are as under: Micro Enterprises- investment upto Rs 25 lakh; small enterprises: investment above Rs 25 lakh upto Rs 5 crore and Medium Enterprises- investment above Rs 5 crore and up to Rs 10 crore.

¹³ The DPCC is also responsible for maintaining works of Common Effluent Treatment Plants (CETP) established by the Ministry of Environment and Forests (MoEF), in 1991. In the study area according to CPCB report (2005), drains were under construction in the case of Mayapuri and in Okhla; effluents were being discharged into drains at Sarita Vihar and an open drain in Z-block near Phase II. Central Pollution Control Board (2005): Report on Performance Status of Common Effluent Treatment Plants in India: Available at <http://www.cpcb.nic.in/newitems/9.pdf> Accessed on 02.02.2012.

¹⁴ Office of Commissioner of Industries. Registering under this Act is helpful for entrepreneurs in accessing loans, government contracts etc. Discussion with officials at DSIDC office, Patparganj.

in 2006 for promotion of trade and investments, was handed over all the administrative power to govern micro, small and medium enterprises. Flexibilising portfolios within the Department of Industries, which used to be the controlling mechanism previously, was one of the important fallouts. There was also a parallel shift from manufacturing to IT industries and related services. The Industrial Policy of Delhi 2010-2021 clearly reflects shifts with economic liberalisation and outsourcing led by IT (Information Technology) and ITeS (Information Technology Enabled Services) in Delhi; earlier a manufacturing hub of electronics, engineering, plastic and textile products. The objectives of this policy essentially focus on 'promotion of skilled industries with high end infrastructure and keeping in-migration of un-skilled labour to the minimum'. It also seeks to 'promote e-governance and transparent and business friendly environment'. Such policy measures raises the concerns for increasing volume of unskilled workers engaged in various forms of employment.

Delhi currently has 28 planned industrial estates, which are developed for promotion of industrial units. These estates were set up since 1954. The 'relocated' industrial areas are being established in Bawana and Narela. These industrial areas are maintained by multiple agencies such as the Delhi Development Authority (DDA), Department of Industries, Government of NCT, Delhi, Delhi State Infrastructural and Industrial Development Corporation (DSIIDC), Municipal Corporation of Delhi (MCD) and Public Works Department (PWD) mainly.

Area of the Study

Four industrial areas in Delhi that represented four different industries vis-à-vis Peeragarhi industrial area for the leather products manufacturing, Patparganj for garment manufacturing, Okhla industrial area for manufacturing electronics and Mayapuri industrial area for auto-parts manufacturing industry were selected for the study.

In Peeragarhi industrial area, almost 95 percent are shoe-making units, manufacturing sandals, sports shoes, slippers etc representing the leather products manufacturing industry. Some of the units are suppliers for large multinational companies. Patparganj, unlike Peeragarhi is an example of a mixed industrial area wherein small-scale units of manufacturing and exports houses are working together. In this area there are more than 43 small-scale units that are engaged in the process of textile and textile products¹⁵. Export hosiery, manufacturing and export of readymade garments, handicrafts; manufacturing of T-shirts, track suits, track pants, *sarees*, cotton textile; manufacturing of ladies and children inner wears, night wears are some of the products produced from these units.

Okhla is the oldest organised industrial estate in Delhi established in 1958. Earlier establishments in Okhla were electrical, engineering, electroplating, automobiles/auto parts, manufacturing of sports goods, dolls etc¹⁶. This area gradually shifted to establishing corporate houses and even BPOs. Such changes are somewhat characteristically similar with other industrial areas especially Patparganj. In Delhi, Mayapuri is known for its auto-component manufacture and repair units and engineering units. But off late, like in Okhla most of such units are moving out of the Delhi to NCR; one of the significant reasons being increasing cost of establishment and greater 'flexibility' in other regions¹⁷. Both servicing and manufacturing units operate in the area and manufacturing of auto-parts takes place under Casting and Forging Items. This area however is well known for dismantling of 'stolen vehicles' and the recent case of nuclear radiation in the scrap market of Mayapuri¹⁸. These industrial areas were all the part of the old industrial establishment in Delhi.

¹⁵ Patparganj F.I.E. Entrepreneurs Association, Informative Directory 2008

¹⁶ Discussions with Estate Manager, Okhla

¹⁷ Based on discussions with members of Employers' Association and officials at DSIIDC.

¹⁸ For details please see Babu P. Ramesh and C.P. Vinod (2010): *Radiation Incident in Mayapuri Disquieting Signals to Labour* Economic and Political Weekly, July 24, 2010 vol xlv no 30 pp 16-18. This paper discusses the abject neglect of occupational health and safety of workers work working in such high risks and hazardous areas. It also mentions the dismal interventions at the policy level.

Working Conditions and Health

Employment relations in such industrial settings were highly informal in nature especially in leather products and garment manufacturing units characterised by a floating labour force, dominance of *thekedars* (contractors); marked absence of trade unionism or any form of collective bargaining. From the 203 respondents (including 17 female respondents) interviewed from these industrial areas; 28.6 percent were working in the leather industry, 26.1 percent in garments, 24.1 in electronics and 21.2 in auto-parts industry respectively. Among the workers, as much as 53.2 percent informed that their respective factory/unit was registered and 17.7 percent said that it was not. While 29.1 percent of the respondents across all industries were unaware about its status, it was significant with 44.1 percent in the case of leather industry¹⁹.

This indirectly reflects the magnitude of informalisation of employment that has alarmingly affected wages, bargaining power, unionisation and moreover abject neglect of preventive measures for health and safety. This study noted that workers access to job opportunities are tied with the role of *thekedars* (contractors), kinship and village contacts and the *perceived* magnanimity of the *mallik* in few cases. An act of benevolence by the *malliks* (owners)/ *thekedars* (contractors) to their workers is not through ensuring their entitlements but by making them earn extra by working longer hours is the norm. Such extra earnings is systematised through 'overtime'; payment of which was calculated based on their monthly fixed salary for eight hours of work depending on either number of hours worked, piece rate or shift rate and also by giving them advances and loans.

Entry into the labour market has been at a very young age for most workers. It was also found that in both the semi-skilled and unskilled categories there are a considerable percentage of workers in the age group of 15-20 years. Workers' '*physical capacity*' to work or *overwork*

¹⁹ It is important to note here that the sample size for the respondents working in the leather industry was higher in comparison with other industries.

directly determines their earnings and income. Also accessibility to job opportunities is factored not just by economic condition and skill but also by ways of social capital. Implementation of minimum wages on the basis of skill-levels as notified by the Government of NCT Delhi in the registered units was scantily reported. Migration, educational and skill levels clearly reflects as factors that link to the very nature of production relations and thus the social relations of production. Various studies on the informal sector have reiterated such conditions across different industries. An absence of a formal system of workers' representation in these areas with only nineteen respondents stating that their unit was unionised; of which only four respondents, all men, were union members reaffirms the preponderance of informalised labour market relations. Given such a situation of informalisation even in the organised sector, and absence of collective bargaining; it is crucial to examine further what such conditions do to aspects of health and safety at workplace.

Provision of PPE, Exposures and Physical Discomforts at Workplace

In terms of provision of Personal Protective Equipment (henceforth PPE) it was found that 69.4 percent of the respondents in the registered units were not given any PPE. In the case of the unregistered units and those where the respondents were unaware about the registration status it was 72.2 and 74.6 percent respectively.²⁰ Across industries, there was complete absence of PPE in the garment manufacturing units, followed by 75.9 percent in electronics, 63.6 in leather and 41.9 percent in auto-parts industry.

There was not much difference across the organised and the unorganised sectors with respect to protective provisions. According to the Factories Act 1948, provision of PPE as mandatory is limited to protection of eyes only. In the industries studied, it was seen that cloth, handkerchief was commonly given to workers used either to cover their mouths and or to clean their respective

²⁰ See Table No. 1 for details.

machines. Table No. 1 and 4 illustrates the sparse distribution of such protective provisions by the employers to the workers who were found to be working in conditions that were not conducive to positive health outcomes. Boots, helmets though, specifically, are not required in these industries apart from auto-parts; but it is important, that conditions at workplace are decent enough to provide a healthy atmosphere. Although an internal assessment of the workplace conditions in terms of size, ventilation, illumination etc were not feasible in this study discussions revealed condition such as excessive heat, humidity, noise, dust and poor ventilation and light and lack of space inside the factories.

This study revealed that workers in the leather industry reported high exposures to noise at workplace and uncomfortable posture while at work. Excessive heat, odour, vibration; exposure to oil and grease, dust and fumes varied in degrees of exposure. Odour was frequently reported from the workers of this industry. They complained strongly of physical discomforts such as headache, and weakness. Cough, eye problem, musculoskeletal and stomach disorder followed by breathing problem, chest pain and hearing disorder were some of the other self-reported physical complaints. The PPE given in this industry was limited to gloves, with masks, handkerchief and cloth which were all very miniscule. While in the electronics manufacturing industry, few workers were given gloves, followed by handkerchief, cloth and apron. Workers reported exposures to dust, heat, oil grease and fumes as high in the case of this industry followed by uncomfortable posture, vibration and noise at their workplace. Eye disorder and headache were strongly reported by these workers. Cough and breathing problem was significantly reported as compared to other industries.

In the auto-parts manufacturing industry, out of 43 respondents, 51.2 percent were given gloves, 11.6 percent with glasses and 18.6 percent with cloth. Protection to eyes, as mandatory under the Factories Act was found to be negligible and as in electronics industry; workers commonly reported eye disorder and headaches. Workers here reported very high exposures to dust and hearing

disorder as compared to other industries. Exposures to heat, noise and oil and grease were also reported. In the garment manufacturing industry, exposures to noise and heat were reportedly higher as compared to exposure to dust and fumes. Complaints of headaches and eye disorder were reported by the workers. Work pressure was reported highest from the leather industry, followed by auto-parts and garments industry. An average of 61.8 percent of workers across all industries reported weakness as a common physical complaint at work. 32.6 percent of workers in auto-parts and 22.4 percent in electronics reported skin problem. Apart from such physical complaints and difficulties at workplace, discussions with workers revealed how injuries at workplace were common and integral to their daily work lives.

Injuries and Accidents at Workplace

Under section 88, "Notice of Certain Accidents" of the Factories Act 1948 mentions fatal injury as "injury resulting from industrial accident which caused death to workers" and Non-Fatal injury as "injury resulting from industrial accident, which prevented injured worker from attending to work for a period of 48 hours or more immediately following the injury". Table No. 5 provides some data on fatal and non-fatal industrial injuries in the registered factories in Delhi. The data shows that industrial injuries both fatal and non-fatal are on a decline in Delhi. It can also be inferred that data on accidents/injuries are under-reported and therefore not recorded. The significant low number of registered factories in Delhi is in itself a cause of concern. The International Data bank *LabourStat* of the International Labour Organisation (ILO) too has no data on Occupational injuries apart from Mining and Quarrying sector in India. The data given for this sector reported injuries (fatal) as 201 (including 5 women) and injuries (non-fatal) as 789 (including 6 Women) for the year 2006²¹. There is thus no data available for Delhi as under the State-wise and year wise frequency and incidence rates of industrial injuries in factories in the Report of the Working Group

²¹ Available at <http://laborsta.ilo.org/STP/guest>, accessed on 18.06.2012.

on Occupational Safety and Health for the 12th Five Year Plan (2012-2017), MoLE, GOI (2011)²² and either on the Standard Reference Note 2010 of DGFASLI²³.

The Planning Commission's Report (2001) of the Working Group on Occupational Safety and Health for the Tenth Five Year Plan 2002-07 provides data of 1994-1998. It mentions that out of the 19 states that have reported on industrial injuries in factories, there is a declining trend of almost 6.8% per year on occupational injuries and health. Some extraction from the Report (2011) on the Working of the Workmen's Compensation Act, 1923 for 2007 on the number of compensated accidents and the amount of compensation paid by the establishments submitting returns during 2007 among different industries (Factories, Plantations, Mines, Ports and Docks, Tramways, Building and Construction, Municipalities, Railways, etc) however does provide some inkling on the intensity of factory accidents. This report shows that factories recorded the highest number of compensated accidents. They were as under - death (33.05%), disability - permanent (58.04%) and temporary (54.15%); much higher than the Railways with 25.81%, 18.79% and 42.05% respectively. Accident rate per thousand worker employed was found to be the highest in factories with 4.65% as compared to 3.05% in mines and 2.04% in railways.

This report further reflects that in Delhi, the average daily number of workers employed in establishments submitting returns excluding railways during 2007 was 76,904 only as compared to much higher figures for states of Andhra Pradesh (with 2, 55,604) and Maharashtra (with 1,79,027). In Delhi there were 98 compensated cases of accidents resulting in death; 168 of permanent disablement and 12 with temporary disablement. Andhra Pradesh and Maharashtra recorded 606 & 26 death cases; 374 & 131 permanent disablement and 51 & 1379 with temporary

²² Please see pages 127-128 Report of the Working Group on Occupational Safety and Health for the 12th Five Year Plan (2012-2017), MoLE, GOI August 2011

²³ Please see pages 30-33, Standard Reference Note 2010, DGFASLI, MOLE, GOI. Accessed on 20.08.2012. Available at http://www.dgfasli.nic.in/std_ref/std_ref_2010.pdf

disablement respectively.²⁴ The cause of death and or disablement is however not recorded.

Fire outbreak is a tangible indicator that raises questions of safety, compliance, compensation. Table No. 6 on fire outbreaks in the industries under study in Delhi shows that Okhla, the oldest industrial area had recorded the highest number of fire accidents as compared to other areas with 40 for the year 2010-11. Some of the reasons cited by fire officials are the non-compliance of safety and preventive measures while setting up an establishment. The Principle Act under Section 38, Precautions In Case Of Fire states that “in every factory all practicable measures shall be taken to prevent outbreak of fire and its spread, both internally and externally, and to provide and maintain- safe means of escape for all persons in the event of fire, and the necessary equipment and facilities for extinguishing fire”. No amendments have been proposed under this Section so far.

As per the records of the Delhi Fire Service (DFS) it was found that between the year 2010-11 DFS attended to 22187 calls during which there were 447 deaths and 243 were injured. There were three serious and 10 medium outbreaks. In the year 2009-10 there were 363 fire incidents in industrial areas, 5071 in residential areas, 10202 in JJ Cluster areas and 73 in high rise areas²⁵. The Delhi Fire Service Rules, 2010 states that ‘industrial buildings having covered area on all floors more than 250 square meters’²⁶ is listed under Section 27 ‘Classes of occupancies likely to cause a risk of fire’²⁷. The magnitude of risks that fire outbreaks could cause is enormous and worse if livelihoods are at stake. Having safe exits has always been an area of concern *post-incident* and that such accidents are man-

²⁴ See Table No. 7 Compensated Accidents, Amounts of Compensation paid and Accident rate per 1000 workers except Railways during 2007.

²⁵ Available at, http://www.delhi.gov.in/wps/wcm/connect/doi_fire/FIRE/Home/About+Us/Statistical+Report+of+Delhi+Fire, accessed on 11-1-2012

²⁶ One metre is 1.094 yards. The sizes of plots vary across different industrial areas ranging from 450-600 sq yards to 1000-1200 sq yards in Okhla for example.

²⁷ See Delhi Fire Service Rules, 2010 Under Delhi Fire Service Act, 2007 (Delhi Act 2 of 2009), p 17.

made. From the industries under study out of 203 respondents only 47 respondents reported episodes of accidents at their workplace including fire accidents. Workers were found to be hesitant to discuss and be vocal about the frequent accidents especially reported from the leather industry of Peeragarhi.

Interactions with the workers on accidents, especially vital accidents like fire, which lead to death and permanent disabilities, raise several important questions. The foremost is the issues related to regulation of unregistered unit and to an extent registered units. As in most of the cases, such fatal accidents could have been averted with proper precautions and safety arrangements since these industries do not come under the category of 'highly hazardous industries'. In some cases, workers even believe that these are man-made. Peeragarhi industrial estate is specially developed for industries and therefore the lack of adequate safety measures, which led to fatal accidents, could only be attributed to issues of regulation and compliance. Second important question is the compensation of workers and to their families. As revealed by the workers they were not adequately compensated mainly due to their status of employment as contract workers. In most of the cases their names are also not included in the factory documents, which limit the workers and their families to claim compensation. This is found to be true for both registered and unregistered units. Third is the question of passing the burden of such accidents to workers since most of the time such accidents are attributed to the carelessness of the workers. Workers have to continue working in those units which caught fire without wages for months in the pretext that the unit has to be restored to business so that they can protect their employment. On the contrary, owners of the units are compensated from insurance claim.

Reported Risks at Workplace

Table No. 8 on reported risks by workers in the four manufacturing industries seeks to draw linkages between type of work and risks at work across different industries. It shows that a) in the leather industry cuts, hand/finger injury including needle-prick injury and

'pinched finger' injury which is caused as a result of use of pliers were common; b) in the garment industry needle-stick injuries was more pronounced given the nature of work of stitching c) from the electronics manufacturing industry electric shocks were reported the highest and d) in the auto-parts industry hand/finger injuries including cuts and bruises were reported along with 'piercing' that is, splinters of small metal parts commonly get into fingers/hands while at work.

There was also a considerable size of workers who did not report risks at work. Workers were found to be wary of discussing on certain aspects about work and even health for fear of being reported to the overseers/owners and their indifference towards discussing their own conditions was marked. The acceptance of their conditions as fate and any effort at improving them would inevitably result in job loss was what existed that worked to the benefit of the owners/employers. Availability of cheap labour has been pivotal for accentuating poor workplace conditions. This predicament has to be understood within the larger political economy of industrialisation post-liberalisation and within the 'structures of vulnerability'. Risks and injuries at workplace are thus located within the larger vulnerabilities of income, employment; labour and social relations.

III Laws and Policies

While there is a national policy, no specific legislation in India on Workplace health and safety exists. But there are national labour laws that espouse such concerns²⁸. The subsequent section focuses on aspects of health and safety as discussed in sections of the Factories

²⁸ These include The Dock Workers (Safety, Health and Welfare) Act, 1986; The Mines Act, 1952; The Plantation Labour Act 1951 (Amended 2010); The Shops and Establishment Act, 1947; The Explosives Act, 1884; The Petroleum Act, 1934; The Insecticides Act, 1968; The Indian Electricity Act, 1910; The Indian Boilers Act, 1923; The Dangerous Machines (Regulations) Act, 1983; the Environment (Protection) Act, 1986 and the Manufacture Storage and Import of Hazardous Chemicals Rules, 1989; The Indian Atomic Energy Act, 1962; Beedi and Cigar Workers (Conditions of Employment) Act, 1966; Building and Construction Workers (Regulations of Employment and Conditions of Service) Act 1996; and the Rules as framed under these each respective Act.

Act 1948 and its proposed amendments. In this Act (Section 2), a factory means any premises including the precincts thereof- where ten or more workers are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried out with the aid of power, or is ordinarily so carried on or whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried out without the aid of power, or is ordinarily so carried on.

The Factories Act 1948 and Its Proposed Amendments

Section 7A of the Factories Act for instance notes that, “every occupier shall ensure, so far as is reasonably practicable, the health, safety and welfare of all workers while they are at work in the factory”²⁹. It also states the “maintenance of all places of work in the factory in a condition that is safe and without risks to health”³⁰. Specific clauses under separate sections on ‘health’ cater to various aspects such as cleanliness, disposal of waste and effluents, ventilation and temperature, dust and fumes, artificial humidification, overcrowding, lighting, drinking water, latrines and urinals and spittoons. For safety, aspects such as fencing of machinery, work on or near machinery in motion, employment of young persons on dangerous machines, self-acting machines; casing of new machines, floors, stairs and means of access and pits, stumps and openings in floors that should be taken care of by the occupier are cited in the Act. Other concerns such as lifting of heavy weights, protection of eyes in case of manufacturing processes, precautions against exposures to dangerous fumes, gases, explosives or inflammable dust etc and precautions in case of fire are some of the areas where *preventive* measures as highlighted in the Factories Act are noted. Provision of first-aid appliances, canteens, rest rooms and crèches are some of the other *welfare* measures in variance with the size of the unit are also listed in this Act.

²⁹ Section 7 A, The Factories Act, 1948, Universal Law Publishing Co. Pvt. Ltd, 2011, Page 11

³⁰ Ibid.

Further, Section 96-A of the Principal Act, makes it a punishable offence if the Occupier does not disclose the information to workers regarding dangers, health hazards, does not maintain up to date health records and warn the workers about immediate danger. The Expert committee in its Report (2011) recommended an increase in penalty for contravention of provisions contained in Section 41-B, C and H from Rs two Lakhs to Six Lakhs and from Rs 5000/- to 15,000/- per day if contravention continues after conviction (Section 28).

There are other significant proposed amendments to the Act, such as, provision, by the occupier of Personal Protective Equipment (PPE) to other parts of the body (as mentioned earlier, it was limited to protection of eyes only) and protective clothing to workers exposed to hazards in conformity with quality standards. Prohibition of employment of pregnant women, persons with disability and young persons below the age of 18 to work on or near machinery in motion [Section 22 (2)]; and only this category should be excluded from working under Section 27 that states 'prohibition of employment of women and children near cotton-openers'. For precautions against dangerous fumes, gases etc the proposed amendment "makes it obligatory to keep an inventory of suitable breathing apparatus, reviving apparatus and safety harness and ropes in every factory and in every confined space for instant use". Apart from these, no categorical amendments have been proposed in the section on provision of first-aid box³¹, safety, in case of fire³²; crèches or other welfare measures.

It can be thus observed that although the *minimal* requirements of observing basic health and safety standards have been incorporated in this legislation; studies have shown that as far as enforcement of

³¹ On the first-aid box, the principle act notes that first aid box equipped with the prescribed contents should be provided and maintained for not less than one for 150 workers. This box, the act says should be in charge of a separate responsible and readily available person (who holds a certificate in first-aid treatment recognized by the state government).

³² The principle act under Section 38, notes that precaution in case of fire includes safe means of escape for all persons in the event of a fire, the necessary equipment and facilities for extinguishing fire.

such legislations are concerned, the situation is disquieting (Acharya OHS legislation, PRIA, Qadeer and Roy 1984, Hazards Centre 2010, Planning Commission Document, XIIth plan report on OHS, MoLE, 2012). To this there are several associated factors; chiefly, is the paucity of resources for monitoring, implementation and documentation; and follow-up of cases under prosecution. Another important aspect is the need to engage stakeholders that include employers/management, employees and trade unions through training and consultation upholding the importance of investment in health and safety at workplace. Larger structural factors for example registration, its compliance and other factors interplay at the very beginning while establishing a factory or a unit.

As Acharya (undated PRIA) argues, legislations have been either prescriptive-protective, curative and compensative in nature; without any regulatory device. For instance, the Central Water (Prevention and Control of Pollution) Act, 1979 and the Central Air (Prevention and Control of Pollution) Act 1981, prescribes limits of pollution from industries. He says that the Workmen's Compensation Act (WCA) 1923 is compensative in nature while the Employees' State Insurance (ESI) Act 1948 is curative and compensative. Lack of inter-departmental coordination is one of the major reasons for poor monitoring and compliance. Acharya thus argues for a more *participatory* system of management whereby compliance, reporting and documentation are adequately maintained.

India and ILO Conventions on OHS

From the various conventions on Occupational Health and Safety (OHS) at Workplace as framed by the International Labour Organisation (ILO); India has ratified the Labour Inspection Convention No 81, 1947 excluding Part II i.e. labour inspection in commerce (System of inspection in commercial workplaces). Other ILO Conventions on OHS are No. 155 - Occupational Safety and Health Convention, 1981; No. 161 - Occupational Health Services Convention, 1985 and No. 187- Promotional Framework for Occupational Safety and Health Convention, 2006. Although talks

are ongoing towards Ratification of C 155, it is pertinent that C 161 is simultaneously ratified along with No. 162 Asbestos Convention, 1986 and No. 170 Chemicals Convention, 1990 for improving workers' health and safety. No. 174 Prevention of Major Industrial Accidents Convention 1993 has been ratified by India in 2008..

To name a few other ILO Conventions that India has ratified include No. 1 Hours of Work (Industry) Convention 1919; No. 14 Weekly Rest (Industry) Convention, 1921; No. 26 Minimum Wage Fixing Machinery, Convention, 1928; No. 18 Workmen's Compensation (Occupational Diseases) Convention, 1925; No. 19 Equality of Treatment (Accident Compensation) Convention, 1925; No. 4 Night Work (Women) Convention, 1919 and its subsequent revisions as Convention No. 41 (Revised), 1934, Convention No. 89 (Revised), 1948 and P 89 Protocol of 1990 to the Convention No. 89 that are relevant for this subject.

The C 155 Occupational Health and Safety Convention 1981, states under Article 4, that each member must formulate, implement and periodically review a coherent national policy keeping the national conditions in mind. This policy must aim at preventive accidents and injuries that arise out of work and minimise the cause of hazards inherent in working conditions. Article 5, focuses on the design, testing, choice, substitution etc of the material elements at work³³ and more importantly its relationships with the persons who carry out the work; and adaptation of these material elements to the physical and mental capacities of workers. Ratification to this Convention by India would mean a reformulation of the existing National policy of Workplace Health and Safety and bringing about specific policy recommendations under the framework of the convention. These include making arrangements for necessary coordination that could also include setting up of a central body (Article 15) or an apex body that the Planning Commission had also recommended in 2001. Article 19 provides the worker to report to supervisors any situation that presents danger to his life or health.

³³ These include workplaces, working environment, tools, machinery and equipment, chemical, physical and biological substances and agents, work processes.

Much input for improvising policies and programmes in India with an engagement of stakeholders (workers' representatives and employers' associations for example) can be adapted from No. 176, The Safety and Health in Mines Convention, 1995. This Convention places the responsibility of health and safety firmly on the employers and provides the workers with important rights such as right to report accidents, hazards and other dangerous occurrences to employers and inspectorate. The right to ask for inspection and investigation by the employer and inspectorate; the right to refuse dangerous work and to elect safety representatives are some other rights accorded to workers under this Convention.

The National Policy on Safety, Health and Environment at Workplace 2009 notes that the "Government of India firmly believes that without safe, clean environment as well as healthy working conditions, social justice and economic growth cannot be achieved and that safe and healthy working environment is recognised as a fundamental human right". Basic rights of workers for instance - the right to know, right to participate and the right to refuse must be inculcated from other regulatory frameworks of developed nations. It is within this rights-based approach that this paper seeks to contest the need for engaging workers and stakeholders while formulating national programmes and legislative measures under the framework of the National Policy on Safety, Health and Environment at Workplace as envisaged by the Government of India in 2009. Amendments proposed to national legislations also carry financial implications. Therefore proposals of amendments of national laws must keep this into consideration and not leave room for ambiguity. This would also curtail criticism and abhorrence of such initiatives. The MoLE (XIIth five year plan document) does propose strengthening of infrastructure and manpower with the financial implications to meet the objectives under the National Policy framework.

Among the various measures for bringing OHS standards in India, this policy suggests that '*incentives*' to the entrepreneurs/employers to comply with health and safety standards could be provided. It therefore stands imperative with the growing concerns of global

economy and the trade-offs that are made; that 'incentive-laced' opportunities are created to suit flexible markets. Carsten Joerges (2001) notes that apart from regulations, measures such as the economic incentive method could be more effective in achieving improved health and safety. Likewise, formulation of standards on OHS like the BIS 15001:2000 Indian Standard on Occupational Health and Safety Management Systems- Specifications and Guidance for Use³⁴, that is based on the OHSAS 18000³⁵ but which deserves careful scrutiny might help in achieving this goal. Best practices have been another method adopted by certain companies to highlight issues of compliance and accountability on aspect on safety in particular.

IV Discussion

Thus amendments, ratifications and translations into legislations must be abreast with the changing conditions of employment and labour relations. Taking cue from No. 176, The Safety and Health in Mines Convention, 1995 which provides certain rights to workers could be an important step along with 'business incentives'. The findings of the primary study reiterate the abysmal working conditions in factories with poor attention given to health and safety issues for workers who are largely migrant, casual and non-literate. They are thus precariously placed in the labour market, highly vulnerable and subject to the vagaries of the market. And in case of an injury or accident, largely attributed to worker's negligence or carelessness; they are no longer *found* in the labour market. Therefore amendments made to existing national laws should consider such changes within the labour market. Under the aegis of the Ministry of Labour and Employment, the Directorate General of Factory Advice and Labour Institutes (DGFASLI),

³⁴ The Bureau of Indian Standards has brought about a practical approach to management of Occupational Safety and Health for protection of employees and general public. For details please see http://www.dgfasli.nic.in/newsletter/apr_jun01.pdf, Summary of BIS: 15001-2000-Standard on Occupational Health and Safety Management system.

³⁵ This is an international occupational health and safety management system specification. Please see Joerges Carsten (2001) Research Internship Papers 2001, Centre for Civil Society, p 5. Available at http://ccsindia.org/RP01_16.asp

National Safety Council (NSC), Employees' State Insurance Corporation (ESIC) particularly and various other research institutes like Centre for Occupational and Environmental Health, National Institute of Occupational Health (NIOH), All India Institute of Hygiene and Public Health to cater to issues on OHS in India. And as per the statistics of Standard Reference Note 2010 of DGFASLI, there are 324,761 registered factories in India with 270,294 as working. There are 13,100,129 as total employment, of which 13.43 percent are women. There are 2,642 safety officers, 3,096 welfare officers and 6,809 factory medical officers across the country. We continue to grapple with questions of accountability as far as labour rights is concerned. The institutional delivery systems or mechanisms although insufficient, but are at place. However, there is an urgent need for optimum utilisation of the existing infrastructure and to invest in health by governments, employers and workers alike. There is also an urgent need to address the manpower deficit in order to execute monitoring of such compliances and regulations which the MoLE in its XIIth five-year plan document has clearly stated. The statistical or record-keeping section has to be adequately systematised by collating the information gathered at the time of factory inspection. Such data should be adequately analysed and streamlined for further policy suggestions. Creation of another umbrella legislation of OHS may not solve the purpose but sector-specific interventions are required in accordance with its magnitude. Ratifications to the relevant ILO conventions need to be undertaken in all seriousness. Under the Fundamental Principles and Rights at Work (FPRW) as declared by the International Labour Organisation in 1998 to attain workers' rights irrespective of employment relations or its formality; it is pertinent to address issues of health and safety at workplace by revisiting the formal sector before laying prescriptions for the informal sector.

List of Tables

Table 1
Percentage of Workers without PPE at Workplace across Industry

Company Registration	Industry	No PPE
Yes	Leather (n=22)	63.6 (14)
	Garment (n=26)	100. (26)
	Electronics (n=29)	75.9 (22)
	Auto-parts (n=31)	41.9 (13)
	Total	69.4 (75)
No	Leather (n=11)	63.6 (7)
	Garment (n=8)	100. (8)
	Electronics (n=8)	87.5 (7)
	Auto-parts (n=9)	44.4 (4)
	Total	72.2 (26)
DK	Leather (n=26)	57.7 (15)
	Garment (n=18)	94.4 (17)
	Electronics (n=12)	83.3 (10)
	Auto-parts (n=3)	66.7 (2)
	Total	74.6 (44)

Source: Fieldwork

Note: Figures are in percentage and figures in parentheses are number of respondents

Table 2
Exposures at Workplace

Industry	Exposures at Workplace								
	Dust	Fumes	Oil/ Grease	Heat	Vibration	Noise	Pressure	Un- comfor- table posture	Odour
Leather (n=58)	36.2	31.0	44.8	55.2	39.7	74.1	50.0	63.8	41.4
Garment (n=53)	28.3	9.4	22.6	41.5	28.3	50.9	28.3	37.7	1.9
Electronics (n=49)	42.9	38.8	40.8	42.9	30.6	32.7	14.3	32.7	14.3
Auto-parts (n=43)	74.4	32.6	58.1	67.4	32.6	60.5	37.2	46.5	18.6

Source: Field work

Note: Figures are in percentage; n= number of respondents

Table 3
Workers' Physical Complaints at Workplace

Industry	Physical complaints at Workplace									
	Head-ache	Cough	Eye Disorder	Stomach disorder	Chest pain	Breathing problem	Musculoskeletal	Skin problem	Weakness	Hearing Disorder
Leather (n=58)	56.9	31.0	31.0	27.6	8.6	8.6	27.6	8.6	56.9	5.2
Garments (n=53)	49.1	5.7	30.2	17.0	9.4	1.9	3.8	1.9	62.3	0
Electronics (n=49)	42.9	28.6	49.0	18.4	12.2	16.3	22.4	22.4	65.3	4.1
Auto-parts (n=43)	37.2	14.0	48.8	27.9	27.9	2.3	16.3	32.6	62.8	14.0

Source: Fieldwork

Table 4
Percentage of Workers having Access to PPE at their Workplace

Industry	Mask		Apron		Gloves		Helmet		Cloth		Glasses		Boots		Handkerchief	
	Y	N	Y	N	Y	N	Y	N	Y	N	Y	N	Y	N	Y	N
	Leather (n= 58)	5.2	94.8	1.7	98.3	34.5	65.5	3.4	96.6	5.2	94.8	.0	100.	3.4	96.6	3.4
Garments (n=53)	1.9	98.1	.0	100	.0	100.	.0	100.	.0	100.	.0	100.	.0	100.	.0	100.
Electronics (n= 49)	6.1	93.9	4.1	95.9	16.3	83.7	2.0	98.0	4.1	95.9	8.2	91.8	4.1	95.9	4.1	95.9
Auto-parts (n=43)	9.3	90.7	2.3	97.7	51.2	48.8	2.3	97.7	18.6	81.4	11.6	88.4	.0	100.	.0	100.

Source: Fieldwork

Note: Figures are in percentage

Table 5
Industrial Injuries (Fatal and Non-Fatal) in Registered factories in Delhi (1994-98 and 2000-09)

Year	Working Factory end of the Year	Industrial Injuries	
		Fatal	Non-Fatal
1994	5781	9	561
1995	5945	13	495

Year	Working Factory end of the Year	Industrial Injuries	
		Fatal	Non-Fatal
1996	6076	18	306
1997	6229	12	102
1998	6350	91	183
2000	6682	05	50
2001	6885	02	53
2002	6967	21	13
2003	7105	06	17
2004	7289	05	14
2005	7476	17	33
2006	7650	14	50
2007	7793	17	35
2008	7921*	07	54
2009	NA	14	26

Source: Compiled from i) Annexure -IV, Report of the Working Group on Occupational Safety and Health for the 10th Five Year Plan (2002-07)

ii) http://delhi.gov.in/wps/wcm/connect/doi_labour/Labour/Home/Statistics+And+Miscellaneous/Industrial+Accidents accessed on 2-1-2012

Table 6
Number of Fire Outbreaks in Industrial Areas

Industrial Area	2009-10	2010-11
Peeragarhi	6	9
Mayapuri	2	Nil
Patpargunj	5	9
Okhla	26	40

Source: Office of Delhi Fire Service, Jan 2012

Table 7
Compensated Accidents, Amounts of Compensation paid and
Accident rate per 1000 workers except Railways during 2007

State/Union Territory	Average daily number of workers employed in establishments submitting returns	Number of Compensated Cases of Accidents Resulting in*				Amount of Compensation paid @ (Rs in Laths.)			
		Death	Perma- nent disable- ment	Tempo- rary disa- blement	Total	Death	Perma- nent disable- ment	Tempo- rary disa- blement	Total
Andhra Pradesh	255604	606 (2.37)	374 (1.46)	51 (0.20)	1031 (4.03)	1306.60 (2.16)	610.68 (1.63)	57.17 (1.12)	1974.4 (1.92)
Maharashtra	179027	26 (0.15)	131 (0.73)	1379 (7.70)	1536 (8.58)	67.32 (2.59)	30.05 (0.23)	425.45 (0.31)	522.82 (0.34)
Delhi	76904	98 (1.27)	168 (2.18)	12 (0.16)	278 (3.61)	305.33 (3.12)	76.70 (0.46)	11.83 (0.99)	393.86 (1.42)
Total#	931977	1239 (1.33)	929 (1.00)	1618 (1.74)	3786 (4.06)	2493.67 (2.01)	901.50 (0.97)	583.31 (0.36)	3978.4 (1.05)

Source: Report (2011) on the Working of the Workmen's Compensation Act, 1923 for 2007, Labour Bureau, Chandigarh, MoLE, GOI.

Note: *= Figures in brackets indicate accident rates per 1000 workers employed.

@= Figure in brackets indicate average compensation paid per case.

'-'= Nil.

= Total figures includes other states such as Himachal Pradesh, Kerala, Orissa, Rajasthan, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Andaman & Nicobar, Chandigarh, Dadra & Nagar Haveli, Puducherry

Table 8
Workplace Risks across Four Manufacturing Industries

Reported Risks	Number of Respondents across Industries				Total
	Leather	Garment	Electronics	Auto-parts	
Cuts	8	2	0	8	18
Burns	0	0	1	2	3
Electric shocks	1	4	13	0	18
Falls	1	0	0	2	3
Hand/Finger injuries	9	2	2	14	27
Pinched finger	2	0	0	0	2
Needle-stick finger injuries	2	12	0	0	14

Reported Risks	Number of Respondents across Industries				Total
	Leather	Garment	Electronics	Auto-parts	
Bruises	2	1	1	0	4
Piercing	0	0	0	2	2
Others	1	1	2	2	6
No Risks	32	31	30	13	106

Source: Fieldwork

Note: The classification of reported risks is based from few primary studies

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Fundamental Rights of Workers at Stake: Dissecting the Maruti Workers' Struggles

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I. Introduction

Out of the 8 core ILO conventions, together known as 'Fundamental Principles and Rights at Work (FPRW)', 4 are already ratified by India. These ratified conventions are on elimination of all forms of forced or compulsory labour (C 29 & C105) and on elimination of discrimination in respect of employment and occupation (C 100 & C 111). The conventions which are not ratified yet are Nos. 87, 98, 138 and 182. The first two (i.e. C.87 and C.98) are on the effective recognition of the right to collective bargaining, while the remaining two (i.e. C 138 and C.182) are on the minimum age and effective abolition of child labour. Here, it is important to note that even for those conventions which are not ratified by India, there are enabling provisions existing under the Constitution of the country as well as wide national/state level legislations. For instance, though the country has not so far ratified the ILO conventions on collective bargaining and freedom of association, we do have constitutional provisions as well as national legislations (e.g. Trade Union Act, 1926) that uplift the spirit of collective action and association of workers. Thus, the overall positioning of India in terms of recognising the norms and essence underlined in FPRW is normally considered as relatively better. However, the changing labour landscape of the country in recent years suggests that there is a need to revisit India's standing apropos following the core contents of FPRW. Of late, it has been frequently observed and reported that many segments of India's labour market (automobiles, garments and outsourcing, to cite a

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few) are prone to blatant labour right violations which goes against the spirit of basic standards underlined in various international covenants and frameworks, such as Core Labour Standards, FPRW and Decent Work.

In the above backdrop, the present paper attempts to examine the basic labour right violations in the case of the long drawn struggles of workers for basic labour rights in the automobile plants of Maruti Suzuki in Gurgaon and Manesar in the National Capital Region (NCR). The worker struggles in the Maruti Suzuki company attracted renewed and world wide attention, very recently especially after the outbreak of violence on 8 July 2012 in its Manesar plant, where one HR Manager was killed and several others (including managers and workers) injured. While giving more focus on the recent phase of labour unrest and violations of labour rights in Maruti Suzuki, this paper attempts to show this case as a vivid example of dilution of the spirit of FPRW in India.

The remaining part of the essay is schemed as follows. Section II contextualises the paper by situating the labour struggle in Maruti Suzuki in the overall scenario of growing labour unrest in NCR and the rest of India. Section III and IV focus on the recent phases of labour uprising in Maruti Suzuki. Section V attempts to discuss the specific violations of labour rights in this case and links it to the overall concerns of FPRW, as envisaged by the core ILO conventions. Finally, section VI summarises the paper.

II. Growing Labour Unrest in Automobile Units in NCR

During the past two decades, NCR, saw a considerable expansion in the industrial production, with mushrooming industrial units (small and big) engaging thousands of workers –not only in the industrial clusters of Delhi but also in its satellite industrial towns/ clusters – such as NOIDA, Greater NOIDA, Faridabad, Gaziabad and Gurgaon-Manesar-Dharuhera Rewari belt. These units also include major production units of automobile producers. Different estimates suggests that the industrial units in the Capital region

engages between 20-30 lakh workers, a large chunk of whom are migrants and/or workers in contractual and casual jobs. Most of these workers are by design kept out of the reach of organised trade union movement. Notwithstanding this, along side the expansion of industrial units and clusters, there have been signs of labour unrest in several of the worksites in the Delhi region

The police attack on workers in Honda Motors in Gurgaon in July 2005 is one of the recent major incidents that brought the labour unrest in the region to limelight. In 2008, in another incident, the CEO of an automotive component manufacturing company in Greater NOIDA was beaten to death by workers. The immediate remark of the then Union Labour Minister, who termed the incident as a “warning” to managements not to “push” the employees “so hard” led to severe criticism by the Industry. In a similar incident in October 2009, following the death of a worker in a unit of Rico Auto Industries in Gurgaon, agitated workers beat up a manager and the workers in the unit as well as their counterparts in auto-component manufacturing units in the region struck work¹. In yet another episode, in Gaziabad, in November 2010 agitated workers are reported to have beaten a managerial staff to death. By this time, the Maruti Suzuki Plant in Manesar also witnessed more visible signs of discontent among workers, which culminated into a 13 days strike (for basic trade union rights) in June 2011, involving over 3000 workers. The discontent and temper sown by this strike continued and thus could be seen as the backdrop of the current episode of labour unrest beginning with the 8 July 2012 incidents in the Manesar plant (which continues unresolved till date). Soon after the Maruti incident, there were tensions at Honda’s plant in Manesar itself, in August 2012. Alongside this, a lots of reports suggest the persistence of workplace tensions in the entire automobile producing belt in the NCR, indicating an overall disquieting scenario of industrial relations in the region. On the one hand, all these instances of labour conflicts show the growing discontent among workers who are continuously and completely exploited by the managements by imposing rigid, exploitative and inhuman working and living

conditions. On the other hand, it is also evident that any of these episodes cannot be seen as isolated cases, as they are all equally reflective of the growing discontent in automobile sector of NCR as a whole.

An overview of the determinants of worker discontent in these firms suggests that the most important reason is the non-fulfillment of legitimate economic demands concerning wages and other direct terms and conditions of work. The other major reasons include: poor working conditions on the shop floor, denial of equal payment for equal work (e.g. contract workers), issues of contract/casual workers; and temporary staff and apprentices and rights of workers to participate in worker collectives or trade union of their choice.

III. Zooming on Worker Struggles in Maruti

The initial reports about labour struggles and workers right violations in Maruti date back to early years of the present century². As per available evidences, during 2001-07, the Maruti plants in Gurgaon and Manesar witnessed some discrete spells of unrest, mainly for economic demands and on account of growing dissatisfaction of workers about the worsening terms of work. The first major agitation by Maruti workers, during this period, was the tool down and hunger strike held on 3 October 2000, under the aegis of the then existing Maruti Employees Union. The union opposed the then introduced 'Productivity Based Incentive Scheme', which directly linked the incentive payments to the workers to the sales of both the cars and spare parts and to the attendance of workers. This resistance was however met with stringent punitive actions including suspensions, dismissal and denial of work to those who were not willing to sign an undertaking of 'good conduct' which inhibited the rights of the workers to protest³. Sooner, the union also got derecognised and eventually a new union, Maruti Udyog Kamgar Union (MUKU) was floated under the sponsorship of the management.

Sequel to the launch of voluntary retirement schemes (VRS) in two phases in 2001 and 2003, rather in a coercive manner (PUDR, 2007), and with the opening of the new plant in Manesar (in 2006)⁴, the composition of workforce in the company changed considerably, with an increasing share of contract workers. Both the VRS drive as well as the contractualisation phase led to debilitation of organised strength of the workers and by 2007, when the company became a fully private enterprise run by Japanese management⁵ the collective strength of the employees were at its lowest level.

The labour unrest in the company reached in its peak in 2011. There was a 13 days strike in June 2011, followed by a 33 days strike in August-September and a 14 days strike in October. This spell of labour struggles, however, stands distinct as its primary demand being 'non-economic' - i.e. to get recognition for a new organisation of workers. By this time, majority of the workers in Maruti were dissatisfied with the functioning of MUKU, which was largely under control of the management. Accordingly, on 3 June, 2011 the workers submitted their application for registering a new union (Maruti Suzuki Employees Union) with the Labour Commissioner, Chandigarh. This move of workers was met with immediate response and retaliation from the management, insisted that no other union than MUKU will be considered as 'recognised' by the Management. This has led to a stalemate in cordial industrial relations in the company for quite a sometime. It is only after a series of struggles both within the company and with the government, the workers could get the registration of their union (with the name, 'Maruti Suzuki Workers' Union) done in January 2012⁶. Eventually the union prepared a charter of demands and presented to the management in April 2012. This also found with immediate retaliations from the management by way of suspension of activists. Further, in June 2012, the management also declared a deduction of bonus for 53 days to penalise the workers who actively participated in the protests of 2011. Thus, it is evident that the time immediately prior to the outbreak in July 2012 was marked with worker dissatisfaction

over various acts of management, including pecuniary and non-pecuniary concerns.

On the whole, the few years before the outbreak of labour unrest in Maruti in 2012 have seen erosion of basic rights of workers, incurrance of heavy financial losses (due to denial of eligible payments), vindictive actions against active cadres, disintegration of organised strength (through alleged malicious tactics engaged by management), coercive implementation of VRS policies, planting and nurturing of pocket union and restriction of workers' right to freely choose or join the collective(s) of their choice. The working conditions in the factory also reached at a deplorable level during this period⁷.

It is with this backdrop, one need to see the most recent phase of labour unrest in Maruti Suzuki.

IV. July 18, 2012 and Afterwards

The worker uprising in Manesar plant of Maruti on July 18, 2012 started with a allegedly castiest abuse on a dalit worker by supervisor, around 8.30 a.m. This act was immediately opposed by the workers with the involvement of the union. Subsequently, the management retaliated the workers resistance by suspending the worker concerned, citing indiscipline in the plant. Due to all these, tension has been mounting and negotiations between the union and management were going on in the plant right from morning hours till evening. The scuffle resulting in the killing of a HR manager happened after several hours (around 7.30 PM). By this time, police force was available just outside the entrance of the plant. Apart from the workers who were into heated argument with the management, there were also some bouncers engaged by the management, besides those workers entering the premises for their next shift's work.

The news of brutal killing of the HR manager, allegedly by workers, shocked the entire nation and was quickly condemned by state

authorities and industry spokespersons alike. The very next day, on July 19, 2013 Maruti Suzuki came out with a statement solely accusing the workers. Soon after the incident, the state police arrested more than 100 workers (including those who were not present at the site of mishap). It is reported that there is not a single managerial/supervisory staff arrested related to this incident. Also, it is widely understood that those who were arrested had to undergo atrocious custodial violence and harassments⁸. In all these actions, assertive/active workers and their family members were directly targeted. As a result many workers fled Manesar, leaving behind all their meager belongings along with livelihoods.

The management announced a lockout of the Manesar plant on July 21, which continued for a month, leading to sacking of several permanent and contractual workers⁹. There are also reports that in order to break the worker solidarity and collectivity, some of the workers were transferred to distant locations such as Mumbai, Kerala and Gauhati¹⁰. The response of Haryana government was very quick and supportive to the management. Such a stand, it is often pointed out, is due to the perceived fear of loosing out corporate investment from Haryana to other competing states, which are also in the run for foreign investment¹¹. The state's police machinery was fully available to ensure no more annoying incidents that upset the investor-friendly environment in Haryana¹².

As a result of this open support of the state authorities to protect the interests of private capital, the Maruti struggles saw a number of repressive modes to control and suppress worker struggles, with active involvement of police. The resistance of the state authorities to accept the Maruti worker struggles as an Industrial Relations problem is visible when the entire episode is viewed and portrayed as a case of mob attack, upsetting law and order. The readiness of the state to protect the interests of investors was evidently visible in the over enthusiasm and attention attached to the visit of the Chairman of Maruti Suzuki, some time after the July 2012 incident (Padhi, 2013; Sehgal, 2012; PUDR, 2013).

The local community (which makes huge business through provision of ancillary services to Maruti and through running of shops and provision of rented accommodation to the migrant workers) also displayed their unstinted support to the management, by actively conniving with the state authorities, police and the management of the company to stop any further undesirable collective action by the workers. Reports suggest that soon after the July 2012 incident, the 'Khap Panchayats' in nearby villages were actively into threatening the migrant workers, to p options revert their further participation in any anti-management struggles. The holding of a Maha Panchayat in the locality involving all nearby khap panchayats to display solidarity to the management and the government in restoring industrial peace in Manesar (through suppressing the worker struggles) is a classic evidence of the protection of global capital through the systems of feudal society!

Even after several months, pernicious practices of sabotaging worker solidarity and collectivity (through coercion and terrorisation jointly by police, management and local community) continue. The latest episode is the atrocious police repression and violence against Maruti workers and their families on 19 May 2013. While commenting on this incident, Ranjana Padhi, an activist, reports that on the whole, the July 2012 incident at Maruti's Manesar plant led to the termination of 546 permanent workers, 1800 contract workers, confinement of 147 workers in Jail and 66 non-bailable warrants (Padhi, 2013). With several of the activists behind bars and continued repression of workers blatantly violating fundamental labour and citizenship rights ensured in national laws and Constitutional provisions, Maruti continues its successful business journey along with unending worries of its workers! It is also a cause of concern that, citing the July 2012 incident as a cause, the management is on its way to militarise the Maruti workplace, by setting up a special force of security personnel comprising of 100 ex-servicemen inside the plant at Manesar¹³.

V. A Case of Denial of Worker Rights

From the ongoing discussion it is evident that the worker struggles in Maruti can be seen as a blatant case of negation of fundamental principles and rights at workplace. In this episode, the legitimate rights guaranteed in the constitution apropos freedom of association and the rights of the workers to form trade unions of their choice (as per Trade Union Act, 1926) are openly flouted, interestingly with the support of state authorities and police machinery. The very fact that the Maruti workers took several months to register a union) that too after facing innumerable punitive actions, resistance, coercion and terrorisation) shows that their right to organise and collective bargaining are not honored even by the authorities, who are supposed to be the protectors of the spirit of national legislations such as Trade Union Act (Padhi, 2013; Sehgal, 2012; PUDR, 2013).

Further, the Maruti story openly suggest that multiple means of sabotaging and stalling worker mobilization – ranging from planting pocket unions to buying union leadership were openly practiced by employers. The management also openly directed the workers not to affiliate with any of the central trade unions, if they wish to maintain healthy relations at workplace. All such coercive measures were unheard of in labour scene of India till recently. Thus, it is evident that the most recent incidents in Maruti Suzuki plant in Manesar and its aftermath strongly point towards the advent of a new era of industrial relations with a visible highhandedness of global and corporate capital.

Though the latest incidents in Maruti were related to the worker struggles for realizing a non-economic demand (i.e. registering a union of their choice), a closer analysis of the case suggests that the series of events in Maruti have several instances of negation of economic demands as well as basic standards at workplace. Non-payment of earned wages and large scale engagement of contract workers on works of permanent nature show how basic provisions as per labour laws are dishonored by the management.

Through massive engagement of casual and contractual workers in the company, the provisions of Contract Labour (Regulation and Abolition) Act, 1970 are blatantly violated. Besides this, large scale involvement of contractual and casual labour, along with some permanent workers, also leads to dualistic labour market situations and denial of the principle of equal pay for equal work¹⁴.

The case of Maruti workers struggle also saw observance of non-procedural acts on firing and repatriation of workers – by way of announcing ‘legitimate’ lockouts and following unceremonial practices of sacking the workers. Large scale engagement of bouncers, police and private security guards at the workplace also suggest that employees had to work under coercion. Lastly, the immediate reason for the uprising of workers in July 2013 (i.e verbal cast abuse to a worker) also points to the fact that there are social profiling and discriminations are being practiced at workplace, seriously risking the dignity of workers at workplace.

VI. Conclusion

On the whole, foregoing analysis suggests that the workers struggles in Maruti Suzuki in Manesar and Gurgaon clearly indicate negation of basic labour rights at workplace. The recent episode of labour unrest in Maruti Suzuki at Manesar also provides ample evidence for a capital friendly stands of the state authorities, labour department and state police (Padhi, 2013; Sehgal, 2012; PUDR, 2013). It is striking to note that the authorities have done little to implement labour laws and blatantly denied basic rights of workers such as trade union formation¹⁵. Such anti-labour and pro-capital stand would not have been maintained had the country been ratified and obliged to abide the guidelines suggested in relevant conventions on collective bargaining and right to organise. Thus, one need to consider the labour struggles in Maruti as eye openers while we think of strengthening the already ratified/adopted ILO conventions among FPRW and while rethinking the ratification of those conventions (e.g. those concerning freedom of association and right to collective bargaining) in future.

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NOTES

- 1 Sehgal, 2013 hints that this tragic incident however did not get much attention, when compared to the incident at Maruti's Manesar Plant in October 2012.
- 2 For a detailed account of initial phases of hardships of labour in Maruti, please refer PUDR (2001 & 2007).
- 3 As per reports, even when the workers were forced to sign 'good conduct bond', as a precondition for their resuming work, the authorities did not intervene in support of the workers.

- 4 Estimates suggest that about two-third of the workers in Manesar plant are contract workers, with unimpressive wages and working conditions vis-à-vis the permanent employees.
- 5 Following the neo liberal and disinvestment policies of Government, Maruti Udyog Limited which started functioning as a public sector company in 1981 was gradually got disinvested by allowing higher shares of ownership to its strategic partner Suzuki Motor Corporation of Japan. By 2002, more than 50 per cent of the shares were possessed by Suzuki Motors and eventually by 2007, the entire stake in the company was given to the private/foreign partner.
- 6 The workers could ultimately get the registration after facing continuous resistance and backtracking of the state authorities from earlier consensus, which *inter alia* indicates a `complete sell-out of the state and its machinery in the hands of big capital (Sigh & Sawhney, 2011).
- 7 For more details on the deplorable working conditions at Maruti and the atrocities on its workforce, see Editorial, Economic and Political Weekly (EPW, September 10, 2011 Vol.XLVI, No.37) and Annavajhula & Pratap (2012).
- 8 In a letter to Economic and Political Weekly (EPW, October 13, 2012, Vol. XLVII, No.41), Chauhan and Singh explains the `police high-handedness' in the Maruti Incidents.
- 9 As per an Editorial of the Economic and Political Weekly (May 25, 2013, Vol. XLVIII No.21), eventually, about 500 regular workers and 2000 contractual workers were sacked.
- 10 Letter to Editor, Economic and Political Weekly by Gupta and Manjit (EPW, February 23, 2013, Vol. XLVIII No.8).
- 11 The entire episode of Maruti was also viewed as attempts of conspiracy and sabotage to pull investment from Haryana to other states of country. There were fears about shifting the plants of Maruti to other states such as Gujarat. This argument warrants further attention when one juxtapose it with the ongoing frenzied competition among various state governments to attract and retain huge investments from national and international business houses.
- 12 Such a protective stand provided to global capital is consistent with the state's long-standing practice of providing an investor-friendly environment - free of labour unrest (Sehgal, 2005).

- 13 While responding to this, in their letter to Editor, *Economic and Political Weekly* (September 15, 2012, Vol.XLVII No.37) , Singh and Chauhan point out that `the Haryana government's intention to deploy 500-600 Rapid Action Force personnel inside the plant in Manesar shows that the state government is abetting the company in this move'.
- 14 Sehgal, 2013 details out these aspects and highlights that the non-intervention of government authorities to correct such blatant violations and discriminatory practices itself shows the pro-capital stand of the authorities.
- 15 This protective stand of government towards private capital was also evident in earlier spells of worker struggles in Maruti (for details see Sehgal, 2005; Rajalakshmi, 2011; 2011a; 2011b).

Maternity Protection at Work

Shashi Bala*

Introduction

Historically, maternity has been treated as a state of disability in women workers from undertaking any work during the few weeks immediately preceding and following child birth. With the emergence of the system of wage labour in the industrial undertakings, many employers tended to terminate the services of the women workers when they found that maternity interfered with the performance of normal duties by women workers. Many women workers, therefore, had to go on leave without pay during this period in order to retain their employment. Many others had to bear a heavy strain to keep their efficiency during the periods of pregnancy, which was injurious to the health of both, the mother and the child.

To remove this hardship of the women workers, the concept of maternity benefit came about in order to enable the women workers to carry on the social function of child; bearing and rearing without undue strain on their health and loss of wages.

The cornerstone of women's right and gender equality is the enabling provision of maternity protection. This essential pre requisite has been recognized in various international human rights instruments such as the international covenant on Economic, Social and Cultural rights, 1996 and various international labour conventions (nos. 3,102,103 & 183). In 1975, the ILO adopted the Declaration on Equality of opportunity for women workers. During the 92nd International Labour Conference in 2004, ILO member states adopted resolutions relevant to extending maternity protection access and promoting work- life balance. On both occasions i.e., in 1975 and 2004, it was accepted that maternity is a cause for discrimination and such

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continuing discrimination is inimical to equality of opportunity and equal treatment of women.

The origin of the scheme of maternity benefit can be traced towards the end of nineteenth century in Germany when maternity allowance itself became a part of the insurance scheme. Other developed countries, including the United Kingdom and Australia, also adopted similar schemes. In Great Britain, maternity allowance was included in the health insurance scheme in 1912 and in Australia; Maternity Allowance Act came into force in 1912. However, international recognition for maternity benefit was only achieved by the efforts of the International Labour Organization (“ILO”).

The core concerns of ILO have been to ensure that women’s work does not pose risk to the health of the women and her children and to ensure that women’s reproductive roles do not come in the way of their economic and employment security.

The conclusions of the 98th International Labour Conference in June 2009 have also acknowledged that strengthened Maternity protection is key to gender equality at work and therefore called on the ILO to promote the ratification and application of Convention No.183 and to “[...] compile and disseminate good practices on parental leave and paternity and Maternity leave and benefits, and provide technical support to governments to develop effective laws and policies” (ILO, 2010).

Conventions on Maternity

It was during the first International Labour Conference (ILC) in 1919 that the first Convention on Maternity protection (Convention No. 3) was adopted. This Convention was followed by two other conventions: Convention No. 103 in 1952 and Convention No.183 in 2000, which progressively expanded the scope and entitlements of Maternity protection at work.

As regards, ratification of conventions pertaining to maternity protection, Convention No. 3 has been ratified by 30 member States

and Convention No. 103 also by 30 member States. Convention No. 183 come into force on 7 February 2002 and, as of now, has been ratified by 28 member states namely : The former Yugoslav Republic of Macedonia, Slovenia, Slovakia, Serbia, Romania, Portugal, Netherlands, Morocco, Montenegro, Moldova, Republic of, Mali, Luxembourg, Lithuania, Latvia, Kazakhstan, Italy, Hungary, Cyprus, Cuba, Burkina Faso, Bulgaria, Bosnia and Herzegovina, Benin, Belize, Belarus, Azerbaijan, Austria, Albania. The influence of the Maternity protection Conventions extends well beyond ratifications; virtually every country around the world has adopted some type of Maternity protection legislation.

Convention No.3

The 1919 Convention provided that no woman should be permitted to work in any industrial or commercial undertaking for a period of six weeks after any confinement, and that she should be entitled to leave work during the six weeks before her confinement, on production of a suitable medical certificate. During any such period of absence the employee was to be paid benefits sufficient for the full and healthy maintenance of herself and her child, and is, in addition, to receive free attendance by a doctor or certified midwife (Creighton, 1979). The income security is also provided during this period. It also guaranteed nursing facilities and reinstatement in employment after leave. (Agarwala, 1947). The amount of benefit is to be determined by the competent authority in each country, and the cost of the scheme is to be defrayed out of public funds unless otherwise provided under a scheme of insurance. (Creighton, 1979)

All the member countries of ILO were directed to pass suitable legislation to extend certain benefits to women during pregnancy and after childbirth.

India being one of the founder members of ILO was expected to pass such legislation without delay. The British Government after the consultations with various authorities and individuals informed

the ILO that India had not advanced enough socially to pass such legislation. There were two main arguments. (Agarwal, 2002)

In the first place, it was stated, it is a practice amongst women to go to their parents' home for delivery. They leave their jobs and go to some other town or village. Hence they would not be in a position to avail of the benefits provided to them. Secondly, it was pointed out that there are hardly any women doctors in towns, and almost none in small villages. A pregnant woman will not be prepared to go to a male doctor to get the necessary certificate of pregnancy. It will therefore be difficult to provide her the necessary leave and other facilities. Hence the required legislation much be postponed for some more years. (Agarwal, 2002)

Convention No.103

The ILO Maternity Protection Convention, 1919 was revised in 1952. According to the revised convention every woman irrespective of age, nationality and status in public or private, industrial or commercial undertaking was required to be absent for a period of six weeks after the child birth and allowed to be absent for a period of six weeks prior to child birth. For such absence she was to be paid full benefits sufficient for the full and healthy maintenance of herself and her child. These benefits were to be paid either out of public funds or be means of a system of insurance but the exact amount was to be determined by the competent authority in each country. Additional benefits like free attendance by doctors and midwives, and two nursing breaks of half an hour's per day were provided, and no employer could dismiss a woman for such absence.

There are several references to the right to work in UN Covenants and several ILO Standards, which implicitly or explicitly recognize women's right to work. For example, in the operative part of the Universal Declaration of Human Rights, 1948, it is stated, "everyone has the right to work, to free choice of employment." Everyone here is deemed to include both men and women. There are other

International Standards, which explicitly embody the principle of non-discrimination on the grounds of sex, for example, article 2 of ILO Convention on Discrimination on Employment and Occupation, No. 111 of 1958. Considering the uncertainties of interpretation, there was an explicit recognition of women's right to work at the 60th session of the International Labour Conference in 1975. The conference adopted a Declaration and two Resolutions on Equality of Opportunity and Equality of Treatment for Women Workers in the International Women's Year. The most recent exponent of this principle is the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979 which came into force in 1981, and is now ratified by over 120 Countries. (Patel, 1995)

Convention No.183

Convention No. 183 is divided into a number of different aspects of Maternity protection mentioned below:

- Scope;
- Health protection;
- Maternity leave;
- Leave in case of illness or complications;
- Cash and medical benefits;
- Employment protection and non-discrimination; and
- Breast feeding mothers.

This Convention should normally be implemented through laws or regulations, although different means are used in the national practice of the member states, by following protection, such as collective agreements and arbitration awards, etc.

Globally, 51 per cent, of countries provide a Maternity leave period of at least 14 weeks, the standard established by Convention 183. 20 percent of countries meet or exceed the standard of 18 weeks of leave suggested in Recommendation No. 191. About one-third (35 per cent) of countries provide 12 to 13 weeks of leave - less than

the duration specified by Convention No. 183, but consistent with the level set by Conventions No. 3 and 103 of at least 12 weeks of leave. Only 14 per cent of countries provide less than 12 weeks of Maternity leave.

Article 1

This Convention applies to women employed in industrial undertaking and in non-industrial and agriculture occupations, including women wage earners working at home.

Article 2

For the purpose of this Convention, the term “women” means any female person, respective of age, nationality, race or creed, whether married or unmarried, and the term “child” means any child whether born of marriage or not.

Article 3

A woman to whom this Convention applies shall, on the production of a medical certificate stating the presumed date of her confinement, be entitled to a period of maternity leave.

The period of maternity leave shall be at least twelve weeks, and shall include a period of compulsory leave after confinement.

Article 4

While absent from work on maternity leave in accordance with the provisions of Article 3, the woman shall be entitled to receive cash and medical benefits.

The rates of cash benefit shall be fixed by national laws or regulations so as to ensure benefits sufficient for full a healthy maintenance of herself and her child on accordance with a suitable standard of living.

Article 5

If a woman is nursing her child she shall be entitled to interrupt her work for this purpose at a time or times to be prescribed by national laws or regulations.

Interruptions of work for the purpose of nursing are to be counted as working hours and remunerated accordingly in cases in which the matter is governed by or in accordance with laws and regulations; in cases in which the matter is governed by collective agreement, the position shall be as determined by the relevant agreement.

Article 6

While a woman is absent from work on maternity leave in accordance with the provisions of Article 3 of this Convention, it shall not be lawful for her employer to give her notice of dismissal during such absence, or to give her notice of dismissal at such a time that the notice would expire during such absence.

Origin and Development of Maternity Benefit Schemes in India

At the time when the Maternity Protection Convention was adopted by the ILO in 1919, it was suggested that the countries represented should carry out inquiries into the question of maternity benefits for women workers. The conference, therefore, adopted a special resolution requesting the Indian Government to make a study of the question of maternity benefits and to submit a report to the text conference.

Upon this the Government of India consulted the provincial Governments and employers etc. and submitted a report to the International Labour conference held in 1921. The report prescribed that "legislation upon the subject would be premature, but an attempt would be made to induce the principal organized industries to start voluntary benefit scheme by assisting them financially" (ILO, 1952).

Therefore, the Government of India expressed its inability to adopt the Convention.

The reasons given were (a) the impossibility of enforcing the compulsory periods of absence from work in case of the pregnant women workers (b) the shortage of medical women who would be necessary for issuing medical certificates, (c) the impossibility of compulsory contribution schemes to provide benefits and (d) the absence of need for provision regarding nursing periods and for the protection of women from loss of employment during pregnancy (ILO, 1952).

However, the provincial Governments continued to persuade the employers to take unilateral decision for the adoption of the ILO Conventions. In the meanwhile, a private member Mr. N.M. Joshi (Mr. N. M. Joshi was a Trade Union Leader and general secretary to the All India Trade Union Congress. He was instrumental in getting the Trade Unions Act, 1926 passed.), who had attended as worker's delegate the International Labour Conference at which the Maternity Protection Convention was adopted, introduced a Maternity Bill in the Central Legislature. The Bill seeks to make statutory provisions for maternity benefit for women employed in factories and mines, and paying them cash benefits during confinement. The Bill could not be passed because of lack of public support, impossibility of supervising the scheme, low availability of women doctors and because of migratory character of women workers (Srivastava, S.C., 1985). There was also a feeling that the passing of the legislation would harm the employment prospects of women.

The maternity benefit legislations took their roots with the passing of the Bombay Maternity Benefit Act, 1929. Under the Act, every woman worker who has worked for nine months in a factory is entitled to maternity benefit on the production of a medical certificate. She is entitled to leave of absence for four weeks. Maternity benefit was to be paid to her at the rate of 8 annas per day (8 annas are equal to 50 paisa according to today's currency). This was the first maternity

benefit legislation in India. This was followed by enactment of a similar law by the Central Provinces and Berar in 1930.

Another milestone in the field of maternity benefit was reached with the appointment of the Royal Commission on Labour in 1929. The Commission, inter alia, recommended that maternity benefit legislation on the lines of Bombay Maternity Benefit Act, 1929 should be enacted in other provinces. The commission also recommended that the maternity benefit should be non-contributory and in line with the recommendations a number of provinces passed their own maternity benefit legislations. Madras and Ajmer passed this legislation in 1934, Delhi in 1937, U.P. in 1938, Bengal and Sind in 1939, Hyderabad in 1942, Punjab in 1943, Assam in 1944 and Bihar in 1945. In Bihar the Maternity Benefit Act, was re-enacted in 1947 with certain changes. Many other states passed these legislations a bit later, during the Post-Constitution Period. This application of these Acts has been reviewed from time to time and necessary modifications have been introduced.

However, the Central Government did not lag behind. It took the clue from the provincial governments and passed the maternity benefit legislations. The first central enactment in the sphere was the Mines Maternity Benefit Act, 1941. This Act was of a very limited application as it was applicable only in mines.

However, despite such steps the commitment to providing maternity protection remained low. The Report by the Bhore Committee pointed out to the inadequate availability of crèche facilities in several industries and poor implementation of Maternity Benefit provisions by various Union Provinces of pre-independent India. (GOI, 1946)

After India attained Independence, the constitution was formulated and adopted in 1950. The constitution, which is the foundation and the guiding principle of all future legislations, contains specific provision, providing rights and privilege to the women. These right and privileges are contained in the Fundamental rights and Directive principles of the state policy.

Maternity Benefit and The Indian Constitution

These rights and privileges are: right to equality in law (Article 14 of the Constitution of India), right to social equality (Id., Article 15.), right to social equality in employment (Id., Article 16.), right to protective discriminations (Id., Article 15 (3).) ,right against exploitations of women (Id., Article 23.), right to adequate means of livelihood (Id., Article 39 (a).), right to equal pay for equal work (Id., Article 39 (d).), right that the health and strength of workers both men and women are not abused (Id., Article 39 (e).), right to just and humane conditions of work and maternity relief (Id., Article 42.), and right to improvement in employment opportunities and conditions of the working women (Id., Article 46.).

Article 42, a directive principle of State Policy, states that “The State shall make provision for securing just and humane conditions of work and for maternity relief.” Art. 21, Right to Life and Personal Liberty is not merely a right to protect one’s body but the guarantee under this provision contemplates a larger scope. Right to Life means the right to lead meaningful, complete and dignified life. It does not have restricted meaning. It is something more than surviving or animal existence. The meaning of the word life cannot be narrowed down and it will be available not only to every citizen of the country. Therefore, the State must guarantee to a pregnant working woman all the facilities and assistance that she requires while protecting her employment as well as her own and her child’s health.

The measures and provisions which are made in the Post-Constitution Period for women workers are mostly based on these constitutional provisions.

The Second Five-Year Plan and The Enactment of The Maternity Benefit Act

The enactment of a central legislation on maternity benefit was the result of the Second Five-Year Plan (1956-61). The plan persisted in welfare approach so far as women issues are concerned. It

recognized the need for organization of women as workers, that women should be protected against injurious work, should receive maternity benefit and crèches should be established for children in work places. It also recommended speedy implementation of the principle of equal pay for equal work and provision of training to enable women to compete for higher jobs.

By far the most important development that took place was that a new Central legislation on maternity benefit, the Maternity Benefit Act, 1961 was enacted. The Maternity Benefit Act, 1961 was enacted keeping in view all the pre-constitution legislations and the revised ILO Maternity Protection Convention, 1952.

Key Aspects of Maternity Benefit Act, 1961 & Comparison with other Schemes

The Maternity Benefit Act, 1961 was enacted keeping in mind not only all those legislations related to maternity that existed from the pre-Constitution days, but also ILOs mandate regarding maternity protection (ILO, 1952).

But the Maternity Benefit Act of 1961 is not the only piece of legislation that provides for maternity protection or benefit. The Employees' State Insurance Act, 1948 and the Central Civil Services Rules, 1972 are instances of legislations that cover maternity protection among other things. A comparative study of the three would be helpful in understanding their scope and impact.

It would be pertinent to first examine the key provisions of the Maternity Benefit Act at this juncture.

The Maternity Benefit Act, 1961

The Act was passed with a view to reduce disparities under the existing Maternity Benefit Acts and to bring uniformity with regard to rates, qualifying conditions and duration of maternity benefits. The Act repealed the Mines Maternity Benefit Act, 1941, the Bombay

Maternity Benefit Act, 1929, the provisions of maternity protection under the Plantations Labour Act, 1951 and all other provincial enactments covering the same field. However, the Act does not apply to factory or establishment to which the provision of Employee's State Insurance Act 1948 applies, except as otherwise provided in Sections 5A and 5B of the Act.

Object and Scope

The Act seeks to regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide maternity benefit and certain other benefits to women workers.

The Act extends to the whole of India. It applies, in the first instance: to every establishment being a factory, a mine or plantation including any such establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances; to every shop or establishment within the meaning of any law for the time being in force in relation to shop and establishments in a state, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months.

The State Government is empowered to extend all or any of the provisions of the Act to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise with the approval of the Central Government by giving not less than two months' notice of its intention of so doing.

However, as stated above, the Act excludes the applicability of the provisions of the Act to any factory or other establishment to which the provisions of the Employee's State Insurance Act, 1948 applies except as otherwise provided in Sections 5A and 5B of the Act.

The Act has been amended from time to time. The Amendment of 1972 provides that in the event of the application of the Employee's State Insurance Act, 1948 to any factory or establishment, maternity

benefit under the Maternity Benefit Act would continue to be available to women workers, until they become qualified to claim similar benefit under Employee's State Insurance Act.

Again, in 1973 the Act was amended so as to bring within its ambit establishments in the circus industry. A 1976 amendment further extends the scope of the Act to the women employed in factories or establishments covered by the ESI Act, 1948 and in receipt of wages exceeding entitlement specified in that Act.

The Act was again amended in 1988 to incorporate the recommendations of a working group of Economic Administration Reforms Commission. The Act was extended to shops or establishments employing 10 or more persons. The rate of maternity benefits was enhanced and some other changes were introduced. The Amendment of 1995 further expanded the coverage of the Act and recognized the medical termination of pregnancy and provided incentives for family planning. Maternity Benefit (Amendment) Act, 1995 provides that there shall be a six weeks leave with wages in case of medical termination of pregnancy, two weeks leave with wages to women employees who undergo tubectomy operation and one month leave with wages in cases of illness arising out these two. By an amendment in 2008 the existing ceiling of maternity benefit was increased from Rs. 250 to Rs. 1000. The Central Government is empowered to increase the medical bonus from time to time subject to a maximum of Rs. 20, 000/-.

Salient Features of the Act

According to Section 4 of this Act, no employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, or miscarriage, nor shall any woman work during this period. Besides, no pregnant woman shall, on a request made by her in this behalf, be required by her employer to do any work of arduous nature, or that which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or the normal development of the

fetus; or is likely to cause her miscarriage or otherwise to adversely affect her health, during the one month immediately preceding the six weeks before the date of her expected delivery.

Every woman shall be entitled to, and her employer shall be liable for, the payment of Maternity benefits at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following that day, says the provision under **Section 5**.

However no woman shall be entitled to these benefits unless she has actually worked in an establishment of the employer from whom she claims them, for a period of not less than 80 days in the twelve months immediately preceding the date of her expected delivery. The maximum period for which any woman shall be entitled to Maternity benefits shall be 84 days.

In case a woman dies during this period, then the Maternity benefit shall be payable only for the days up to, and including, the day of her death. Similarly, if a woman dies during her delivery, or during the period of six weeks immediately following the date of delivery, leaving behind in either case the child, the employer shall be liable for the Maternity benefits for the entire period of six weeks immediately following the day of her delivery. But if the child also dies during the said period then for the days up to, and including, the day of the death of the child. In the event of a women's death, the employer shall pay such benefits or amount to the person nominated by the deceased in the notice given under **Section 6** and if no notice has been given, then to her legal representatives. Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after delivery.

The provision under **Section 6(5)** says that the amount of maternally benefits for a period preceding the date of her expected delivery shall be paid in advance by the employer.

Miscarriage has also been given same importance. **Section 9** provides that in case of miscarriage, a woman shall be entitled to leave with

wages at the rate of maternally benefit for a period of six weeks immediately following the day of her miscarriage. Besides a woman suffering from illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall be entitled to an additional leave with wages at the rate of Maternity benefit for a maximum period of one month under **Section 10**, (Gupta2008).

Regarding nursing breaks **Section 11** provides for two additional breaks of the prescribed duration for nursing the child until the child attains the age of 15 months. Moreover, deduction of wages in certain cases has been made unlawful. A woman cannot be discharged or dismissed by the employer when she absents herself from work in accordance with the provisions of this Act.

The Employees' State Insurance Act, 1948

The Act provides for periodical payment to an insured woman at the prescribed rate and for a prescribed period in case of confinement, miscarriage, sickness arising out of pregnancy or premature birth of a child.

The term confinement means "Labour resulting in the issue of living child or labour after 26 weeks of pregnancy resulting in the issue of a child whether alive or dead" and the expression miscarriage as defined in the Act means "expulsion of the contents of a pregnant uterus at any period prior to or during twenty six weeks of pregnancy, but does not include any miscarriage the causing of which is punishable under the Indian Penal Code".

Eligibility

An insured women shall be qualified to claim maternity benefit for a confinement occurring or expected to occur in a benefit period, if the contributions in respect of her were payable for not less than half the number of corresponding contribution period. The insured woman becomes eligible for the benefit after being certified to be eligible for such payment by the medical officer to whom she has been

allotted or by an insurance medical officer attached to a dispensary, hospital, clinic or other institution to which the insured woman is or was allotted if in the opinion of such insurance medical officer the condition of the woman so justifies. Any other evidence in lieu of a certificate of pregnancy, expected confinement or confinement from an insurance medical officer may be accepted by the corporation, if in its opinion, the circumstances of any particular case so justify.

The Duration and Quantum of Benefit

The duration of maternity benefit available to an insured woman in case of confinement is 12 weeks of which not more than 6 shall precede the expected date of confinement. In case of miscarriage, insured women are entitled to maternity benefit for a period of 6 weeks only provided she gives a notice and submits a certificate of miscarriage from the concerned medical officer. For illness arising out of pregnancy, delivery, pre-mature birth of a child or miscarriage she is, on production of a certificate from the prescribed medical officer in the prescribed form, entitled to maternity benefit for an additional period of one month.

The rate of maternity benefit is equal to twice the standard benefit rate corresponding to the average daily wages in respect of insured woman during the corresponding contribution period.

The maternity benefit is paid subject to the condition that the insured woman does not work for remuneration on the days in respect of which the benefit is paid. In the event of the death of an insured woman, the maternity benefit is payable to her nominee or legal representative for the whole period if the child survives, and if child also dies until the death of the child.

An insured woman shall not be entitled to receive for the same period (a) both sickness benefit and maternity benefit or (b) both maternity and disablement benefit for temporary disablement. Where a woman worker is entitled to more than one of the benefits mentioned above she shall have to choose between the two.

The Act prohibits dismissal, discharge, reduction in rank or any other punishment of an insured women employee during the period she is in receipt of maternity benefit. An insured woman may be disqualified from receiving maternity benefit if she fails without good cause to attend for or to submit herself to medical examination when so required and such disqualification shall be for such number of days as may be decided by the authority authorized by the corporation. A woman worker may, however, refuse to be examined by any person other than a female doctor or midwife.

Central Civil Services Rules of 1972

The Central Civil Services Rules of 1972 also provide maternity protection. The scope of application and quantum of relief differ vastly from the other two legislations: Maternity Benefit Act, 1961 and Employee's State Insurance Act, 1948.

Mines Act, 1952

- **Explanation to S. 52 (Annual Leaves)** provides that "in the case of female employees, maternity leave for any number of days not exceeding 12 weeks."
- **S.58-Power of Central Government to make rules.** The Central Government may, by notification in the Official Gazette, make rules in consistent with this Act for all or any of the following purposes, namely:-

(d) for requiring the maintenance in mines wherein any women are employed or were employed on any day of the preceding twelve months of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing either generally or with particular reference to the number of women employed in the mine, the number and standards of such rooms, and the nature and extent of the amenities to be provided and the supervision to be exercised therein;

Factories Act, 1948

- **Section 79. Annual leave with wages.-**

Explanation 1. - For the purposes of this sub-section-
(b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and

- **Section 48- Crèches-**

- (1) In every factory wherein more than thirty women workers 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 women.
- (2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall 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 factories to which the section applies, of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;
 - (c) requiring the provision in any factory of free milk or refreshment or both for such children;
 - (d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

Plantations Labour Act, 1951

- **Sec.32. Sickness and Maternity Benefits. –**

- (1) Subject to any rules that may be made in this behalf, every worker shall be entitled to obtain from his employer - in the case of sickness certified by a qualified medical practitioner, sickness allowance, at such rate, for such period and at such intervals as may be prescribed.
- (2) The State Government may make rules regulating the payment of sickness allowance and any such rules may specify the circumstances in which such allowance shall not be payable or shall cease to be payable, and in framing any rules under this section the State Government shall have due regard to the medical facilities that may be provided by the employer in any plantation.

- **Sec.12- Crèches**

- (1) In every plantation wherein fifty or more women workers (including women workers employed by any contractor) are employed or employed on any day of the preceding twelve months, or where the number of children of women workers (including women workers employed by any contractor) is twenty or more, there shall be provided and maintained by the employer suitable rooms for the use of children of such women workers.

Explanation: For the purposes of this sub-section (1-A) “children” means persons who are below the age of six years. (1-A) Notwithstanding anything contained in sub-section (1) if in respect of any plantation wherein less than fifty women workers (including women workers employed by any contractor) are employed or were employed on any day of the preceding twelve months, or where the number of children of such women workers is less than twenty, the State Government, having regard to the number of children of such women workers deems it necessary that suitable rooms for the use of

such children should be provided and maintained by the employer, it may by order, direct the employer to provide and maintain such rooms and thereupon the employer shall be bound to comply with such direction.

(2) The rooms referred to in sub-section (1) or sub-section (1-A) shall:

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

(3) The State Government may make rules prescribing the location and the standards of the rooms referred to in sub-section (1) or sub-section (1-A) in respect of their construction and the equipment and amenities to be provided therein.

Conclusion

The case laws regarding Maternity Benefit Act 1961 are few. Yet a reading of the judicial response to these makes it amply clear that the courts have done all that is within their power to uphold this piece of welfare legislation in its true letter and spirit.

Time and again the Apex court has reiterated while pronouncing judgments that the Maternity Benefit Act being a piece of welfare legislation which aims at protecting the health of the pregnant mother and her fetus, must necessarily be given a broad interpretation in favour of the woman worker by applying the beneficent rule of construction.

This would be in consonance with the Constitutional guaranty provided under Article 14, 15, 21, 42 upholding principles of equality, non-discrimination, right to life and directive principles of state policy.

Thus in various judgments the Apex court clearly laid down that the mode of payment, nature of appointment or service in the form of contractual, regular or non regular, permanent or temporary cannot be made grounds for denying maternity benefit to female employees.

The court recognizes the significance of the reproductive role and freedom of choice to be exercised by women and has ruled against arguments based on gender stereotypes employed by employers to discriminate against their female employees with regard to maternity.

It has been emphasized through several case laws that mere technicalities must not be allowed to defeat the purpose of Maternity Benefit Act, which is to allow women to efficiently balance their reproductive as well as productive roles. Therefore, the provisions of Maternity Benefit Act ought to be construed in the light of broader principles enshrined in our Constitutions, Universal Declaration of Human Right, and CEDAW (Convention on Elimination of all forms of Discrimination against women) etc.

The Supreme Court has generated a lot of optimism in this regard and has consistently taken a progressive view by laying down that the marital status of the woman, her living arrangement etc., cannot be valid grounds for withholding maternity benefit. The employers need not concern themselves with these. The court has visibly tried to expand the definition of terms such as 'establishment', 'employee', 'working day', etc so as to bring under the protective umbrella of the Act as many working women as possible.

No such action by the employer or interpretation of the legislation should be upheld that serves to curtail the personal freedom of the woman who chooses to have a child. The State must recognize the social role of motherhood and extend as much assistance as possible in aiding a woman, who chooses to do both simultaneously- be a mother and work.

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Bonded labour in the tribal areas of Tamil Nadu: An economic analysis

Dr. S. Thirunavukkarasu*

Introduction

Slavery or bondage due to debt is akin to mortgaging of labour by the poor people is an age old system that persists in India. This occurs because of the poor economic condition of the poverty stricken family. Such people are unwritten slaves to their employer entangled for a very low wage or lump sum payment and they have to work for longer hours without holidays or any privileges. These bonded labourers are socially and economically weaker sections of the culturally rich country. The concentration of bonded labour is much more among the economically weaker sections in general and tribals in particular. This article is an attempt to analyse the economics of bonded labour in the tribals areas of Tamil Nadu on the following aspects:

- I. Definition of bonded labour.
- II. Bonded labour system-historical perspective.
- III. Constitutional and legal protection
- IV. Efficacy of bonded labour system.
- V. Eradication and rehabilitation of bonded labour in Tamil Nadu.
- VI. Case study.

Definition of bonded labour

Bonded labour is defined by different people in different perspectives. According to a judgment by the Supreme Court of India forced labour is "any factor which deprives a person of a choice of alternative and compels him to adopt one particular course of action may properly

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be regarded as 'force' and if labor or services is compelled as a result of such 'force' it would be 'forced labor'.¹ According to the Planning Commission of India, "bonded labourer is one who renders his or her service on account of certain obligations flowing from loan or debt or advance and work at a rate much lower than existing wage rate".² Yet another study defines bonded labour as "a bonded labourer is one who renders service to another person on account of certain obligations emanating from loan/debt/advance obtained from that person. The system essentially represents the relationship between a creditor and a debtor. When such a relationship exists and the debtor in pursuance of the obligation arising out of loan/debt/advance mortgages his services or the services of any of his family members to the creditor for a specified or for an unspecified period with any of the following consequences, he/she comes within the definition of the bonded labour system."³

Constitutional and legal protection

Bonded labour is a social sin and the most abominable form of exploitation and hence it is prohibited by way of legal measures. It is enshrined in the Constitution of India. The Constitution of India prohibits forced or bonded labour within the ambit of the **article 23** and also endow with bans on trafficking of human beings and forced labour; the **article 19** provides for right to freedom, the **article 21** gives protection of life and personal liberty, the **article 24** affirms prohibition of employment of children in factories, mines and other forms of hazardous work, the **article 25** states that illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and the **article 38** facilitates the State to secure a social order for the promotion of the welfare of the people.

¹ Supreme Court's judgment dated 18.09.1982 in Peoples Union for Democratic Rights and Others, (W.P. No 8143 of 1981).

² Socio Economic and Educational Development Society: "A Report on Bonded Labour Rehabilitation Scheme under Centrally Sponsored Bonded Labour System (Abolition) Act, 1976 in the States of Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh", Planning Commission, Government of India, 2010, pp1-9.

³ L.Misra: A perspective plan to eliminate forced labour in India, International Labour Office, Geneva, July 2001, pp5-9.

The **Article 43** emphasis that 'The State shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work and living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular the State shall endeavor to promote cottage industrial on an individual or cooperative basis in rural areas. The **Section 374** of the Indian Penal Code states that 'whoever unlawfully compels any person to labour against the will of that person shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both'. At the international level the 1998 **ILO Declaration** on Fundamental Principles and Rights at Work reinforces the obligation on all member States of the ILO for elimination of all forms of Forced and Compulsory Labour.⁴

Legal protection

In India, the Anti- Slavery Abolition Act 1833 declared slavery is illegal. The Anti-Slavery Report of 1841 paved way for enacting the Anti-Slavery Act 1843. The first International Labour Organization's Forced Labour Convention held in 1930 had articulated much on bonded labour. The Government of India ratified this ILO Convention of No. 29 on 30.11.1954, and enacted the Bonded Labour System (Abolition) Act in February 1976, with effect from 25.10.1975. The subject of elimination of forced or bonded labour figured as item No. 4 in the 20 point programme of 1975 which stated that "bonded labour system wherever it exists shall be declared illegal".⁵

The National Human Rights Commission is entrusted the tasks of monitoring and implementation of the Bonded Labour System (Abolition) Act, 1976 from 1997. This Commission has constituted

⁴ Smita Premchander, V. Prameela, M. Chidambaranathan and Benjamin Laroquette: From Bondage to Freedom, Bangalore ISBN No. 92-2-118807-8, April 2006, P7.

⁵ L.Misra: A perspective plan to eliminate forced labour in India, International Labour Office, Geneva, July 2001, pp5-9.

an Expert Group in 2000 to uphold the Constitutional provision on this matter. Further, this Commission will monitor the Central and State Governments on issues related to bonded labour etc., as per the orders passed the Supreme Court of India on.11.11.1997.

Bonded labour system-historical perspective

The genesis of bonded labour dates back to the socio-economic and political system persisted in the agrarian situation of India. Bonded labour in the past is linked between caste, social structure, bondage and traditional feudal social relations. It is observed that “bondage and forced labour in India, whether traditional or modern, thrive on bedrock of social hierarchy and discrimination, of which the former untouchable castes and the tribal groups, and women and children are the chief victims. It can be hypothesized that the low visibility of the issue of bondage is due precisely to the fact that its many victims have a low social ascription and fewer perceived rights”.⁶ The institutional situation also caused bonded labour in the country. This is reduced after the abolition of zamindars, jagirdars and inamdars through the land reforms measures implemented in India.

The widespread poverty, illiteracy and lack of employment also caused the growth of bonded labour. Migration by weaker sections due to lack of employment opportunities in their clan also one way responsible for bonded labour when they move to an alien plan within or outside their States. Moreover, the human brokers also engage sub-brokers and engage people by paying very low amount and make them bonded labour. These bonded labourers are mostly from the weaker sections of the society and that too from less developed areas of the State. In addition, the urbanization, encroachment by urban culture and economic entanglement with modern living also pushed people to turn into bonded labour.

⁶ Ravi S. Srivastava: Bonded Labour in India: Its Incidence and Pattern, International Labour Office, Geneva, April 2005, p9.

Efficacy of bonded labour system

Krishna Prasad Upadhyaya articulated that bonded labour is a product of poverty, social exclusion and due to the failure of governments. Those who are enslaved are desperately poor with no assets other than themselves to sell in times of extreme need which caused root for bonded labour.⁷ Another study found that bonded labour is often found more among migrant workers. It also originates from traditional agriculture under sharecropping and casual labour. Bonded labour is noticed in mining, brick firing, rice mills, carpet weaving, tea plantations, match factories, stone cutting, quarries and commercial sexual exploitation. Bonded labour is mounting up in construction, domestic labour, security services, and bring into being more in the informal, unregulated and unorganized sectors of the economy.⁸

The debt bondage is an outcome of indebtedness, which is prevailing for a long time among the economically exploited weaker sections of society. The growth of bonded labour is observed due to the inequitable distribution of land and assets, low wages, migration, social customs, prevalence of small and marginal farmers and rural artisans.⁹ To quote 'there still exists in different parts of our country a system under which the debtor or his descendents have to work for the creditor and without reasonable wages or with no wages in order to discharge a debt. This system originated from the uneven social structure characterized by feudal and semifeudal conditions. It is an outcome of certain categories of indebtedness, like customary obligations, forced labour, begar or indebtedness which have been prevailing for a long time involving certain economically exploited, helpless and weaker sections of society. They agree to render service to the creditor in lieu of a debt. At times, several generations work

⁷ Krishna Prasad Upadhyaya: *Poverty, Discrimination and Slavery: The reality of bonded labour in India, Nepal and Pakistan*, Anti-Slavery International, ISBN 978-0-900918-70-4, 2008, p1.

⁸ Smita Premchander, V. Prameela, M. Chidambaranathan and Benjamin Laroquette: *From Bondage to Freedom*, Bangalore, ISBN No. 92-2-118807-8, April 2006, pp 3-4.

⁹ State Institute for Rural Development: *Bonded Labour A Guide Book*, Panchayati Raj Department, Government of Orissa, January 2011, p2.

under bondage for the repayment of a paltry sum, which had been taken by some remote ancestor, often at high rates of interest. The system is an infringement of basic human rights and a disgrace to the dignity of labour'.¹⁰

The bonded labour system is ingrained in the traditional social relations, agriculture, rural and urban unorganized and informal system and child bonded labour. The agricultural labour bondage is more due to low agricultural productivity and poor infrastructure facilities. In the tribal areas, the land alienation by non-tribals amounts to uprooting of tribals from their habitat, shrunk in forest area, low productivity, poor employment and livelihoods opportunities. Sometimes the bonded labour also pledges their children against a loan.¹¹

The bonded labour exists more in tribal areas causing deprivation of their basic rights and freedom. For example a study found that the Irula tribal community of Tamil Nadu has been forced into bonded labour and many families have been bonded labourers for nearly three generations repaying the loan received by their grandparents. The bonded labourers work for 18 hours a day with literally no wages, meager food, with no access to health facilities or education. 'Their children were also locked up inside the mills and have no access to education or outer world. The families are never allowed to go out; in emergency situations where someone ventured to go out, the rest of the family would be held hostages till the member returned. The bonded labour is rampant in stone quarries situation too. It is imperative to provide the workers with tools and working capital to run their own cooperatives'.¹²

¹⁰ National Human Rights Commission: Bonded Labour, National Human Rights Commission, India, 2010, pp 1-16

¹¹ Ravi S. Srivastava: Bonded Labour in India: Its Incidence and Pattern, International Labour Office, Geneva, April 2005, pp 2-26.

¹² Bharathi Trust: National Commission for Women's Seminar on "Status of Unorganised Women Workers" was organised by the Women's Struggle Committee and Unorganised Workers Federation on 23rd January, 2009 at YMCA Hall, Chennai, pp15-17.

Eradication and rehabilitation of bonded labour

In Tamil Nadu, there are over one million bonded labourers in the 23 districts and found in 20 occupations with 10 percent being bonded child labourers in the State. Further, there are 2,000 brick kilns of big and medium categories, apart from thousands of units making country bricks. In the State, Dalits and the Scheduled Tribes constitute 90 per cent of the workers and the residual 10 per cent of them belong to the Backward Classes or the Most Backward Classes. In Tamil Nadu, Tiruvallur and Kancheepuram districts have a high concentration of brick workers, including child workers.¹³

In India, the rate of conviction in bonded labour cases is relatively better in Tamil Nadu than other States.¹⁴ It is because; the Government of Tamil Nadu takes steps in the abolition and rehabilitation of bonded labour. Accordingly, the Government has passed specific order giving the responsibility of releasing and rehabilitation to the District Collector. Review meetings are conducted regularly at the state level.¹⁵ Under Section 16 of the Bonded Labour System (Abolition) Act, 1976, judicial powers have been vested with the Executive Magistrates (RDOs) to conduct trial and punish the offender for perpetuating the system. A State Level Monitoring Committee has also been constituted headed by the Chief Secretary to monitor the progress made by the District Level Committees to identify, release and to rehabilitate the freed bonded labourers. (Vide G.O (Ms) No.79, Adi Dravidar and Tribal Welfare Department, Dated 17.09.2002). For the year 2011-12, a sum of Rs.125.00 lakhs has been provided for this scheme.¹⁶ The abolition of bonded labour and rehabilitation will be monitored by a high level Committee under the chairmanship of the Chief Secretary of the Government of Tamil Nadu.

¹³ Frontline: 'Kilns of bondage', India, Volume 26, Issue 14, July 04-17, 2009.

¹⁴ The Hindu: Newer forms of bonded labour prevalent across industries, say experts, 15.8.2012.

¹⁵ Government of Tamil Nadu: "Policy Note-2001-02", Adi Dravidar and Tribal Welfare Department, 2002, pp 2-8.

¹⁶ Government of Tamil Nadu: "Performance Budget-2011-12", Adi Dravidar and Tribal Welfare Department, 2012, pp 54-55.

The Government of India has initiated a centrally sponsored scheme for rehabilitation of the freed bonded labourers was initiated with the matching grant of 50 percent of the total cost provided by the Central Government. The latest centrally sponsored scheme for rehabilitation of bonded labour consists of “each State Government is required to identify sensitive districts where bonded labour system has taken deep roots, find reasons for the existence of the system and suggests remedial measures. Conduct surveys on a regular basis to find incidence of bondage, causes and forms of bondage, etc. Government of India provides a sum of Rs. 2 lakh per district to conduct such surveys. This amount is provided to a particular district once in 3 years. An annual grant of Rs.10 lakh per State is provided for awareness generation purposes. Each State is required to conduct five evaluatory studies in 5 districts/regions of the State every year through reputed research organizations/academic institutions/NGOs. Rehabilitation grant has been enhanced from Rs. 10,000 to Rs.20,000 per freed bonded labourer, which is to be shared by the Central and State Government on 50:50 basis. Out of this, Rs. 1000 is required to be paid immediately on release of a bonded labourer as subsistence allowance.¹⁷ The following table shows the details of bonded labour released and rehabilitated in the State.

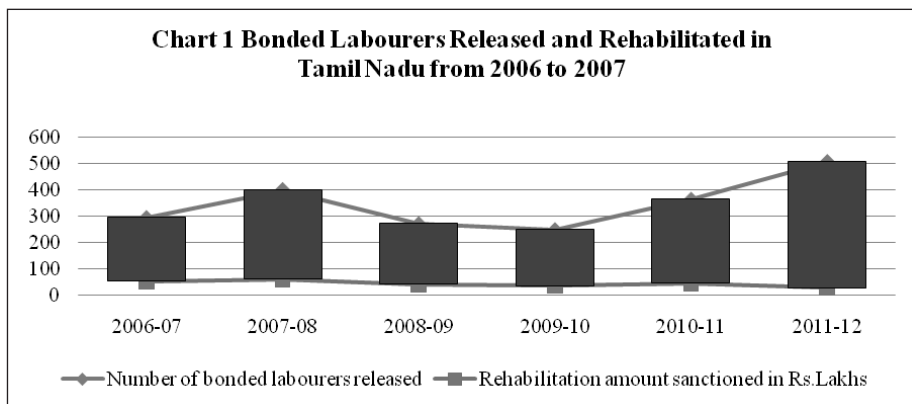
Table 1
Bonded Labourers Released and Rehabilitated from
2006 to 2007 in Tamil Nadu

Sl. No.	Year	Number of bonded labourers released	Rehabilitation amount sanctioned in Rs. Lakhs
1	2006-07	295	51.35
2	2007-08	401	60.01
3	2008-09	272	39.99
4	2009-10	249	35.17
5	2010-11	364	43.64
6	2011-12	507	27.11
	Total	2088	257.27

Source: Government of Tamil Nadu: “Performance Budget-2011-12”, Adi Dravidar and Tribal Welfare Department, 2012, pp 54-55.

¹⁷ National Human Rights Commission: Bonded Labour, National Human Rights Commission, India, 2010, p12.

In Tamil Nadu, the number of bonded labourers released showed an increasing trend from 295 in 2006-07 to 507 in 2011-12, but the rehabilitation amount portrays a different picture as found in the Chart1.



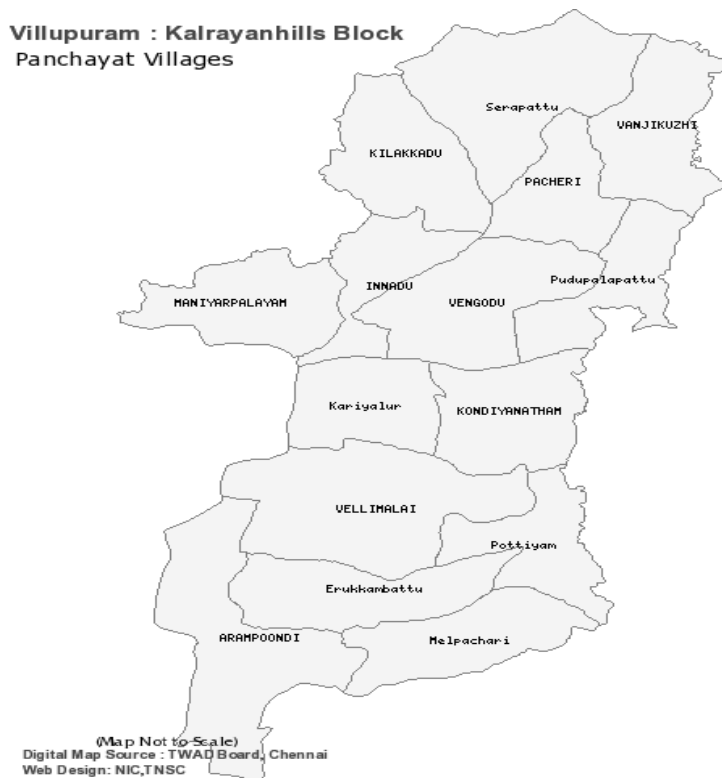
Case study

This study is conducted in Kalrayan Hills of Tamil Nadu. The inhabitants of the Kalrayan hill are Malayali Tribe. They had come from Kancheepuram as Warriors belonging to karalar community, said to have settled in the hill and later overpowered the native vedars.¹⁸ According to another report they had come from Gingee and have settled in the hill during the Mohammedan invasion of Carnatic.¹⁹ The census reports from 1981 onwards, classify the hill men as Malayali tribe. The Malayali tribes were under the control of three Jagirdars over many centuries. The King Krishna Devaraya of Vijayanagar Kingdom (1378 AD), said to have given rights to three Jagirdars, as a reward to their services rendered to the King in a military operation. They had enjoyed these areas even during the British administration by paying tax for over several centuries.

¹⁸ Government of Tamil Nadu: A Note on the Achievements under Tribal Sun-Plan in Kalrayan Hills 1976-77 to 1984-85, (Issued by Director of Adi-draavidar and Tribal Welfare, Ezhilagan, Chennai) p.2.

¹⁹ Manual of South Arcot District, Compiled by J.H. Garstin M.C.S. Collector of South Arcot (Lawrence Asylum Press, Madras; 1878), p.375.

The administration of the hill during the Jagirdars regime was a typical example of exploitation of the tribals. The hill tribes were cultivating lands by paying taxes to the Jagirs and also “bonded labourers” to the Jagirs for generation after generation. The plight was that they were deprived of minimum basic amenities like school, medical facilities, communication, roads. etc., Further, they were compelled to sell their products only to the Jagirdars or to the contractors appointed by them. These, inhuman approach of the Jagirdars, forced the Government of Tamil Nadu, after a long silence, to take over the administration of the hill from the Jagirdars in the later part of 1970.²⁰ The map of Karayan Hills is given below.



Source: Government of Tamil Nadu website, 2012

²⁰ S.Thirunavukkarasu: Land Reforms and Tribal Development-A case Study of Kalrayan Hills of Tamil Nadu, Kalpaz Publications, New Delhi, 2006, p113.

Eradication of bonded labour

Soon after the taken over of the hill from the three Jagirdars by the Government of Tamil Nadu it has released about 24,945 tribals from the slavery and hereditary bondage, by invoking The Bonded Labour System (Abolition) Act, 1976 (Central Act 19 of 1976). According to a report of the Government published on 25.8.1976, "the tribal population are not under any obligation or compulsion to render their services of labour to the Jagirdars".²¹

Rehabilitation measures

After releasing the tribals from hereditary bondage, land reform measures are undertaken in the hills. As a consequence fresh survey and settlement operations were carried out by the Survey and Settlement Department, Government of Tamil Nadu, in accordance with the provisions contained in the Tamil Nadu Survey and Boundaries Act, 1923 (Tamil Nadu Act VIII of 1923). The tribals were given some lands for cultivation as given in the following table 2.

Table 2
Land Allotment to the Tribals in Kalrayan Hill - 1979-80 (in hectares)

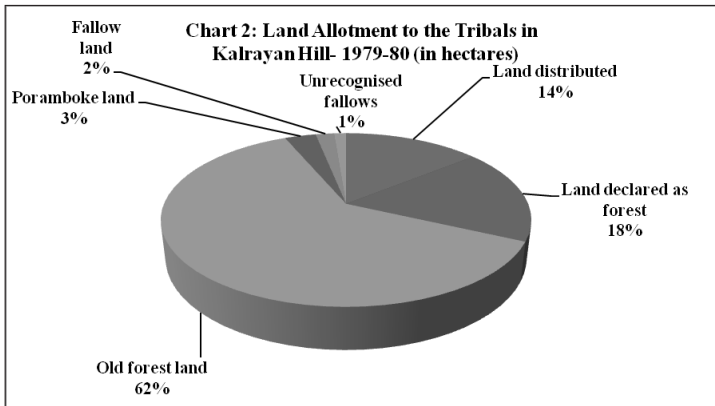
Sl. No.	Categories of Land	Total Extent of Land	Percentage
1	Land distributed	8153.02.0	14.22
2	Land declared as forest	10112.95.0	17.64
3	Old forest land	35395.06.0	61.72
4	Poramboke land	1862.34.0	3.25
5	Fallow land	1104.02.0	1.93
6	Unrecognised fallows	716.21.0	1.24
	Total	57343.60.0	100.00

Source: Government of Tamil nadu: Taluk office of Vellimalai, Kallakuruchi.

Table 2 shows that the total land allotted to the tribals was 8153.02 hectares (14.22 percent), but the land declared as forestland and old forest land comes to 79.36 percent of the total land. Moreover, the allotted land to the tribals included their habitation also. As a result

²¹ Government of Tamil Nadu: Revenue Department letter no. 220053/Y1/76-2, dated 29.3.1976 and No. A7/8350/76 dated 5.12.1977.

the plight of the tribals is that under the new land tenure system the tribal's land area is shrunk in size and it curtailed their free movement. Apart from this the forest officials restrict the tribals entry into forest and resulted in the conflict between the tribals and the forest department. Chart 2 gives the land details in the Kalrayan Hills that took place after the hill was taken over from the Jagirdars by the Government of Tamil Nadu.



This is followed by package measures to support the land allottees, financially and technically. These are very much needed to the tribals, because, they have to start cultivation afresh in the lands allotted by the Government. The package measure that are implemented in the Kalrayan hill are related to agriculture, forest, cooperatives, land reforms, minor irrigation, soil conservation, education, minimum needs programme, village and small industries and ecology and environment. Agricultural programmes contain distribution of improved seeds of paddy, millets, pulses and wheat, matched with a programme of education process to adopt the new technology with new chemical fertilizer, pesticide and new farm protection measures.²²

In order to increase the agricultural production, high-yielding varieties of seeds are supplied to the tribals. It is an achievement

²² Government of Tamil Nadu: Director of Adi-Dravidar and Tribal Welfare, Chennai, Annual Tribal Sub-Plan 1988-90.

to the Government, but, it is observed during the primary data collection that these seeds are not suitable for cultivation in the Kalrayan hills, because most of the lands are rain-fed. Fertilizers and pesticide are also distributed. Free distribution of fruit plants, agricultural implements, the demonstration plots, and tour and visit system also provided to the tribals in the hill.

Large size multipurpose societies

In the Kalrayan Hills, LAMP Societies are formed at Vellimalai, Kilakkadu and Mottampatti. The working of LAMP cooperatives in Kalrayan Hills, clearly indicate that there is a large scale violation of admitting non-tribals as members into the LAMPS. The LAMPS at Mottampatti, the lower hill group of the Block Development Offices, registered more non-tribals (639) than the other two societies (i.e. 138 in Kilakkadu and 95 in Vellimalai). The financial assistance to LAMPS through ITDP schemes also benefitted the non-tribals. Such policies would attract the entry of non-tribals in large numbers and usurp all the benefits that are meant for tribals. LAMPS in the study area perform the functions of co-operative credit societies and non-credit societies, just like the co-operative credit societies in the non-tribal areas of the State. It is observed during the primary data collection that the tribals are willing to avail only the loans and facilities provided by the LAMPS. The total loan outstanding for a period from 29.9.1987 to 31.3.1996 for the LAMP society at Vellimalai was Rs.29,87,119. The special officer of the Society informed that, even though the Revenue Standing Order No. (41) Clause (IV) empower the authority to attach the lands of defaulting tribes, he could not do so because of an additional Government order prohibiting the authorities to precede any legal action against the defaulting tribals.

Tribal co-operative marketing federation of India limited

It is providing marketing support to the State Tribal Co-operative Federation of Forest Corporation, for marketing and in export of minor forest products and surplus agricultural produce of

the tribals, so as to protect them from exploitation by the private traders. The objectives of TRIFED are: to ensure full utilisation of natural products of tribal areas by improving their marketability; to ensure higher earning and employment opportunities through suitable economic schemes; to provide marketing support to State Co-operative Federation or Forest Cooperation and boost-up their economic and commercial viability; to identify the minor forest produce in different states for taking them up for co-operative marketing; and to recommend fixation of uniform procurement price of minor forest products by each state.

Conclusion

Bonded labour or forced labour is like slavery and it is a social evil. The root cause for this erupts from borrowing a paltry sum for their immediate family needs from a known or unknown employer either directly or through a job broker and land up in bondage. This is analogous to person mortgaging his freedom to the employer and he must work relentlessly to his employer permanently. The method of work contract enforced on the migrant labour by the unscrupulous intermediaries or job brokers also leads to bonded labour.

The incidence of bonded labour is high among the tribal communities in Tamil Nadu. It is still persisting in these areas due to weak enforcement of labour laws and also the method followed in eradicating bonded labor is indistinct in the State. To solve this ordeal providing alternative to the bonded laborers by way of micro credit and off season employment is indispensable. This will also reduce households' vulnerability to moneylenders and bondage. Creation of awareness, education and vocational training among the weaker sections and bonded labour prone areas would be helpful in eradicating bonded labour from the country.

To unearth bonded labour proper identification of them is essential by way of household survey by the Government agency. After the identification proper coordination must be ensured between the

release and rehabilitation of bonded labour and it should be integrated with the rehabilitation programme packages. For implementing the programme more effectively a vigilance Committee should be constituted in all the districts and divisions. Prompt follow up action should be contemplated to avert any new borrowing by the released bonded labourers. The involvement of public authorities, employers, job brokers, international organizations, NGOs, educational institutions in the area, unique Government machinery are ideal to curtail the furtherance of bonded or forced labor in the country.

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Child Labour in the Informal Economy of Tamil Nadu: An Expost Analysis

R. Rameshkumar*

Introduction

Child labour is persisting among the poor families due to low income, poverty and the lack of social security network. According to the ILO 'children's work was considered essential to maintaining the economic level of households, either in the form of work for wages, help in household enterprises or household chores in order to free adult household members for economic activity elsewhere'.

The South Asian Task Force on Bonded Child Labour defines a child (below 18 years of age as defined in the UNCRC) working against debt taken by himself/herself or his/her family members, or working against any social obligation (e.g., caste factor, ethnic or religious practices, etc.) without or with the child's consent, under conditions that restrain his/her freedom and development, making him/her vulnerable to physical and other forms of abuse and depriving him/her of his or her basic rights". In India, child labour occurs because of inadequate number of schools or no schools in some areas, cost of schooling etc. The parental attitude is also responsible for child labour.

The Constitution of India prohibits child labour. The article 24 prohibits the children's employment in any factory or mine or in any other hazardous occupation. The article 39(e) and (f) lay down that the state should direct its policy in such a manner that the tender age of children is not abused, children are given opportunities to develop in a healthy manner and childhood is protected against exploitation and against moral and material abandonment.

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The Government of India is determined to eradicate child labour and world's largest child labour elimination programme is being implemented at the grass root levels in India. In India, the employment of children up to the age of 14 in any industry is totally banned. The Child Labour (Prohibition and Regulation) Act, 1986, permits employment of children of up to 14 years of age in industries not considered to be hazardous like tobacco, stone crushing, catering, mining, cement and crackers. The anti-child labour law guarantees free and compulsory education to all children in the age group of 6-14 years in the country. The Planning Commission's working group for social inclusion of vulnerable groups like child labour, bonded and migrant labour for the 12th five year plan also argued that the existing legislation should be amended to include child labour in informal and unorganized sectors. The Tamil Nadu Government has passed a G.O stating that there are 161 inspectors appointed by the government of Tamilnadu vide its [G.O.Ms. No. 142, Labour and Employment, dated 8th july, 1993] to monitor the prevalence of child labour

According to a Supreme Court Judgment, "a child labour today cannot develop to be a responsible and productive member, of tomorrow's society unless an environment which is conducive to his social and physical health is assured to him. Every nation developed or developing, links in future with the status of the child. Childhood holds the potential and also sets the limit to the future development of the society. Children are the greatest gifts to humanity. The parents themselves live for them. They embody the joy of life and in their innocence relieve the fatigue and drudgery in their struggle of daily life. Parents regain peace and happiness in the company of children. Children signify eternal optimism in the human being and always provide the potential for human development. Neglecting children means loss to the society as a whole. If children are deprived of their childhood socially, economically, physically and mentally- the nation gets deprived of the potential human resources for social progress, economic empowerment, peace and order, social stability and good citizenry'.

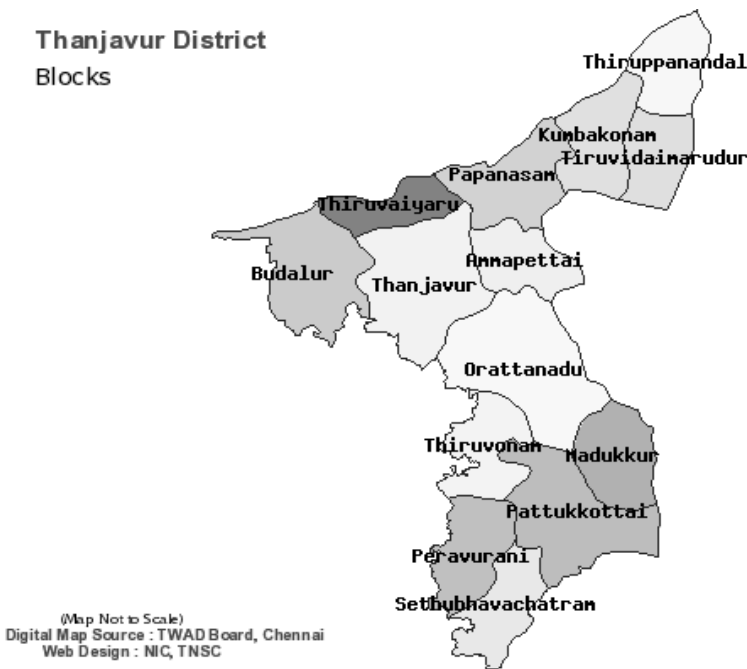
Worldwide several studies are conducted on child labour to identify issues, problem and remedies to this menace. Some of the notable studies are by Becchetti and Trovato (2005), Dehejia and Gatti (2005), Edmonds and Pavcnik (2005), Neumayer and De Soysa (2005), Cigno et al (2002), Shelburne (2001), Hussain and Maskus (2003). It is noted at the international level around 70 percent of the working children are in Agricultural sector, 22 percent in services and 9 percent in industry including mining, construction and manufacturing. There has been a sharp decline of 33 percent in the children working in hazardous occupations in the age group of 5-14 years. Further, Cigno et al., 2001, Kannan 2001, Ramachandran and Massün (2002) and V.V. Giri National Labour Institute (2000) have observed that child labour is positively related with poverty, education and agriculture. Some studies concentrated on working children in urban areas which address the working hours and lack of educational facilities. Children are employed in a variety of occupations. Some studies found that in some cases when agencies send their children for vocational training to outside agencies but there also children are exploited.

In the era of globalization, the widening income gap between rich countries and the developing countries have exacerbated the problem. The structural policies of adjustment adopted in many developing countries have led to the national governments spending less on basic services such as education. This leads to an increase in child labour and it is prevailing universally in all the countries.

The National Sample Survey data on the child workforce during 2004-05 was 9.07 million against 21.55 million in 1983. As per the Census 2001, there were 12.6 million economically active children. The notion that children are being exploited and forced into labour, while not receiving education crucial to development, concerns many people. India is the largest example of a nation plagued by the problem of child labour. The problem of child labour is accentuated by the migration of labour force. This study is focussing on analysing the child labour in the informal industries in Tamil Nadu with reference to Thanjavur District.

Case study

The Honorable Chief Ministers of Tamil Nadu has announced a 20 point programme to eliminate of child labour from the State. To achieve this goal, the Government of Tamil Nadu has taken legislative, executive and judicial measures for total elimination of child labour. A survey was conducted under the Sarva Shiksha Abhiyan (SSA) which identified about 70, 344 child labourers in the State. In certain districts, the number of child labourers identified was reportedly insignificant and those districts were given the target of becoming child labour free districts by December 2007. The block wise Map of Thanjavur district is given below.



Source: Government of Tamil Nadu website.

The broad indicators for declaring an area as child labour free in terms of the following factors:

- All children below 14 years should be enrolled in schools.
- Enrolment rate should be between 95 to 100 percent

- Net school enrolment should be monitored based on
 - o Total children viz-a-viz enrolled children
 - o Enrolled children viz-a-viz dropped out children
 - o Children who have never attended school
 - o Children who attend school but work in the afterhours.
- 10 percent check up of factories, catering establishments, shop and establishments, households, construction sites, agricultural fields, etc.
- Enrolment of all children identified under SSA survey 2003.
- Resolutions from all Panchayats, all Town Panchayats, all Municipalities and all Corporations that their jurisdictions are free of child labour.
- Resolutions from all VECs (Village Education Committees) counter signed by the BRCs (Block Resource Coordinators) that their areas are free of child labour.
- Data on migrant labour and steps taken to provide educational facilities to migrant children.
- Process of awareness generation.

This study assessed the impact of a social intervention and anti-child labour measures taken by the government in the district. The research methods used in the evaluation study included observation, interviews, field visits, house hold surveys and collection and analysis of secondary data on the issues under Study. To start with, the district collector's proposal on child labour free situation in Thanjavur district was compared with the ground situation. Accordingly, nineteen schools in the district have been surveyed to find out whether the children mentioned in the official records are really enrolled in the main stream schools and if so how many of them are continuing their studies. The survey has been conducted in coordination with the officials and NGO's in the district.

In the district, of Thanjavur which is primarily based on agriculture and its allied industries, there are 14 blocks in all with a population

of 22, 05,375 including 10, 91,557 males 11,13,818 females and, 26,073 children. The literate population alone constitutes 14, 90,568 which can be divided between the males and females at 8, 25,006 and 6, 65.562 respectively. In the district, 3,56,564 school age children, 3,48,235 enrolled, 262 migrated, 3105 children in bridge course, 40 never enrolled, 98.64 percent enrolment retention ratio and 98.54 percent is net enrolment ratio currently.

The evaluation agency has made an attempt to verify the present position of those reportedly enrolled in schools by physically verifying the cases of rescued child labourers in a sample size of 19 schools in the district. The results of physical verification indicated that the enrolled children have been found continuing their studies in these schools. In nine schools, the enrolled children have discontinued their studies and got their TCs.

As seen from the above data, the district administration is under the impression that its role is over once the rescued child labourers have been admitted in the schools. This is to be corrected by establishing a permanent monitoring mechanism to oversee the results of the social intervention viz., the action plan for the eradication of child labour in the district.

The claim of the district administration regarding the enrolment of rescued child labour has been found correct in all the 19 schools verified by the evaluation agency. This is an indicator of the efforts made by the district administration to enroll the rescued child labourers in schools with a view to contain the social problem of employment of child labour in the district.

The Sarva Shiksha Abhiyan (SSA Scheme of the government is aimed at facilitating educations to all children. The main activities of the scheme are the following;

- a) 100 percent enrolment of 5-8 years age group children in Schools.
- b) Reducing the school dropout rate in 9-14 years age group children.

- c) Involvement of local community in the functioning of schools and thus integrating the school and society.
- d) Infrastructure development of schools.
- e) Making the process of learning enjoyable to children.

Child labourers form part of the out of school children especially in the urban areas. In the year 2003, 360 child labourers have been identified in the blocks of Thanjavur districts. Of which 170 were released, 50 were SSA alternative school and 120 were admitted in formal school. In 2005, 148 child labourers were identified by SSA, of which 24 were admitted in regular school, 81 in bridge course, 11 have directly wrote eight standard examinations directly and 31 have migrated without TC. In 2006, the number of child labour has declined to 37, of which 28 were enrolled in bridge course, 8 enrolled in schools and one enrolled in formal school and the details are presented in the following table.

In Thanjavur, as per the 2001 Census the district comprised of 3 municipalities, 22 town Panchayat and 904 revenue villages. Presently the district is divided into 3 divisions and has 8 taluks and 14 blocks. In each of all 14 blocks, 50 children were mainstreamed in camps have been set up to provide education for these children. They are supplied with play material, utensils, pillows and bedspreads along with noon-meals, free textbooks, uniforms and school bag and other stationeries. Yoga, rhymes, games and other regular subjects are taught to the children of the residential school.

The mainstay of livelihood of the population in this district is dependent upon agriculture and its allied industries. This of course does not mean that there are no other industries, because statistics reveal that there are 305 factories, 2213 shops and establishments, 421 catering establishments and 145 motor transport undertakings and the details furnished in the table given below.

In this district, the administration of Labour Department is represented by the Inspector of Labour as a district-level functionary with his office in the district headquarters at Thanjavur. The

Inspector of Labour is coordinated in his functioning by as many as 16 subordinate officers in the category of Deputy Inspectors of Labour and Assistant Inspectors of Labour at Thanjavur, Papanasam, Kumbakonam and Pattukkottai taluks, who are the enforcement officers at the unit-levels of administration. The enforcement wing of the Labour Department is exerting all its efforts in the implementation or various labour legislations including other consumer protection laws, namely standards or weights and measures (Enforcement) Act, Child Labour (Regulation and Abolition) Act, and the packaged commodities Rules. The inspection particulars of the districts are given in the following table.

According to the official records of the department of factories, there are 305 factories, 2213 shops and establishments, 4321 catering establishments and 145 motor transport centres in Thanjavur district. In the evaluation study the total units were surveyed to find out whether there are any child labourers working in these units. Household industries were also visited in the present study. The following are the units surveyed:

In the district, there are 80 cases being handled by the labour department. The information given by the office of the Inspector of Labour Thanjavur has mentioned about 18 pending cases of child labour. In the survey, no child labourers were found working in this occupation in the places mentioned above.

In the course of the evaluation study, the following places were surveyed to find out whether there are child labourers employed in agricultural activities. Thanjavur and its surrounding areas, Pattukottai, Peravurani, Orathanadu, Veerayankottai, Kuruvikarambai, Thiruchitrambalam, Kalathur, Papanasam, Ayyampettai, Thiruvanchuzhi, Kumbakonam, Gopurajapuram, Thirupathurai, Thiruvaiyaru, Budalur, Thiruvonam, Ammapettai, Thiruvudaimarudhur, Thiruppanandal, Madukkur and Sethubavachatram. These places constitute a representative sample of relatively fertile and relatively less fertile areas. In field visits to the above mentioned areas no child labour was found. In allied

activities like goat rearing, sheep rearing and pig rearing, aged persons from both sexes were found workings. In the district, no child labour is reported by the farmers during the field visit.

During the period of the evaluation in the construction sites and road construction works at Thanjavur town areas, Kubakonam, Papanasam, Thirupathurai Thiruvaiyaru, Thiruvonam Ammapettai, Thiruvaidaimarudhur, Thiruppanandal, Madukkur, Sethubavachatram, adipatti, Alanganallur, Thirumangalam, Kallikudi, Usilampatti, Chellammappatti, Sedapatti no child labour was found in the construction work during the period of the Survey.

A survey of 550 households constituting nearly one percent of households in each local body area, has been conducted. The households for the survey in each local body are selected by random sampling method. During the period of the survey no child labourers were found in areas undertaken for survey.

According to the official records, there are 2213 shops and establishments, 421 catering establishments and 145 motor transports undertaking with employees in Thanjavur district. The evaluation agency has conducted a survey of 10 percent of the shops and establishments, catering establishments and motor transport establishments with employees and found no child labourers working in these establishments.

This evaluation study observed that migrated labour from other areas is working in industries of Thanjavur District. The information on migrated labour and children staying with them in the government as well as private and non-governmental agencies reported that they have no information on migrated labour.

The government agencies, while implementing a social intervention, have to follow a two strategy to attack a social problem. The two prongs of the strategy are: (1) Communication and (2) Administrative action. The Society in general is to be communicated about the evils of the social problem and at the same time efforts should be made

to eradicate the social problem through administrative action. In Thanjavur district, the process of awareness generation is on the lines of action plan of the government.

The evaluation team found very good awareness generation programmes made by the various agencies in Thanjavur district. It is remarkable to note that such a programme is continuously performed by these agencies in the district. The industries also stick bills, wall paint and banners about the child labour in the district.

In the district, 3,56,564 school age children, 3,48,235 enrolled, 262 migrated, 3105 children in bridge course, 40 never enrolled, 98.64 percent enrolment retention ratio and 98.54 percent is net enrolment ratio. The results of physical verification indicated that the enrolled children have been found continuing their studies in the schools.

360 child labourers have been identified in the blocks of Thanjavur districts. Of which 170 were released, 50 were SSA alternative school and 120 were admitted in formal school. Child labourers form part of the out of school children especially in the urban areas. 360 child labourers have been identified in the blocks of the districts. The data given for various years shows the declining number of child labour and increase in the enrolment. In field visit, in the villages and towns visited no child labour was found.

In agriculture and allied activities like goat rearing, sheep rearing and pig rearing, aged persons from both sexes were found workings no child labour is reported by the farmers during the field visit. In these areas, no child labour was found in the construction work during the period of the Survey. A survey of 550 households constituting nearly one percent of households in each local body area, has been conducted. The households for the survey in each local body are selected by random sampling method. During the period of the survey no child labourers were found in areas undertaken for survey.

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undertaking with employees in the district. The evaluation agency has conducted a survey of 10 percent of the shops and establishments, catering establishments and motor transport establishments with employees and found no child labourers working in these establishments.

Another study was conducted under Sarva Siksha Abhiyan to analyse the Impact of Instructional Nurturing effect on activity-based learning in districts of Tamilnadu such as Madurai, Thanjavur, Dindigul, Pudukottai, Ramanathapuram, Sivagangai, Trichirapalli, Theni, Thoothukudi, Tirunelveli and Virudhunagar.

1. The study focuses on finding out the effectiveness of ABL approach in enhancing the academic performance of Primary Children from I std IV Std in selected Districts.

To assess the nurturing effects such as

- a. Peer - helping tendency
 - b. Self - image
 - c. Enjoyment through the process of learning with understanding
- (3) To examine the long term effect on ABL approach in schools
 - (4) To assess the attitude of teachers with a minimum of 10 years of experience, who can compare earlier approaches and the present ABL approach.
 - (5) To identify problem if any, faced by the head of the Institution, the teachers and the children.

This study proved the positive impact of ABL on various aspects which can be easily adapted by children which promotes not just learning but learning with understanding. The Instructional effect assessed by this study reveals the positive impact reflecting children's overall academic performance; improvement in the mastering linguistic skills such as reading, writing, narrating and other cognitive domains including numerical skills

ABL approach promotes learning with understanding and has no place for rote memorization. All the Children are really active in

all the ABL Classrooms. ABL is an individualized approach thus promoting inclusiveness and democratization of the educative process. The Principle of Social Justice is fully operational as evidenced by the ABL classrooms.

A perceptible paradigm shift from teacher - centered to learner centered method. Learning is based on logical and Psychological approaches shows that there is variety in learning.

The Sarva Siksha Abhiyan further reveals that no. of out of school children is totally 53832 where 29656 are earning out of compulsion. Specifically in Madurai, about 2059 students are out of school children & 930 are earning out of compulsion. Then in Thanjavur the no. of out of school children are 1926 & 736 are earning out of compulsion (2012-2013)

The study reveals consistent tracking of child labour in which Sarva Siksha Abhiyan is taking effective measure in rescuing & rehabilitating the child labour by admitting them in SSA alternative school initially & further they are admitted in formal schools. The Tamil Nadu Government is taking the effective action to maintain the present condition of non-prevalence of child labour anymore in Tamil Nadu

Conclusion

In Tamil Nadu, child Labour is a consequence of vicious circle of poverty. The Government's approach in identification and rehabilitation of child labour is visualized in the different schemes and legal measures as mentioned in this paper. The notable programmes are NCLP, INDUS project, SSA and other projects. The State Child Labour cum Welfare Society and Labour department of Government of Tamil Nadu are also rendering a positive role in removing child labour from the Sate. The success rate in eradicating child labour is tremendous in Tamil Nadu. It is very high due to proper and proactive Government policies on this serious ordeal. The right to compulsory and free education Act is a landmark in

eliminating child labour as the parents are involved in educating their children. Keeping all these apart providing education with vocational skills to these children could help them to earn livelihood later in their lives and child labour can be eradicated.

The case study results show that no child labour is reported in the Thanjavur district. Voicing anti-child labour slogans and distributing anti-child labour stickers during the Anti-Child Labour Day rallies generated awareness among the local population on the evils of child labour practice. Government Officials, NGOs and Self Help Groups are being sensitized through seminars and workshops. Ensuring display of boards in the trading premises confirming non-employment of children in the shops and establishments, by the Labour Officials, display of slides in the Cinema theatres, performing of street play to discourage employment of child labour, messages in print and visual media including cable television are some of the modes and methods that are being adopted to create awareness among the public on the evils of child labour. The child labour families have been included under Self Help Groups and also dovetailed under SGRY schemes for getting assured employment. The parent's names are enrolled in muster roll of the respective Panchayat Union and included under food for work programme, where feasible patta followed by group house allotment being recommended.

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Emasculation of Politics – Rights Deficits in the Informal Economy

Mr. Sumeet Thakur*

Being a lover of democracy and student of politics the researcher will build his paper on “Rights deficits in informal economy” from the perspective of politics and democracy. It is only by analysing from this perspective the real crux and cause of this problem could be understood. The pathetic plight of the billions who are working within informal and unorganized sector all over the world has been the proof of the failure of the dominant paradigm within which politics is defined and legitimized. While writing on the plight of politics Adrian Leftwich says, “Majority of people are apathetic to politics because they feel it is not concerned with them. It is a world which appears removed and distant from the activities through which they live their daily lives. Politicians are often regarded as people engaged in unpleasant squabbles for power, which manoeuvre and jockey for position and advantage, and they are viewed with a mixture of resigned contempt or humorous mistrust. The way in which the media treat politics has helped to shape such a view and acts daily to confirm it. The discipline of Politics, moreover, serves to sustain this by one of its mainstream occupations. It focuses on largely constitutional affairs, parties, voting, elections and the institutions of government mainly in the so called ‘advanced’ societies, there is a ‘state’. Indeed, some specialists in the discipline argue that there are societies where there is simply no politics” (Leftwich, 1983:1). Works of Benard Crick, *In Defence of Politics* (1982) and Barry Hindess and Kegan Paul, *Pre-Capitalist Modes of Production* (1975) are the example of level of the prevailing acceptance of the dominant paradigm about politics which limits the definition of politics as an activity which is being conducted within parliament, parties, election and voting process only.

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Redefining Politics and Political Activities

There is a need to redefine politics only then problems of workers working in the informal economy could be diagnosed and cured properly. Because from the present dominant perspective the issue of informal workers and the nature of informal economy is the topic which comes under the domain of managerial and administrative acumen, politics as such has nothing to do with it. New works in the field of politics and other disciplines has helped in bringing forward the political nature of the workplace. Leftwich and post-modernist like Foucault believe that politics is consists of all the activities of cooperation and conflicts, within and between societies, it is this activity which determines the production, distribution and use of resources within any society. These activities are not isolated from the other features of social life. Leftwich says that all aspects of life are influenced by the distribution of power and decision-making. Politics is the defining characteristics of all human groups it also determine the system of social organization, culture and ideology in a society. Politics is not confined within the so-called declared institutions of politics which runs around state only but it also exists in other informal institutions.

System of production and subsequent distribution of resources is at the very core for the existence of any society and hence it is essential part of politics. Different societies adopt different modes for this process which is always dependent on the level of their development. Beneath all these lies a pattern of the distribution of resources and wealth which determines the fate of every individual existing within that society. Therefore is it right to confine the definition of politics and legitimization of politics within the domains of formal institutions like Legislatures and Executives at national and sub-national levels? The dominant paradigm of our time has confined the definition of politics which are conducted around these institutions. It has done the greatest injustices to the cause of politics and democracy. This has failed and hindered the politics from playing the role of an emancipatory and awakening force within the society.

Adrian Leftwich also illustrates this point, "It is a pity that social scientists (with the important exception of some anthropologists) pay so little attention to the work of archaeologists. For the emergence and history of politics is directly bound up with the evolution of the human species over the last 4 million years. There are still vast gaps in our knowledge... During this long history, major technological innovations were achieved, for example in stone tool-kits, wooden spears, hand-axes and crucially in the use of fire. People made shelters, produced protective clothing and decorative ornaments and began to build burial sites for their dead. Cooperation in the course of work enabled people to do new things, and to do old things in new ways, and hence helped to establish the central principles of social organization which, in turn, facilitated the hunting and gathering of food, the sharing of it at a home base or camp, as well as other productive activities (*Ibid.*, pp. 13-14). What Adrian tried to conclude is that evolution of politics is inherent in the social nature of human beings because it is the social nature of human beings which demands social determination of production process and its subsequent distribution. Therefore politics is evolving vis-à-vis evolution of human as a species. Politics is major organising activity which has welded different societies through the history of cooperation conflict, innovation and adaptation in the use, production and distribution of resources throughout the history of mankind.

Problem of workers working within this informal sector can be understood from this perspective. Categorization of people on the basis of their work into formal and informal sectors is the creation of any particular society and especially the level and model of its development. Politics which is the major creative and empowering force of any society having the capacity to transform individuals has been confined to the dominant institution of current polities'. At best the dominant pressure groups of the influential sections of the society are capable of influencing the process of politics within these institutions. While the distribution of resources which happens in the informal sector has not been recognised as legitimate

part of politics and which puts this process out of the possibility of change (public sphere). The process of legitimization of politics of any particular section of society is dependent or contingent on its getting represented within these formal institutions (Parliament, political parties, bureaucracy and accepted/dominant pressure groups) and how much these institutions within themselves are democratic is also questionable? Another negative impact of this race of getting legitimization from the formal/ dominant institution is that actors working within informal/less dominant institution for example factories, farms and local governments will give their allegiance to the dominant/formal institutions and work with their patrons existing in the higher level to the detriment of their own institution. Their powers will not be derived from their membership of the institutions to which they belong rather it will come from their capability to draw resources and support from these formal-dominant institutions. This top-down follow of political power and its subsequent legitimization distorts the possibility of democratic politics within the less dominant groups to which these actors belong. Democracy demands power to follow from bottom to up and upper layer of governance must wield power in a complimentary manner whenever dealing with the lower level of governance rather than in domineering manner. Laski in his seminal work 'A Grammar of Politics' writes, "The responsibility of modern governments is largely a subjective responsibility. The interpretation that prevails is not controlled in any organised way by the interests it directly affects. Such control can only be introduced if those interests are given immediate institutional access to the seat of decision (Laski, 1970:81).

This statement clearly illustrates that Laski realized the irresponsible nature of the modern democratic setup therefore he suggests the use of institutional access for the affected section to the seat of decision-making but can this access be equal to all the affected parties? It will never be because the accessibility to these centres demand resources in terms of money, muscle and knowledge of that system, therefore this cannot be long-term solution of problem. There will be no

solution until the dominant institutions are hegemonizing the badge of legitimate centre of politics within society. The formal institutions of politics like Parliament, Provincial assemblies, bureaucracies, powerful pressure groups and political parties are not accessible for the majority of informal institutions of politics. Therefore the informal/weaker institutions most of the times fail to get their share of representation and participation within the process of legitimized politics which simultaneously bestow the legitimacy of coercion on that process against any other alternative version of politics.

How can it be accepted that the rights deficit in the informal economy will be cured while working within this dominant paradigm of politics. At best efforts and protests can ensure palliatives and some basic protections which will in the long run lose their relevance. Labour inspectors, toothless labour unions or unions with allegiance to its masters outside the factory rather to the wellbeing of the factory, incapability and difficulty of organizing workers in the informal setup are major hindrances in the path of transforming the plight of workers working within informal setup. Each and every worker working within informal sector should be accepted as the political actor within the institutions in which she or he works, that institution is itself political and need to be politicised either it is a land, factory, household of rich person and a private school. Even the small vendors selling their goods are also part of the same league, the term politicization should not be taken in the popular derogatory sense but rather be seen from the perspective 'which opens a possibility for change, which makes an issue debatable, negotiable and questionable on the basis of rational communication. Any political actor works within a political institution and this institution defines the boundary between the worker and the larger society. It can be farm of a landlord, a small firm of an entrepreneur; shop of a big shopkeeper, a locality within which a vendor sells his goods, a private school within which a teacher teaches and the rag pickers of localities, sweepers and other workers involved in small menial works within different domains. By bestowing these workers a political status within their respective domains the society

can do the greatest service for the cause for their emancipation and empowerment. Political status means right to determine and participate in the procedures which determines the condition and circumstances of their daily lives. Every worker is contributing to a productive process in his/her own unique way therefore he/she has the moral right to be consulted and more importantly to participate in the determination of these conditions which affects him/her as a worker.

It is a travesty of the democracy as an ideology and a form of governance if it is limited to the domains of the dominant political institutions (legislatures, executives at national, regional and even local level). There is need for the horizontal federation of power which will in reality be merely the recognition of political nature of various institutions which were hitherto thought to be a political in nature and therefore out of the public sphere. The workers who are working under the dominance of the owners of the material resources are forced to submit their rights of negotiation and rational communication which are essential in order to bring positive change in their lives at the altar of the dictates of the owner. If driven to the extreme deprivation they have only twin option of retaliating violently or leave the jobs which are in both cases an action which will be taken in extreme circumstances. The beauty of life is that most of the time it lies in the state of moderation which means most of the workers will accept the sub-optimal gains because of the fear of even losing them if they resisted too much. So there is a need for the institutionalization of the negotiation at the workplace.

Politicization of Workplace: A Theoretical Justification

Work place has now been defined in terms of a place where experts, technicians, visionary managers will guide the visionless mechanistic workers who have no rationality and worth of their own, they are devoid of basic human quality of reflection or contemplation on the experience he/she goes through. They are dependent on some

special training and superior guidance from a visionary leader for unleashing their potential; ultimately the highest test of success is the bottom line of the business entity or firm, even if it comes at great cost to people involved in this process. We are not yet prepared to understand that a workplace first of all is a political place, because it the place where the activity of production or work goes. Politics as an activity is concerned with the method of production and its subsequent distribution and overall how the profit earned from this enterprise is shared between all the participants. More importantly how the production process is defined, is it defined as a domain of expertise run by experts with dumb-witted labours working as robots or it is defined as a place where the entire edifice of a society is determined and therefore every single participant of this process should have a say in this process? This de-humanization of workers in the work place is justified by modern society. Antonio Gramsci gives one of the greatest justifications for the protection of the rights of workers to be an active participant in the organization of an enterprise.

Gramsci says that the division of society into intellectuals and non-intellectuals is always arbitrary. This arbitrary division is justified on the basis of social relations of the existing system. Intellectuals are those people who are assigned socially the professional category of intellectuals or in other words their work is weighted in any society towards intellectual elaboration rather than muscular-nervous effect. This means that one can speak of intellectuals but there are no non-intellectuals. But even the relationship between efforts of intellectual's-cerebral elaboration and muscular-nervous efforts is not always the same, so that there are varying degree of specific intellectual activity. There is no human activity from which every form of intellectual participation can be excluded: homo Faber cannot be separated from Homo sapiens. Each man, finally outside his professional activity, carries on some form of intellectual activity, that is, he is 'philosopher', an artist, a man of taste, he participates in a conscious line of moral conduct And therefore contributes to sustain a conception

of the world or to modify it that is, to bring into being new models of thought(Gramsci,2005:90-91).

De-politicization of workplace and more importantly societal acceptance of this de-politicised nature of workplace prove fatal for the empowerment of those working in the informal economy. Although we cannot deny that even if a society, state or law may not accept a particular place as political that does not mean that political activity will cease to exist in that place rather it will go on. Workers will negotiate and re-negotiate their terms of work with their employees according to the space of negotiation they have. But this space will be determined by many a factors like the availability of workforce, skills involved, economic plight of workers, ruthlessness or friendly nature of the owner. Another important factor which needs to factor in is that in such informal negotiations or political activities migrant workers are the weakest actors. Their lack of social, cultural contacts with the area surrounding their workplace and the fact that local population is often hostile and ready to exploit them puts them on the back foot in the negotiation process. At times management and local notables work in tandem to keep this migrant work force under a process of subjugation by using goons and other pressure tactics like use of police and local administration. At times entire state apparatus and bureaucrats works against them. All these give birth to slavery like situation which sometimes culminates in to industrial violence and bloodletting.

If the work place is bestowed with the status of being a political institution then it is essential that the creative and the coercive power of politics must be democratised. Because it is only within the democratic governance there can be an effective and substantial existence of duties and rights. Once the people working under the unorganised and informal sectors are bestowed with the status of working under a political institution then the next logical demand will be democratisation for these institutions. This process of democratisation will require the re-institutionalisation of these institutions on the democratic lines which will open up the possibility for participation of members in these institutions. Majority of

workers working under these informal institutions are working under the dictate of dominance of their employers without having any kind of genuine participatory mechanism at the work place.

Empirical Evidences of the Theoretical Justification

What happened in the month of September 2012 in Sivakashi is the glaring example of the plight of workers working under even the formal economy. Sivakashi and Virudhunagar account for 90 percent of fire crackers production in the country. Sivakashi which is well known for its match industry, diversified into producing fire crackers as a natural extension. A leading manufacture Standard Fireworks' websites says "during the year 1940, Indian explosive act was enforced where by a system licensing introduced for manufacture, possession and sale of fireworks. This act paved the way for organised sectors in the industry. Sivakashi soon became a home for fire workers. Over the years, industry has successfully established an export market in Sivakashi, there is a cluster of fire crackers manufactures who export to the West and each of them has a turnover of over 2500 crore rupees. (Ravindranath,2012). But despite the volume and the status of being a organise sectors the safety norms have been flouted. On 12 September 2012, 38 people were burned to death while working in the factory, Om Shakti Fireworks was working overtime to meet deadline for the fulfilment of maximum demand for fireworks during Diwali. According to several reports while government permits only 35 buildings for a factory, this factory had 55 buildings. A maximum of only 4 workers are permitted in a room, depending on the kind of crackers being manufactured. A company can employ only 120 workers, while Om Shakti had over 320 workers. Protective gears were given the go-by. Norms for storing chemicals and explosive materials were rarely followed. Workers were not trained to handle hazardous material.

It is found that government actually listed out more than 80 rules to ensure safety in these units. Manufactures usually ignore this

by greasing the palms of officials. Industry sources allege various departments (such as controller of explosives, the inspectorate of factories, fire and rescue service, police and local administration) have their hand greased regularly. This clearly illustrates the failure of the dominant paradigm of politics and democracy. The welfare of the labourers and those working has been entrusted in the hands of guardians/bureaucrats by supposing that these officials will protect the interest of exploited labourers. But interests and rights are not given they have to be attained, for that politicisation of the environment within which labour works is essential. The participation of labour in the maintenance and implementation of safety norms and even in the governance of their work place is essential. The need of their empowerment and sensitisation on these issues is the long term solution of saving them. Politicisation and institutional legitimacy to this process of empowerment is essential for the fulfilment of this goal. Workers must own the responsibility for the protection of their own rights and it will be only possible when the work place is politicised.

Contractual Labour: De-politicisation of Workplace

The use contractual labour or sub-contractor system is important tool of depoliticizing of workplace or emasculation of the political nature of a work place. For example in my own university- HIMACHAL PRADESH UNIVESITY more than 70 odd workers are working under contractor as sweepers and toilet cleaners. Most of them are women in their late 30s and 40s and there are also young men among them. University has contracted the work of campus cleaning to a contractor and contractor is legally responsible for hiring and firing the entire workforce. There is no set pattern of increase in their payments and they lack proper vacation system. No future savings /PF facilities is available for them. They are cowed down with the threat of firing or eviction from the job if they dare to raise their voices and try to organize for their rights. When we and some of these women went to meet the Registrar of our university, to our very surprise he point-blankly denied any kind of discourse on this issue. He pointed that

these workers are not legally the responsibility of Himachal Pradesh University. He said. "They are the people of contractor, they are not our responsibility." Some of the other officials said, "There is no need to complain, because it is self-evident that recruitment by a contractor is always going to be an exploitative process, what they can do about it." What this incident really taught me was not that they have the legal justification but rather the callous acceptability of this de-politicization (no possibility of change) of the rights of these sweepers mostly belonging to Ravi-Dasi community. Besides this I have raised a demand for a toilet facility for 30 odd migrant construction labourers, working in our university campus and they are residing in half constructed building with their children. But I am surprised that neither university nor contractor thought of providing them pure drinking water and proper toilet facilities. When we raised this demand in front of university administration they mocked at this demand. And we got the same answer. What we have realised that our university administration is just reflecting the dominant thinking of our society, which accepts the logic of de-politicization of work place.

Another example which explains the neglected political nature of subaltern institutions is of SEWA (Self Employed Women's Association). It was founded as a labour union in 1972 and is probably India's best known nongovernmental organization. Beginning in Gujarati city of Ahmadabad, its initial focus was primarily urban, its members are women who worked in the informal sector including vegetable vendors, bike rollers, head loaders, and paper trash collectors- who work for meagre wages, are highly vulnerable to labour market fluctuation and are the poorest of the poor (Sommer, 2001:56). But the unique thing about SEWA is that it focussed on women as the foot soldiers of its mission. Rather than depicting women as powerless and weak it reposed a deep faith in their capacity for the perfection for their own rights. By successfully organizing women as a creative force and politicizing them SEWA has brought forward a new paradigm of empowerment. Women are the particularly susceptible as a victim of underdevelopment and

poverty, of discrimination and violence. More importantly SEWA saw them as producers, workers and entrepreneurs contributing to the family and the economy. Women are contributing as artisans, factory workers, on family farms, as agricultural labourer on other people's farms, on forests as the collectors of minor crops, as marginal farmers and as life stock tenders.

Among an overall Indian population of 1 billion, 92 percent of employment is in informal sector where there is no fixed employer and employee relationship and thus no welfare benefits. These people nearly half of whom are women are the unprotected labour force of the country, though government statistics show that they contribute nearly 63 percent of the gross domestic product (Ibid., pp. 56-57).

SEWA has adopted the twin strategy of labour struggle and development through income generating activities. In Banaskantha District of Gujarat a foreign aid supported pipeline project had largely failed to deliver water to the people and partly because of this plight of agriculture was very bad in Banaskantha. SEWA took the responsibility to foster the spirit of change among the local women. The traditional way of living was in sync with their nature. But it did not allow for the possibility of greater chance. SEWA ignited the flame of change among the women of the villages and made these women aware of their rights. The method chosen by SEWA was discussions awareness campaigns among the women. SEWA's local leadership became successful in drawing direct benefits from an available but under-utilised government and foreign aid programmes. These schemes are usually planned from above and they fail to link up with grass root realities especially with the poorest people. With SEWA's organizing and technical support and by working together the Banaskantha women were able to increase their access to precious water by improving the rain water harvesting techniques, primarily through check dams, land levelling, and well improvement. This way they gained a year around source of drinking water and increased the production of

agriculture output from 1 crop to 2 and 3 crops a year. This also reduced the time spent of bringing water which also expanded the time for other productive activities. Beside this, SEWA fights for the rights of small street vendors and workers working in the informal economy. If one of the basic premise of politics is distribution of resources and capacity of working in concert to improve one's capacity then an organisation like SEWA needs to be bestowed with legitimacy of being a political organisation which they in reality are. This will ensure legitimacy and more devolution of resources for their working. This political status will make them accepted centres of politics which will empower the hitherto disempowered informal workers which are helpless within the dominant paradigm of politics, because this paradigm narrows the scope of legitimate politics within any society while emasculating the larger resource less and weaker sections of society.

The plight of increasing number of contractual recruitment of labour force working within Indian factories and pathetic position of these workers is illustrated in the recent violent upheaval in the Maruti Suzuki plant in Manesar.

Although it cannot be denied that Indian labour law for organised sector are too harsh on the employers and they at times cannot ensure job security for the workers in the organized sector/formal sector without jeopardising their entire enterprise. But the issue of a particular enterprise's employment capacity must be debated between the employer and the employees. It cannot be determined unilaterally by the employers. The management must provide effective representation to the workers so that they could also rationally understand the logic of reduction in labour force. Work place that means an enterprise must be like a complete partnership between owners and the workers. Losses and gains need to be shared between the both stakeholders. What should be the ratio and methods of partnership must be and can only be determined by politics (negotiations and rational communication based on some mutually accepted just procedure). Even right now what is happening is also a politics because it is favouring

the status quo which is tilted in the favour of employers (Sunder, 2012:36).

Failure of Traditional Trade Unionism in Informal Sector

Trade unions have failed in penetrating into the informal sector, they are stronger in the organized sector as compared to the vast unorganized sector. There can be many different reasons for this failure, but one fundamental reason which is responsible for this lies within the very existence of trade unions their nature of organisation. Trade unions are a type of modern bureaucratic organisation which depends upon hierarchy of dedicated officers who are paid for their political services by its members or by the political party to which their union is affiliated. In a highly lucrative or financially-viable enterprises, it is possible to support such a special bureaucracy which can fight for the political rights of fellow workers within that enterprise, while workers will have to dedicate less energy to political activity. In the case of small enterprises and informal businesses it is very difficult to support a class of professional political activists working for the cause of its members neither the small enterprise nor a formal business, farm and small cottage industry will support a group of workers who are less dedicated to work and more to political activity, nor their fellow workers would be in a condition to pay for their expenses. Therefore traditional method of trade unionism is very difficult to be adopted in formal economy, because the nature informal economy do not support it (Michels, 1962 :)

In the informal (sector) economy we cannot empower workers on the pattern of traditional trade union methodology. What is needed is not hierarchal organization of political activity rather democratisation of politics within informal economy. That means rather than relying on trade union activist, labour inspector, there is a need to politicize the work force. Society in general and workers working in the informal economy should be encouraged to raise their grievances and demands for participation in governance of enterprises. Workplaces should be seen as partnership between the employer and employee which will bound them with reciprocity of

rights and duties both are essential for the prosperity of a partnership. These terms like partnership, duties and rights are to be viewed not from the perspective of the cold blooded management or from a technocratic outlook rather it should be seen as a political activity. It is essential that all workers in informal and formal economy be made aware political nature of their workplace and freedom of expression and association should be protected at all costs. Protection of freedom of expression and right to form association should be the first condition for the conduction of any economic activity. How can any civilized society allow the conduction of economic activity without allowing the workers working in an enterprise, agriculture and shops their most fundamental human right of freedom of expression and association, right to participate as an informed actor in that activity? The freedom of expression here is taken in the context of rights of workers to first know all the relevant information regarding the enterprise they are working in, and then to express their voice and take necessary action to have the remedial of their grievances. While this right will also have to be adjusted with duties and commitment of workers to the enterprise but search for a proper balance between the rights of workers and their duties towards the enterprise must not be the sole right of management, it has to be evolved in a process which allows impartial communication between both the parties, workers and management. Any kind of appropriation by any one party of the entire process will sound a death-knell to this process. Any excess from management will naturally reduce the status of workers to a paid slave while wanton mobilization of labour by their leaders stirred on populist agendas will lead to the destruction of enterprise. It will be the political process of negotiation which will help an enterprise (a farm, small cottage industry, large shop) to travel through the political process of conflict and cooperation. It is the political activity which will help in overcoming the areas of conflict and cooperation in any enterprise, but it is essential on the part of society and state to organise this political activity on democratic lines.

Disadvantages of Top down Approach in Globalized World

No amount of top down approach can help in protecting and empowering the workers, because of the labyrinthine nature of sub-contracting process. Global liberal-trading regime is more concerned and capable of protecting intellectual property rights and other aspects of a trade related rights but it fails measurably on the front of protecting the rights of workers. There is a very strong lobby or nexus of different beneficiaries of the present nature of production process, they are not even willing to allow to bring forward a case against this process of exploitation of the workers working in the informal economy. Multinational companies, their contractors and sub-contracting entities, government officials, labour officials, leaders of political parties, and local elites, all are either implicitly or explicitly involved in the continuation of the exploitation of the workers. Voice of these wretched workers is muffled very systematically within different workplaces. This kind of excessive repression at times creates tinder boxes which can blast at any time and could unleash a reign of violent conflicts. Do the attainment of Social Sustainability Certification or official implementation of Corporate Sector Social Responsibility is in itself the guaranty of the protection of the workers working under the sub-contractors of the multinational companies? Question arises that even if MNCs may claim that they have complied with all the norms of fair business practices and the norms of ILO, would it in itself will become the guaranty of the protection of the workers toiling in the informal sectors? Should a certification on a piece of paper written in a language, which most of the workers do not understand, would ensure the protection of the rights of these workers? Do management of any company no matter how much erudite and experienced can be capable of properly understanding all the problems which workers working under the firm undergo? Multinational corporations can at best ensure the protection of rights of workers in their main factories, but as far as the condition of workers in their sub-contracting entities is concerned they are apathetic. Under the globalisation process this method of sub-contracting a portion of production has become norm

and usually there are many other subsequent sub-contractors within a single production process. This process of sub-contracting has emasculated the legal and more importantly the political protection to these informal workers. MNCs are partially responsible for this exploitation of these informal workers because these companies use their capacity to choose between labour belonging to different regions of the world according to the cost of labour. MNCs shift their work to those subsidiaries where average labour cost is less. This process allows them to lower the price they pay to the suppliers every year, which strengthens their competitiveness against other rival firms. The nature of their demand from their suppliers is flexible and based on seasons, because of this they create difficulty for the suppliers to have a stable and regular workforce. In order to fulfill ever-changing demands of MNCs, their suppliers adopt a very unpredictable hire and fire policy. These conditions give birth to the expansion of contractual workforce working under an informal economy. This is becoming one of the biggest sources of exploitation of workforce in the developing countries.

Annavaiah J.C. Bose and Lu Zhang had brought forward in their work the impact of liberalisation and globalisation of automobile sector and how this has culminated in to the exploitation of the rights of the workers. Bose illustrates this point, "state agencies now choose to operate at arm's length, or even as the arm of capital, so to say. This has resulted in the demise of protective labour standards, labour movements, trade unionism and Keynesian welfare state, which in turn have led to a reduction of employer's contributions to social security and unemployment funds as part of capital's drive to lower labour costs, the dismissal of workers with good jobs; and increased outsourcing and sub-contracting of production. Further there has been an increase in the incidence of employment based on low wages, lack of job security and precarious working conditions, and the return of the 19th century sweatshop labour to modern workplaces (Bose, 2012 and Zhang, 2008:73)

What J C Bose and Lu Zang are trying to say is that globalisation and liberalisation of the world have given birth to such kind of

production chains involving branded companies, their contracting partners and further sub-contracted partners in a single production process. These production chains expands different countries and are created by the MNCs has hallowed the barriers of sovereign states and the traditional protection which were evolved in the West in 20th century to the workforce has been eroded under this new system. Globalisation has marked the end of the Keynesian welfare state which had accepted the logic of organized labour movement and healthy labour standards. The process of contracting a part of production chain has helped in legally protecting MNCs from sharing the kind of liabilities which they have regarding their own workforce in the context of the informal labour working under their sub-contracting entities. Michael D. Yates has defined this process as ‘a large invisible underground economy’ which is supporting the small official economy. It is impossible in reality to know the exact number of sweatshop workers of this world.

Conclusions

What would be the relevance of political equality to these people (informal workers) when they have no say in the administration of the work place where they spend large chunk of their lives? Is it not the workplace which determines many a significant aspects of a person’s life which are essential for his/her empowerment? How can a country claim itself democratic when majority of its population cannot dare to speak their minds about the entity in which they work? This kind of working environment degrades a worker to the status of a slave which robs her/him of their inherent right to be a conscious and reflexive partner within the environment they live and work. The most crucial aspect of such kind of production process is the justification or acceptance of the superiority of rights of property and material resources over the rights of labourers. When the word ‘labour’ is taken in this context, it is not confined to physical labour or neither it is categorized in to mental and physical type, because all kind of labour require different combinations of physical and mental labour.

In this process of emasculation of labour what is the important is that labour is defined as static thing and humans or workers are treated as equivalent to robots with fix potentials and capacity. While the task of capital accumulation and its investment and speculation is glamorised or cherished as very intellectual entrepreneurial activity. This process of demeaning labour and reducing it to only remuneration or monetary compensation is responsible for the exploitation of the workers. Because work is an activity, which not only involves toiling like machines, rather for humans it also involves a conscious process of experience and reflection of the activity which one performs. Therefore work is a part of a living, conscious and reflexive experience of a person's life, which transforms an individual's entire personality rather it redefine his/her very existence. To reduce the significance of the work to mere act of earning a living and then to weigh it from the one dimensional aspect of money is the very reason for the de-politicization of work. Every human being searches for the just method of doing his work and what should be the best goal for him/her while performing this act. Although there are people who shirk from their work and are not sincere in their work, but that doesn't mean that within their own conscience they are not conscious of their guilt. The only need is to start a communicative process of a dialogue which will work as a catalyst to stir this latent conscience within them. And once this conscience has touched by a communicative dialogue which is institutionalised in the workplace (firm, factory and a farm) it will transform the commitment of that worker to his duty. And this process of communicative dialogue can be institutionalised only if all the stakeholders and especially those workers who are at the lowest level of hierarchy of workplace are provided a space in a random horizontal communication process, without any kind of fear of being prosecuted. It is essential that freedom of expression should be protected within a work place and this mode of democratic politicisation will help in bringing about a fundamental transformation in workplace (Metcalf and Urwick, 1942:32). Beside this it is essential that society should accept the inherent political nature of any workplace. There should be no curb on the right

of freedom of expression and participation in the conduction of different activities regarding work. The most essential or primary mode of participation is right of communication without any kind of fear of prosecution. Political nature of communication or dialogue process at the workplace should be accepted and the process should be democratic. In order to make this process democratic it is essential that all the stakeholders should have the right to express their opinion regarding the workplace and this communicative dialogue should culminate into a consensus formulating mechanism. Once this consensus is formulated it should be binding for the time being until the next consensus is reached in the dialogue process. It should emerge as a mechanism of dealing with matters regarding conflict and consensus. This is what lies at the heart of the political process. This process should be organised in such a manner that all the stakeholders are allowed to present their perspectives. If all the stakeholders could not be gathered under a single roof then it is essential that the process of dialogue should be organised at a small level and then it should be gradually taken to different levels of an enterprise. The principle of hierarchy should not hamper the free and effective flow of communication and feeling of transparency is also very essential in this process. Communication should also culminate into concrete actions and responsibilities regarding the business of an enterprise should be seen in an interdependent context of rights.

Author has a deep faith that the issues of social security, minimum wages, impartial methods of grievance redresses, availability of credit and any other facilities for those working in the informal sector is of secondary nature. It does not matter what amount of money is channelized for the improvement of this section and which kind schemes are made the impact of these efforts will remain shallow and ineffective to large extent. Until and unless the political nature of the work space is not accepted and workers are not given the status of political actors, they will never participate as an empowered actor within the workplace who are capable of defending and negotiating their rights with their employers.

Otherwise workers will have to rely on the legion of noble Knights of bureaucracy and state laws for the protection of their own rights and what are their legitimate rights will also be determined by those sitting in parliament, state legislatures and secretariats. It is essential that rights should be evolved by those who are going to use them for their empowerment. Those rights which are bestowed by higher authority are like abstracts concepts and danger with them is that they miss the understanding of context. Rights are to be contextualized according to their relative environment where they are to be used and evolved sub sequentially. It does not matter how sincere is the motive of policy formulators but they cannot provide the substitute for organic and rejuvenating power of democratic politics within the work place which can only has the capability of empowering the workers in the long run. It is not only the problem of those working in the informal sector rather it is the biggest challenge in front of politics and democratic theory itself.

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